



USAID COUNTRY PROFILE

PROPERTY RIGHTS AND RESOURCE GOVERNANCE

HONDURAS

OVERVIEW

Honduras is a lower-middle-income country with substantial wealth and income inequality. Its economy is the most open in Central America. After several years of robust, export-led growth, the global financial crisis and recession reduced GDP growth to only 2% in 2009. The close links to the U.S. economy have resulted in a reduction in remittances, exports and foreign investment, all of which had been growing rapidly prior to the crisis. Poverty in Honduras is dire and the country is highly vulnerable to the effects of hurricanes and other natural disasters. About six in ten Hondurans live below the national poverty line and approximately two-fifths live below the extreme poverty line. While there has been progress in improving living conditions, in 2006 maternal mortality was still above 100 per 100,000 live births and chronic malnutrition affected one in four children aged one to five years.

The extreme poor and the poor in Honduras are primarily farmers and agricultural laborers. Without secure access to land, the rural poor will be unable to increase productivity and earn greater incomes. However, with greater security of access to land and land-based resources, the rural poor would both possess a secure, productive asset in which to invest and benefit from increased access to credit. Achieving a more productive agricultural sector will require a systematic expansion of the land administration program accompanied by rural development programs. The aggregate benefits to be realized from increasing tenure security include a reduction in conflicts, decreased land market transaction costs, increased access to credit and increased investments in the land. These positive outcomes, in turn, would bring about a more efficient allocation of land, increased productivity and a reduction in poverty.

KEY ISSUES AND INTERVENTION CONSTRAINTS

USAID and other donors could support the objectives and goals of Hondurans through the following interventions:

- **Strengthen smallholders' land rights.** Smallholders are highly tenure insecure. USAID and other donors should assess the success of the previous programs in providing secure title to smallholders. *Based on the findings of the assessment, USAID and other donors could implement regional titling programs aimed at improving security for smallholders. Any such programs could be designed and monitored to ensure a positive net benefit for vulnerable groups, including women and indigenous and minority ethnic groups.*
- **Secure indigenous and ethnic groups' rights to land and natural resources.** The land rights of indigenous and ethnic groups are threatened by encroachment and grabs by landless farmers, powerful business interests and government elites. *USAID and other donors could work with the GOH to implement communal titling programs for indigenous and ethnic communities, as well as encourage the GOH to abide by ILO Convention 169 concerning Indigenous and Tribal Peoples in Independent Countries, to which the GOH is a signatory.*
- **Support women's access to land and inheritance rights.** While Honduran women have equal rights to land under statutory law, these rights are not effective in practice. Only 24% of Honduran women are listed as landowners. *USAID and other donors could provide legal aid directed toward increasing awareness around women's land rights, including programs to educate women and girls about their existing rights and provide support for exercising their rights in legal proceedings.*

- **Help improve water resource management.** While Honduras has extensive water resources, these resources are reduced through mismanagement and inefficient use. *USAID and other donors could work with communities to improve community-level water resource management. On a broader scale, USAID and other donors could partner with the GOH to upgrade inefficient irrigation systems.*
- **Support forest administration to mitigate deforestation from illegal logging.** Honduras' forest resources are threatened by extensive deforestation stemming from illegal logging. *USAID and other donors could support the GOH in combating corruption in the forest administration and improving forest protection. One approach could be to train and grant authority to communities with customary rights to forests to patrol and protect forest resources in protected areas.*
- **Protect customary forest rights.** Indigenous groups have rights to forests on lands that they traditionally inhabit; however, the extent of those rights is unknown. *If Honduras continues to seek inclusion in the Forest Carbon Partnership Facility, USAID and donors could encourage the GOH to conduct an assessment of customary forest rights and encourage the GOH to officially recognize these rights.* USAID and other donors could work with the GOH to implement a plan that will grant original users' rights to and benefits from preserving the forests.

FOR MORE RECENT LITERATURE:

<http://usaidlandtenure.net/honduras>

Keywords: Honduras, tenure, agrarian, land law, land reform, property rights, land conflicts, water rights, mineral rights

SUMMARY

Honduras is a lower-middle-income country, the third poorest country in Latin America, with approximately 51% of the population living below the national extreme poverty line. Approximately 30% live below the international poverty line of US \$2 per day, while 18% live below US \$1.25 per day. Poverty is particularly acute in rural areas, where many households are landless or land-poor. While GDP growth has been strong, Honduras is vulnerable to hurricanes and other natural disasters that make poverty reduction difficult to sustain.

Land distribution in Honduras is highly unequal and the *latifundio* (large estate) / *minifundio* (smallholding) complex continues to dominate land distribution. A large percentage of total land is privately owned by a small percentage of the total population. Traditional rights of ownership, including exclusive use and transferability, are generally the province of large landowners and multinational corporations.

Land tenure security in Honduras is challenged by ambiguity of ownership, lack of title and the threat of land invasion. Approximately 80% of the privately held land in the country is untitled or improperly titled. Only 14% of Hondurans legally occupy properties and, of the properties held legally, only 30% are registered. *Minifundistas* are the most tenure insecure of all farmers, as a large proportion lack title to their land. Invasion of private and *ejidal* (communal) land has become a common way for the landless to access land. As a result, land rights on private and *ejidal* land are not completely secure. The unclear nature of land tenure in Honduras renders mortgage and other forms of credit difficult to obtain. The informal land market is strong in both rural and urban areas, as lack of clear land title makes formal land transactions risky and expensive.

Indigenous and other ethnic groups are highly tenure insecure. Many of these groups lack clear title to their land, which fosters encroachment and expropriation attempts by non-indigenous landless farmers, powerful business interests and government elites. In addition, community leaders opposed to land acquisitions have been subject to intimidation and violence. Lands held under communal tenure have also been subject to government expropriation.

Women own only one-quarter of all parcels of land in Honduras. Though women's property rights are explicitly recognized in the legal codes, these rights are often not recognized in practice. Couples who request it may have their land titled jointly; however, between 1996 and 2000, only 25% of titles granted were issued to women. In addition, men commonly control and dispose of their wives' possessions and sometimes sell their wives' land without their knowledge or consent.

Honduras has abundant water resources. Yet, the country has low amounts of water per capita due to mismanagement of and pressure on water resources. In addition, deforestation has significantly increased soil

BOX 1. MACRO INDICATORS

	Year	Score
Population, total	2009	7,465,998
Population ages 0-14: 15-64: 65+ (% of total)	2009	37.0:58.0:4.0
Population growth (annual %)	2009	2.0
Rural population (% of total population)	2009	52.0
Population density (people per sq. km)	2008	64.7
Literacy rate, adult total (% of people ages 15 and above)	2007	83.6
Land area: Surface area (sq. km)	2008	111,890: 112,090
Arable land (% of land area)	2005	9.5
Agricultural land (% of land area)	2007	28.0
Permanent cropland (% of land area)	2007	3.2
Irrigated land (% of cropland)	2003	5.6
Forest area (% of land area)	2007	38.7
Nationally protected areas (% of total land area)	2008	21.0
Renewable internal freshwater resources per capita (cubic meters)	2007	13,503.9
Annual freshwater withdrawals, agriculture: domestic: industry (% of total freshwater withdrawal)	2007	80.2: 8.1: 11.6
Crop production index (1999-2001 = 100)	2005	140.6
Livestock production index (1999-2001 = 100)	2005	178.8
GDP (current US\$)	2009	14,317,854,032
GDP growth (annual %)	2009	(1.9)
Agriculture: industry: manufacturing: services, value added (% of GDP)	2008	12.5: 27.0: 19.0: 60.5
Ores and metals exports: imports (% of merchandise exports: imports)	2007	7.4: 0.9
Aid (% of GNI)	2007	4.0

Sources: World Bank, 2009; World Bank, 2010

erosion and sedimentation of rivers and streams, dried up streams, reduced the storage capacity of reservoirs and reduced biodiversity.

Honduras has rich forest resources, with the highest proportion of forest cover of any Central American country. However, deforestation is occurring at the high rate of 3.1% per year. Deforestation is fueled by forest conversion, forest fires, the collection of fuelwood and illegal logging. Members of environmental movements have been threatened, intimidated and killed for campaigning against deforestation.

The mineral industry, while not a major contributor to Honduras' GDP, has been plagued by alleged environmental abuses and legislative indecision. In 2006, the Mining Law was declared partially unconstitutional by the Supreme Court of Justice when thirteen articles were invalidated. Reforms to the law prohibited open-pit mining and the use of chemicals such as cyanide, mercury and arsenic. As of April 2010, however, these reforms were stalled in the Honduran Congress.

I. LAND

LAND USE

Honduras has a total land area of 11.2 million hectares (111,900 square kilometers) and a 2009 population of approximately 7.5 million people. Honduras is one of the least urbanized countries in Central America, with over half of the total population (52%) living in rural areas. The country's 2009 GDP was US \$14.3 billion, comprised of approximately 12% agriculture, 27% industry and 60 % services (World Bank 2009a; IDB 2008; Angel et al. 2004).

Honduras is very mountainous and has limited arable land. Only 9.5% of total land area is arable, while approximately 28% is dedicated to agriculture, 3 % is permanent cropland, 39% is forest area and 20% is made up of nationally protected areas. Agricultural production and exports are largely concentrated in coffee, bananas and sugar (World Bank 2010a; CIA 2010).

Honduras is the third poorest country in Latin America. The number of people living under the national poverty line has grown in recent years, rising from 51% in 2009 to 65% in 2011. By international standards, approximately 30% of the population lived in poverty (earning less than \$2 (PPP) per day), while approximately 18% of the population lived in extreme poverty (earning less than \$1.25 (PPP) per day) in 2006. Poverty is largely concentrated in rural areas, where 74% of the country's poor and 86% of the extremely poor reside. Poverty is prevalent in the interior highlands and the western region, which has the highest concentration of poverty and extreme poverty in the country (IDB 2008; IFAD 2007; IndexMundi.com 2011; World Bank 2010a).

Although Honduras remains primarily rural, urban centers are growing rapidly. Fueled by migration, urbanization is occurring at an annual rate of 3%. In the capital, Tegucigalpa, informal settlements are dominant. As of 2001, an estimated 45–55% of the city's development was extra-legal and informal, and over 60% of the urban population lived in informal settlements. Income inequality in urban areas is high (UNICEF 2010; Angel et al. 2004; UN-HABITAT 2010).

Honduras lies at the western edge of the Caribbean hurricane belt and is highly vulnerable to hurricanes and floods. The United Nations ranked Honduras the most vulnerable country in the world in terms of fatalities per capita from hurricanes. The high incidence of natural disasters has created financial pressures that crowd out new investment and expenditure in other priority areas and has reversed previous gains in infrastructure improvement or poverty reduction (IDB 2008; EC 2007).

Forests cover approximately 39% of Honduras' surface. However, forests are threatened by rapid deforestation, which is occurring at a rate of 3.1% per year. Seventy percent of protected areas overlap with indigenous and ancestral territories (Nelson 2003; World Bank 2010a; Landtenure.info 2008; Mollett 2006).

LAND DISTRIBUTION

Land distribution in Honduras is highly unequal. Despite repeated attempts to reform the land sector, the *latifundio* (large estate) / *minifundio* (smallholding) complex continues to dominate land distribution in Honduras. Approximately 70% of farmers hold 10% of the land in *minifundios*, while 1% of farmers hold 25% of the land in private *latifundios*. *Minifundistas* have very limited access to land, while an additional 300,000 people are landless or very land poor (Nelson 2003; Jansen et al. 2005; FIAN 2000; IFAD 2007; IFAD 2007).

The distribution of urban land is skewed. As of 2004, 3% of the population of Tegucigalpa owned 40% of the land. There is a shortage of affordable land in urban areas, leading to the development of informal settlements on the urban periphery (Angel et al. 2004).

The Government of Honduras (GOH) implemented land reforms in the 1960s. The GOH organized rural cooperatives under the Agrarian Reform Act and distributed 1500 hectares of government-owned land. The GOH also established arable landholding ceilings and expropriated some lands that were not used productively in an attempt to reduce the size of inefficient landholdings and provide more land to rural households. However, the program ended abruptly in 1963 following a military coup. The land reform did not successfully reduce inequalities of land distribution, because most of the land distributed was state owned, land ceilings were not consistently enforced and the program was small (Merrill 1995; de Janvry et al. 1998).

Throughout the 1970s, the poor primarily accessed land through the illegal occupation of vacant land. Between 1973 and 1977, the GOH implemented new reforms in response to pervasive squatting. The GOH addressed land reform through laws aimed at providing titles to squatters and other landholders, which allowed the titleholders to sell their land. These reforms distributed 120,000 hectares of land to 35,000 poor families. In 1975, however, the reform was halted and squatting on unused land again became common. Overall, the reform benefited only 9% of rural households. The reform's income and productivity impacts were minimal, because the majority of the redistributed land was state owned, often of marginal quality, and there were few complementary reforms (Merrill 1995; de Janvry et al. 1998; ILC 1999).

In the most recent phase of agrarian land reform, the GOH focused on individualizing tenure by parceling collective and state lands. In 1992, the GOH passed the Agricultural Modernization Law, which permitted members of cooperatives to parcelize and sell their holdings. Some smallholders chose to sell their land to large-scale banana producers, which resulted in the reconcentration of previously distributed land (Merrill 1995; de Janvry et al. 1998; ILC 1999; FIAN 2000).

In total, the land reform efforts of the GOH distributed 409,000 hectares to 60,000 families. These figures represent 12.3% of total land area and 13% of rural families, respectively. Land distribution in Honduras continues to be highly unequal (FIAN 2000).

Indigenous and other ethnic groups (the Lenca, Pech, Tawakha, Cho'rti', Xicaque, Miskito, and Garifuna) constitute approximately 9% of the total population. These groups live in approximately 362 communities and have limited control over their lands and allocation of their natural resources (MRG 2008; USDOS 2007).

LEGAL FRAMEWORK

The Constitution (1982) guarantees real property rights. Articles 340 and 341 of the Constitution entrust the State with the power to regulate how natural resources are allocated and used in order to protect both individual and national interests (Martindale-Hubbell 2008; GOH Constitution 1982).

The Law for the Modernization and Development of the Agricultural Sector (LMDSA) (1992) introduced measures aimed at boosting Honduras' land market, simplifying expropriation and restricting land invasion. LMDSA allowed *campesinos* to obtain title to national land they had been occupying illegally, as long as they had been occupying it for at least three years. It also allowed the titling of parcels of land one hectare or larger, while previous legislation had required they be at least five hectares to be titled. Further, LMDSA allowed women to receive land titles in their own names, a practice previously restricted to widows and single women (Nelson 2003; ILC 1999; GOH Agricultural Sector Law 1992).

The Property Law (2004) was passed to improve the registration and cadastre processes. Specifically, the institutional and legal framework was altered to create a more efficient system of property rights to activate capital markets and to regularize the situation of properties under dispute (World Bank 2009c).

The Civil Code allows for real property purchase, acquisition, donation, use, rent, mortgage, lien and legal protection (USAID 2005).

In 1994, Honduras signed ILO Convention 169 concerning Indigenous and Tribal Peoples in Independent Countries. The Convention recognizes the rights of indigenous people to lands they traditionally occupy (MRG 2008).

TENURE TYPES

Land in Honduras may be held by the state, by private landholders or in *ejidal* (communal) holdings. Land may also be held under usufruct title and leased (Nelson 2003).

BOX 2. LAND TENURE INDICATORS		Score
<u>Millennium Challenge Corporation Scorebook, 2009</u>		
— Land Rights and Access (Range 0–1; 1=best)		0.643
<u>International Property Rights Index, 2009</u>		
— Physical Property Rights Score (Range: 0–10; 0=worst)		4.4
<u>World Economic Forum's Global Competitiveness Index, 2008-2009</u>		
— Property Rights (Range: 1–7; 1=poorly defined/not protected by law)		4.3
<u>World Economic Forum's Global Competitiveness Index</u>		
— Ease of Access to Loans (Range: 1–7; 1=impossible)		3.3
<u>International Fund for Agricultural Development, Rural Poverty Report, 2001</u>		
— Gini Concentration of Holdings, 1981-1990 (Range: 0–1; 0=equal distribution)		0.78
<u>International Fund for Agricultural Development, Rural Sector Performance Assessment, 2007</u>		
— Access to Land, 2007 (Range: 1-6; 1=unsatisfactory access)		3.25
<u>Food and Agricultural Organization: Holdings by Tenure of Holdings</u>		
— Total Number of all Agricultural Holdings, Year		...
— Total Area (hectares) of all Agricultural Holdings, Year		...
— Total Number of Holdings Owned by Holder; Year		...
— Total Area (hectares) of Holdings Owned by Holder; Year		...
— Total Number of Holdings Rented from Another; Year		...
— Total Area (hectares) of Holdings Rented from Another; Year		...
<u>World Bank Group, Doing Business Survey, 2009</u>		
— Registering Property-Overall World Ranking (Range: 1–181; 1=Best)		133
<u>World Bank Group, World Development Indicators, 2009</u>		
— Registering Property-Number of Procedures		7
— Registering Property-Days Required		23
<u>World Bank Group, World Development Indicators, 1998</u>		
— Percentage of Population with Secure Tenure		...
<u>Heritage Foundation and Wall Street Journal, 2009</u>		
— Index of Economic Freedom-Property Rights (Range 0-100; 0=no private property)		30
<u>Economic Freedom of the World Index, 2008 (2006 data)</u>		
— Legal Structure and Security of Property Rights (Range 0-10;0=lowest degree of economic freedom)		4.85
— Protection of Property Rights (Range 0-10; 0=lowest degree of protection)		5.17
— Regulatory Restrictions of Sale of Real Property (Range 0-10;0=highest amount of restrictions)		7.64

State ownership. Under the Constitution, state-owned lands are legally the property of the national government of Honduras. Over time, however, a variety of users have come to occupy large sections of state-owned land and consider the land their own. Many of these claims are upheld by usufruct titles issued by local authorities (Nelson 2003).

Private ownership. A large percentage of the total land is privately owned. However, in both rural and urban areas, only a small percentage of the total population owns land. Traditional rights of ownership, including exclusive use and transferability, are generally the province of large landowners and multinational corporations. However, a growing number of campesinos have received title through land titling projects (Nelson 2003).

Ejidal or communal ownership. Largely excluded from land markets, *ejidos* are communal holdings awarded to a municipality or indigenous community for the use of inhabitants of the jurisdiction. Many *ejidal* parcels have been occupied by households for extended periods of time and these households have subsequently been awarded usufruct titles by local officials. While previous legislation had excluded *ejidos* from the land

market, in 1992 the LMDSA removed those restrictions, as long as the land had been fully titled. Indigenous lands are owned communally, providing land use rights to individual members of the group (Nelson 2003; World Bank 2007b; GOH Agricultural Sector Law 1992; USDOS 2007).

Agrarian reform land grants. Land conferred during the agrarian reform efforts of the 1960s and 1970s is held in private or communal ownership. However, due to poor record keeping, delineation and confirmation of title is challenging or impossible. Like *ejidos*, land granted during agrarian reforms has generally not been disposable (Nelson 2003).

Usufruct. Local authorities may issue usufruct titles for public lands. However, many *campesinos* who once had only limited usufruct rights to their land have received individual or communal title under government land titling programs (Nelson 2003).

Leasing. Under the LMDSA, fully titled private and Reform Grant land may be leased. Collectively owned lands that have subdivided and awarded rights to individual members may also be leased (Nelson 2003).

SECURING LAND RIGHTS

Land is acquired through purchase, inheritance or invasion. The government has not allocated land through land reforms since the 1990s, though land obtained during previous land reforms does transfer through inheritance. The National Agrarian Institute (INA) has periodically legalized private rights to public land acquired through invasion (Nelson 2003; Angel et al. 2004).

Ambiguity of ownership challenges land tenure security in Honduras. Approximately 80% of the privately held land in the country is untitled or improperly titled. As of 2005, only 14% of Hondurans occupied properties legally. The remaining 86% held property outside the scope of the law. Of properties held legally, only 30% were registered in 2005. In some cases, one parcel of land may have two or three titleholders due to clerical error and fraud (USDOS 2010; USAID 2005).

Lack of title also leads to tenure insecurity. *Minifundistas* are the most tenure insecure of all farmers. As of Honduras' most recent agricultural census (1993), 66% of all *minifundios* were not titled. In contrast, approximately 76% of *latifundios* greater than 50 hectares had secure title. However, the rights of *minifundistas* are bolstered by customary rights, exhibited by deeds called *escrituras públicas* or oral agreements. These are considered sufficient to protect smallholders from other claims within the locality (Jansen et al. 2005; Nelson 2003).

Land invasion, which has become a common way for the landless to access land, also threatens tenure security. Private ownership and *ejidal* land rights are not completely secure due to the threat of invasion by landless farmers and urban migrants. Because *ejidos* have no exclusive owner and grant only usufruct rights to land, it is difficult for rights holders to protect the land from invaders. In urban areas, *ejido* lands have been subject to frequent squatter invasions. The invading farmers and squatters apply for the land with the National Agrarian Institute (INA) under the LMDSA. Though land invaders initially lack formal title to the land, they have some security due to land tenancy laws, which grant legal rights to land that has been occupied for ten years (USDOS 2010; Angel et al. 2004).

Indigenous and ethnic groups are highly tenure insecure. Many of these groups lack clear title to their land, which fosters encroachment and expropriation attempts by nonindigenous landless farmers, powerful business interests and government elites interested in exploiting coastline, forests and other natural resources held by indigenous and ethnic groups. In addition, Honduran law provides specific rights to nonindigenous occupants of indigenous lands, even occupants that have acquired the land in violation of indigenous rights (EC 2007; MRG 2008; World Bank 2007b; USDOS 2007).

Foreigners may own property in Honduras, though plots are limited to 0.3 hectares if within 40 kilometers of the sea or national borders, unless the land is within a tourism area as defined by the Ministry of Tourism (US Embassy 2009; USDOS 2010).

Married couples may have their land titled jointly upon their request. However, at the national level, only 25% of titles granted between 1996 and 2000 were issued to women, single or married (Lastarria-Cornhiel et al. 2003).

The GOH, with assistance from the World Bank's Land Administration Program (PATH, Phase I), has been working to develop a new registration system called *folio real* that connects registry and cadastral records in one central database. *Folio real* has greatly reduced the cost and time to register property from an average of 18 months to 15 days. As a result, registration of real property has increased (PATH 2009a; World Bank 2009c).

PATH also has its critics. In 2006, the Garifuna complained to the Inspection Panel of the World Bank that the program would take away collectively owned lands through granting of individual tenures. Community members who own land under individual title have allegedly been pressured to sell their land to business interests (World Bank 2007b).

As of 2010, the GOH and the World Bank planned to pursue Phase II of PATH, which would continue to promote cadastral surveying, titling and registration processes, as well as improve transparency of and access to land

administration services. The program also includes a component intended to support INA in collective titling of indigenous lands, explicitly Garifuna and Miskito communities (World Bank 2009e).

INTRA-HOUSEHOLD RIGHTS TO LAND AND GENDER DIFFERENCES

Under the Constitution of Honduras (1982, last amended 2011), all Hondurans are equal before the law and discrimination on the basis of sex, race or class is prohibited. The Constitution also guarantees the right to property to all Hondurans. The Family Code (1984) and the Law for the Modernization and Development of the Agricultural Sector (LMDSA) (1992) do not discriminate against women, while the Law on Equal Opportunities for Women (2000) states that women and men are equally entitled to benefit from the Land Reform Law (GOH Constitution 1982; SIGI n.d.; Roquas 2002).

Women and men have equal right to inherit land under the law. The Civil Code states that when a spouse dies intestate, the property is ascribed to heirs in the following order: children (in equal portions, regardless of gender), parents, siblings, the surviving spouse and municipalities. Without a will, the spouse of the deceased cannot automatically claim the conjugal portion of the property (SIGI n.d.; Roquas 2002).

BOX 3. LAND AND GENDER INDICATORS		Score
OECD: Measuring Gender In(Equality)—Ownership Rights, 2006		
— Women’s Access to Land (to acquire and own land) (Range: 0-1; 0=no discrimination)		0.6
— Women’s Access to Property other than Land (Range: 0-1; 0=no discrimination)		0.0
— Women’s Access to Bank Loans (Range: 0-1; 0=no discrimination)		0.3
FAO: Holders of Land Classified by Sex, 1993		
— Percentage of Female Holders of Agricultural Land		...

Though women’s property rights are explicitly recognized in legislation, these rights are often not recognized in practice. Women own only one-quarter of all parcels in Honduras. Socio-cultural norms recognize men as heads-of-household and landowners. The gendered division of labor limits women’s involvement in agricultural production. Men commonly control and dispose of their wives’ possessions and sometimes sell their wives’ land without their knowledge or consent (SIGI n.d.; USDOS 2007; Roquas 2002; Lastarria-Cornhiel et al. 2003).

The National Bank of Agricultural Development (BNDA) provides equal access to bank loans to both women and men. However, women’s access to loans has customarily been limited by social discrimination, as well as women’s lack of access to land (SIGI n.d.).

LAND ADMINISTRATION AND INSTITUTIONS

The Property Institute (IP) is a decentralized agency of the Presidency, which operates the new *folio real* registration system. Landowners must register real property and transfers of real property with the IP. The IP has jurisdiction over 22 registries, including one in each of Honduras’ 18 Departments. The IP also oversees the Executive Directorate of the Cadastre, the Directorate of Intellectual Property and the National Geographic Institute (GOH 2010; World Bank 2009c; Proenza 2006).

The National Commission for Property Policy and Regulation (CONAPON), created by the Property Law (2004), was established to guide national property and land administration policies. The Commission is made up of representatives from private and public sector institutions, all of whom are appointed by the President. The Confederation of Campesino Associations of Honduras, as well as indigenous and Afro-Honduran peoples, are represented in the Commission (Proenza 2006).

The National Agrarian Institute (INA) is responsible for the use of national lands, agrarian reform and the adjudication of land invasion claims. INA also oversees the regularization of tenure for indigenous groups under the Property Law (USDOS 2007; PATH 2009b).

The National Campesinos’ Association (ACAN) is a confederation of 512 organizations representing business associations, cooperatives, rural banks and farmer groups focused on protecting *campesino* interests. The farmer groups represented in ACAN include women’s groups, landless farmers and smallholders. ACAN has a membership of 13,000 families and is active in 16 Departments (ACAN n.d.)

LAND MARKETS AND INVESTMENTS

The continued existence of the *latifundio* system challenges the development of efficient land markets. Large landowners are capable of increasing the size of their holdings through economic, political and coercive pressure. *Campesinos* with usufruct rights are often violently forced to abandon their land, while smallholders who need cash often produce crops for exports and are forced to sell at below-market prices to large landholders (Nelson 2003).

Registration of formal property transactions in both rural and urban areas is a relatively short process, averaging 23 days. The cost of registration, however, is fairly high, averaging 5.6% of the property value (World Bank 2009c).

Mortgage and credit are difficult to obtain due to the unclear nature of land tenure in Honduras. As of 2005, only 5% of the population had access to credit. To mitigate their risk in lending on insecure properties, creditors require guarantees of 150% of the value of loans. In addition, interest rates on mortgages are the highest of any Central American country. Microfinance institutions provide an alternative source of credit for some, though microfinance interest rates are often significant as well (USAID 2005).

The informal land market is strong in both rural and urban areas. Lack of clear land title makes land transactions risky and expensive. Formal land transactions are cumbersome and require compliance with a number of specifications, motivating people to buy and sell urban property on the informal market (USAID 2005; Angel et al. 2004).

Evidence suggests that farmland leases have increased dramatically over time, but that the overall volume of leases is still quite low. The majority of the growth in leases is in land loans – informal agreements between friends, relatives and neighbors lacking formal documentation – rather than fixed cash leases or sharecropping (Boucher and Barham 2004; Nelson 2003).

During the administration of Manuel Zelaya Rosales, the Honduran Congress enacted Decree 18-2008, establishing a legal basis for the government to expropriate lands under specific circumstances for redistribution to those who had historically lived on the land and/or those who farmed the land for subsistence (ARSN 2011).

The redistribution and titling process was stalled when the Micheletti and Lobo regimes ousted Zelaya in a military coup. In response, thousands of *campesinos* peacefully occupied the land they believed that Decree 18-2000 had granted them (Kryt 2011).

In January 2011, the Supreme Court declared Decree 18-2008 to be unconstitutional. The government has since arrested a number of community members in the Bajo Aguán area on charges that include land seizure and illegal construction, and for resisting eviction orders executed by private security forces and by the police and Honduran navy. Local communities have alleged widespread human rights violations and escalating violence by the government and private actors, including murder, torture, forced evictions and sexual abuse. The communities maintain that the government has not sought to prosecute the perpetrators of this alleged violence (FIAN International 2011).

LAND DISPUTES AND CONFLICTS

Conflicts over land are common in Honduras, with increased conflict since 2008. These frequently involve actions by government and business interests that threaten lands held by indigenous and ethnic groups. Community leaders opposed to land acquisitions have been subject to intimidation and violence. In 2005, an arson attack destroyed the home of a Garifuna leader. In 2006, another Garifuna community leader was allegedly forced at gunpoint to sign over community land. Also in 2006, armed paramilitaries entered the community of San Juan and fenced a section of land desired by a privately owned real estate company, PROMOTUR (MRG 2008).

Violent disputes between squatters, landowners and police have also occurred. In 2008, a group of squatters in Tegucigalpa attacked and killed ten family members of a local police chief with whom they had a long-running land dispute. In 2010, police and private security guards allegedly attacked members of a *campesino* group who were attempting to reoccupy a parcel of land from which they had been evicted (Cuevas 2008; WW4 2010).

In February and March 2011, an international mission composed of six networks and international organizations, including the Association of World Council of Churches, International Federation for Human Rights, and Via Campesina International, conducted a study to evaluate the conflict in Bajo Aguán, and observed a number of human rights violations, including Bajo Aguán peasant workers killed with no investigation or arrests; as well as long-standing harassment and threats against those belonging to peasant organizations (FIAN 2011).

Widespread disputes over titles resulted from the former system of registration called *folio personal*. In an effort to reverse citizens' growing distrust in the registry, the government transitioned to the *folio real* system in the Property Law of 2004. Conflicts resulting from either system are resolved by the courts (World Bank 2009c; PATH 2009b).

The Property Law (2004) regularized the land dispute resolution process. Under the law, land disputes may be settled through: (1) conciliation, (2) arbitration, and (3) abbreviated court proceedings. If conciliation fails, the disputing parties may move to arbitration, and so on. Once a court has ruled on a land dispute, the ruling may only be appealed to the Honduran Supreme Court (GOH Property Law 2004; LaMirand 2009).

KEY LAND ISSUES AND GOVERNMENT INTERVENTIONS

Through various programs in 2006, the government regularized tenure for thousands of people by granting title deeds to individuals and organizations of *campesinos* or indigenous groups. Of particular importance, the *Proyecto de Acceso a la Tierra* (PACTA), a public-private partnership with the World Bank and FAO from 2000 to 2006, attempted to pick up where land reform left off. Instead of distributing state-owned lands to *campesinos* at no cost, PACTA supported the acquisition of land by self-organized landless and land-poor households. Loans from private funds were utilized to purchase land while public funds managed by the National Agrarian Institute were used to provide technical assistance and loans for complementary investments in agricultural production (World Bank-IMF 2007; World Bank 2007a).

PACTA was renewed for three years (2010–2013) at a total cost of US \$10 million. The project operates in 12 Departments (PACTA 2010).

DONOR INTERVENTIONS

The World Bank has supported two large land-related projects in Honduras:

1. The Rural Land Management Project (PAAR) ran from 1997 to 2004 and was funded at US \$42.3 million. The project focused on the modernization of land administration and natural resource management. According to FAO and the World Bank, the project achieved satisfactory results and had a substantial impact on institutional development (Proenza 2006).
2. Phase I of the Land Administration Program (PATH) ran from 2004 to 2010, with funding of approximately US \$38.9 million. One of the program's main accomplishments is the development of a new registration system known as *folio real* that connects registry and cadastral records in one central database. As of 2010, Phase II of PATH was in the World Bank pipeline. Phase II, funded at US \$30 million, will continue to promote cadastral surveying, titling and registration processes, as well as improve transparency of and access to land administration services (PATH 2009a; World Bank 2009c; World Bank 2009e).

2. FRESHWATER (LAKES, RIVERS, GROUNDWATER)

RESOURCE QUANTITY, QUALITY, USE AND DISTRIBUTION

Honduras has abundant water resources (13,504 cubic meters per capita) and is home to most of Central America's watersheds. The country is divided into two broad regions: the Atlantic side and the Pacific side. The Atlantic side contains 13 river basins that produce 87% of Honduras' surface runoff, while the Pacific side contains five major watersheds that produce 13% of the country's surface runoff. The Atlantic side is regularly hit by tropical storms and hurricanes, resulting in extensive damage to infrastructure and agricultural systems. Parts of the country are prone to drought (World Bank 2010a; FAO 2000; EC 2007).

Honduras has extensive surface and groundwater resources. Of the country's 19 river systems, 87% drain into the Caribbean Sea, while the remaining 13% flow into the Gulf of Fonseca on the Pacific Ocean. Lake Yojoa is the country's only natural lake. Precise data on the country's groundwater resources is not available; however,

groundwater is estimated to be abundant in the lowlands of the Atlantic side. In the interior highlands and on the Pacific side, extensive irrigation has significantly reduced groundwater levels (FAO 2000).

Honduras has the second lowest amount of water per capita in Central America due to mismanagement of and pressure on water resources. Of total annual freshwater withdrawal, approximately 80% is used for agriculture, 8% is used for domestic needs and 12% is used by industry. More than 90% of total water use is from surface water. Groundwater is primarily used by communities without access to water systems, urban industries and farmers during the dry seasons. An estimated 95% of the urban population and 81% of the rural population have access to an improved water source. There are high rates of intestinal diseases and diarrhea in areas with limited access to water and sanitation services (World Bank 2010a; UN 2006; EC 2007).

Environmental stress has negatively affected Honduras' surface and groundwater resources. Water resources are polluted by toxic pesticides used for agricultural production and untreated effluents from mining, especially along the Gulf of Fonseca. Untreated sewage is released into surface waters, leading to disease and eutrophication. In addition, deforestation has significantly increased soil erosion and sedimentation of rivers and streams. This has dried up streams, reduced the storage capacity of reservoirs and reduced biodiversity. Extensive hydroelectric development has also affected the quality of the water and surrounding environment (EC 2007; Krchnak 2007).

The hydroelectric potential of Honduras is 4645 megawatts. The country has four hydroelectric plants, the largest of which is El Cajón (300 megawatts) followed by Rio Lindo (80 megawatts), Canaveral (28.5 megawatts); and Loquat (22.5 megawatts). Many other small and medium-sized hydroelectric projects are currently being developed (EC 2007; FAO 2000).

LEGAL FRAMEWORK

The General Water Law, approved by the Honduran Congress in August 2009, replaced the National Water Use Law (1927). The National Water Use Law (1927) controlled water use, but lacked integrated management of water resources and allowed for unrestricted exploitation of groundwater resources. Under the General Water Law, a decentralized National Water Authority will replace the existing General Directorate of Water Resources (DGRH) and will be responsible for the use, operation, applications and any other forms of water resources exploitation (GOH General Water Law 2009a; Krchnak 2007).

The Water Framework Law (2003) decentralized water supply management from The National Autonomous Service of Aqueducts and Sewerage Service (SANAA) to municipalities (active until 2008). In addition, the law memorializes the primacy of human water consumption (GOH Water and Sanitation Law 2003).

Honduras shares watersheds and rivers with Nicaragua, Guatemala and El Salvador, but has no international agreement regulating the joint utilization and management of shared water resources (FAO 2000).

TENURE ISSUES

Under the General Water Law (2009), the right to water is a human right guaranteed by the State. Rights to both surface water and groundwater vest with the state. The law states that water is a social resource and calls for equal access to water resources. The law states that human water consumption is privileged over other uses. In addition, the law establishes a National Water Authority to replace the DGRH, which is under the Ministry of Natural Resources and Environment (SERNA) (GOH General Water Law 2009a).

Under the Water Framework Law of 2003, municipalities have preference over all other users for the purpose of providing water for human consumption or discharge of sewage (GOH Water and Sanitation Law 2003).

GOVERNMENT ADMINISTRATION AND INSTITUTIONS

The General Water Law (2009) established a decentralized National Water Authority to replace the DGRH. The National Water Authority will regulate and provide oversight of water sector institutions (GOH General Water Law 2009a).

Under the Water Framework Law, municipalities are responsible for water provision subject to national water policy as governed by the National Water and Sanitation Council (CONASA) and regulated by the Potable Water and Sanitation Regulatory Agency (ERSAPS). CONASA is responsible for planning, financing and developing strategy and norms, while ERSAPS is responsible for sector regulation and control (GOH 2005).

Additional water sector institutions include:

1. The General Directorate of Water Resources (DGRH), made obsolete by the General Water Law (2009), granted water concessions for use of water outside of potable water supply and sanitation sectors, which is under SERNA. DGRH has been replaced by the National Water Authority.
2. The General Directorate for Impact Assessment and Environmental Control (DECA) and the Centre for the Study and Control of Contaminants (CESCCO), which is under SERNA, are responsible for addressing environmental problems and pollution.
3. The Department of Public Works, Transport and Housing (SOPTRAVI) is responsible for flood control, drainage and land reclamation.
4. The National Autonomous Service of Aqueducts and Sewerage Service (SANAA) provides technical assistance to municipalities. Prior to implementation of the Water Framework Law, SANAA provided piped water and sewer services throughout the country.
5. The National Electricity Company (ENEE) oversees energy development and hydroelectric projects.

In rural areas, the Water Management Board (JAA) controls water use. The boards are controlled by regulations and supported with technical and administrative assistance by SANAA, which also operates many of the urban water and sanitation systems (FAO 2000; GOH 2005).

GOVERNMENT REFORMS, INTERVENTIONS AND INVESTMENTS

Recently, the GOH and the private sector have made significant investments in the construction of hydro-electric dams. With foreign bi-lateral and private sector assistance, the GOH plans to implement dam and irrigation projects on several rivers, including a three-dam project on the Patuca River funded by the transnational Chinese company Sincohydro. Opposition from local communities has delayed projects in some cases (El Heraldo 2009; El Heraldo 2010a; La Tribuna 2010).

The Honduran Water Platform, with assistance from the government, was created to promote integrated water resources management. The Platform assisted enactment of the new Water Framework Law of 2003 and capacity building for watershed groups (Plataforma del Agua de Honduras 2004).

From 1998 to 2000, the Honduran Ministry of Health and the Swiss Agency for Development and Cooperation jointly managed the Rural Water and Sanitation Project (PROSAR), which cost approximately US \$1.3 million. Through the project, environmental health technicians based in municipal health centers coordinated the construction of water systems, as well as trained and supported communities in maintaining existing water systems (Trevett 2000).

DONOR INTERVENTIONS AND INVESTMENTS

USAID projects in Honduras support rural water development projects, municipal water supply services and watershed management. USAID's projects include building oxidation ponds to treat waste water, working with the government to train technicians who monitor water quality, local level auditing to improve the sustainable use of natural resources and policy-level assistance to strengthen national environmental management (USAID 2008; USAID 2006).

The World Bank has supported projects that provide technical assistance, large scale investments to support the decentralization of water and sanitation services and efforts to strengthen national and regional institutions. The World Bank currently supports the following projects in Honduras:

1. The Water Sanitation Sector Modernization Project (US \$35 million) will run from 2007–2013. The project objectives are to: (1) strengthen municipal water and sanitation service providers and support good governance in water and sanitation; (2) support the sector at the national level; and (3) reduce the non-revenue water in areas of Tegucigalpa to improve water service quality.
2. The Honduras Output-Based Aid (OBA) Project (US \$4.4 million) will run from 2007–2011. The project is aimed at establishing a mechanism for financing sector infrastructure that is efficient and transparent.

3. The Barrio-Ciudad Project (US \$16.5 million) will run from 2005–2012. The project supports improvements to urban water and sanitation systems, in addition to other approaches intended to improve quality of life for the urban poor.
4. The Rural Infrastructure Project (US \$54.8 million), which will run from 2005–2012, aims to improve the rural poor’s access to water and other infrastructure services.
5. La Esperanza Hydroelectric Development Project (US \$1.4 million) is slated to run from 2004–2015. The project supports the development of a small, 12 megawatt hydroelectric project in La Esperanza (World Bank 2007c; World Bank 2009b; World Bank 2009d; World Bank 2010b; World Bank 2010c).

The Inter-American Development Bank currently supports two water sector projects in Honduras:

1. The Supplemental Water Supply and Sanitation Program (US \$32.5 million), which began in 2007, finances technical assistance and civil works for medium-sized municipalities that are reforming their provision of water and sanitation services.
2. The Investment in Water and Sanitation project (US \$2 million) began in 2004. The project supports the consolidation of water and sanitation sector reform (IDB 2010a; IDB 2010b).

The Nature Conservancy has been actively engaged in the Lake Yojoa region by helping a local group develop and implement a watershed strategic plan (Krchnak 2007).

3. TREES AND FORESTS

RESOURCE QUANTITY, QUALITY, USE AND DISTRIBUTION

Honduras has rich forest resources, with the highest proportion of forest cover of any Central American country. Though estimates vary, the FAO states that forests constitute 41.5% of land area, or approximately 4.6 million hectares. The central coast is made up of grassland, swamps and palm and pine forests. The north-eastern plane is covered with tropical rain forests, grasslands and palm and pine forests. Mangroves line the shore of the Gulf of Fonseca on the southern coast. Forest plantations are not common in Honduras (World Bank 2006a; World Bank 2006b; FAO 2010).

Pressure on forests in Honduras is high. Between 1990 and 2005, the country lost 37% of its forest cover to deforestation. Deforestation, most pervasive in the western and southern regions, is fueled by the conversion of forestland to agriculture or cattle ranching, forest fires, the collection of fuelwood and illegal logging. Farmlands that border forests are one of the major sources of deforestation through expansion of agricultural boundaries, speculative land clearing and extensive livestock breeding (World Bank 2006a; World Bank 2006b; Mongabay.com 2010; USAID 2009; EC 2007).

Of total land area in Honduras, 21% is protected. There are 102 protected areas comprised of both marine and terrestrial environments. Embalse El Cajón National Forest, Olancho National Forest, Patuca National Park, Rio Negro Biological Reserve and Rio Kruta Biological Reserve are among the largest protected terrestrial areas. Many of these areas are threatened by illegal logging, particularly of valuable hardwoods (World Bank 2010a; WRI 2006; Triana 2009; IDB 2008; EIA 2005).

LEGAL FRAMEWORK

The Constitution of Honduras (1982, amended 2005) declares reforestation and forest conservation to be of public benefit and national interest (GOH Constitution 1982).

The Forest, Protected Areas and Wildlife Law (2007) redefines forest areas and provides for more sustainable use of forest resources. The law abolished the State Forest Administration-Honduran Corporation of Forest Development (AFE-COHDEFOR) and the Department of Protected Areas and Wildlife (DAPVS) and established the Institute of Forest Conservation (ICF) in their place. The law provides more resources for enforcement of forest regulations, as well as harsher penalties against those who commit forest-related crimes. The forest regulations have not yet been promulgated, though a draft has been completed (GOH Forest Law 2007; Pellegrini 2009; GOH 2009b).

Other laws governing forests include: (1) the Cloud Forest Law (1987), which defines specific cloud forests as National Parks, wildlife refuges and biological reserves and declares that they are protected in perpetuity; (2) the General Law of Environment (1993), which states that forests should be used in a sustainable manner. Under the law, the IFC (formerly the State Forest Administration) grants licenses to individuals or corporations for logging; and (3) the Law for Sustainable Rural Development (2000), which promotes the participatory management of forests (GOH Cloud Forest Law 1987; GOH Environment Law 1993; GOH Sustainable Rural Development Law 2000).

TENURE ISSUES

There are two main types of forest tenure: public and private (GOH Forest Law 2007).

Public Forests. Public forests include state-owned forests, forests owned by municipalities (including *ejidos*) and any forests granted in concessions. All forests within the national territory that are not owned by an individual or entity are public forests. Nearly 3 million hectares of forest are publicly owned. Corruption in the forest sector and a lack of enforcement capacity have left public forests susceptible to overexploitation and illegal logging (GOH Forest Law 2007; Mongabay.com 2010; FAO 2010; Tucker 1999; EIA 2005).

Private Forests. Private forests belong to a person or entity with legitimate title and registration. Use of forestland is regulated by the Forest Law and subsequent regulations promulgated by ICF. With the aim of regularizing forest tenure, the Forest Law contains a procedure that could result in forfeiture of control of forest land to the state if irregularities of possession or occupation exist. Individuals and tribal communities privately own 1.75 million hectares of forest (GOH Forest Law 2007; FAO 2010; Mongabay.com 2010).

Indigenous groups have rights to forests on lands that they traditionally inhabit. Because the forest regulations have not yet been promulgated, the extent of their rights is unknown (GOH Forest Law 2007).

GOVERNMENT ADMINISTRATION AND INSTITUTIONS

The Institute of Forest Conservation and Development (ICF), created by the 2007 Forest Law, replaced the State Forest Administration-Honduran Forest Development Corporation (AFE-COHDEFOR). ICF promulgates regulations, executes national policy on forest development and conservation and issues permits for forest extraction to corporations and individuals. It is specifically charged with implementing the National Forest Program (PRONAFOR) (Global Witness 2009; GOH Forest Law 2007; GOH 2009b).

Two additional government agencies, the National Forest Consultant Committee (COCONAFOR) and the National Committee for PRONAFOR (CONAPROF) work with the ICF in forestry management, planning and administration. COCONAFOR is also the seat of the Honduran Forestry Agenda (AFH), an agency that has worked closely with the FAO to develop national forestry priorities. It is not yet clear how all national level agencies and programs will be integrated, though the AFH has proposed developing a coordination unit housed in the ICF (GOH 2009b).

The Forest Law (2007), Article 21, calls for the creation of national, departmental, municipal and community-level Forest, Protected Areas and Wildlife Consultation Committees to ensure local information from the field flows up to the national level and is acted upon. The committees are expected to monitor both compliance and performance of the various stakeholders in the sector (Global Witness 2009).

The Regional Agroforestry Cooperative of Atlantic Honduras (COATLAH) is a cooperative timber service organization based in La Ceiba. COATLAH often acts as an intermediary to assist other groups in obtaining forest use rights from the government (Prins et al. 2001).

GOVERNMENT REFORMS, INTERVENTIONS AND INVESTMENTS

The abolition of AFE-COHDEFOR was met by nearly unanimous approval, as the agency had been plagued with corruption. In 2007, the GOH also indicated that 1% of the state budget would be dedicated to reforestation and protection, and that the army would be used to enforce protection. While the declaration in regard to the budget was repeated on numerous occasions, only one-sixth of the promised amount had been disbursed as of 2007. Of that amount, 70% was absorbed by the military, though there is no evidence that enforcement of logging regulations has improved (Pellegrini 2009).

The GOH has both short term (2009–2011) and long term (2008–2021) strategic plans for forest conservation, protected areas and wildlife preservation. The ICF is charged with implementing these with guidance from PRONAFOR (GOH 2009b).

In 2009, the GOH submitted a Readiness Plan Idea Note (R-PIN) to the World Bank. The R-PIN is an expression of interest for participation in the Forest Carbon Partnership Facility (FCPF) program, a World Bank program (GOH 2009c).

DONOR INTERVENTIONS AND INVESTMENTS

USAID supports demonstration activities to educate communities on sustainable forest management and use, including sustainable fuelwood extraction. In addition, USAID supports training for community volunteer brigades on forest fire response (USAID 2010).

Through its new Assistance Agreements (2009-2013), USAID will partner with the Government of Honduras's Forest Conservation Institute and the Ministry of Natural Resources and Environment to implement relevant natural resources policies at the national and local levels. These policies focus on biodiversity conservation and protected area management under the forestry, wildlife, and conservation laws (USAID n.d.).

In addition, USAID will strengthen the capacity of the GOH and nongovernmental organizations responsible for managing a set of high-priority and biologically significant protected areas with high tourism potential (USAID n.d.).

The World Bank supports sustainable forest management and forest conservation through the Pico Bonito Sustainable Forestry Project (US \$8.3 million), which began with a seed grant from the Government of Japan and now operates primarily through private financing. The project, slated to run from 2006 to 2017, aims to generate emissions reductions equivalent to 850,000 tons of carbon dioxide by 2017. At the same time, the project supports the restoration of degraded forest habitats and the establishment of sustainable income generation (World Bank 2006a; World Bank 2006b).

The Olancho Environmentalist Movement (MAO) and the Campamento Environmentalist Movement are provincial-level conservation groups. Members of the organizations have been threatened, intimidated and killed for campaigning against deforestation, logging and mining activities, for highlighting the damage done by commercial interests to their environment and for bringing international attention to their cause. As of 2006, ten members of these groups have been killed (Parra 2007; Porritt 2007; Pellegrini 2009).

4. MINERALS

RESOURCE QUANTITY, QUALITY, USE AND DISTRIBUTION

The mineral industry accounted for about 0.8% of GDP in Honduras in 2009, dropping from 1.2% in 2006-2007. Honduras produces aggregate mineral materials, cement, clay, copper, gold, gypsum, iron oxide, lead, limestone and zinc. The USGS does not consider Honduras to have significant trade in mineral products (Wacaster 2010).

Approximately 30% of total land area has been granted in mining concessions, largely to multinational mining corporations from Canada and the United States. Gold mining is the main mineral development sector in Honduras, but other significant minerals are silver, gold, zinc, rhyolite, gypsum, iron oxide and lead. Goldcorp Inc., a Canadian company, ran the San Martin Mine, but underwent reclamation and closure activities in 2007. Yamana Gold Inc., a Canadian company, operates the San Andres open-pit mine in the Trifinio District. The expected life of the mine is five years, with estimated gold production of 2000 kilograms for 2009. Breakwater Resources, Ltd., also of Canada, operates the El Mochito Mine, which produces lead, silver and zinc (Power 2008; Cuffe 2005; Wacaster 2008; USGS 2008).

Gold producers in Honduras utilize techniques that cause extensive environmental damage. Local communities have decried the use of cyanide to separate gold flecks from rock, and the heavy use of water in arid regions. In 2010, the Honduran Environmental Prosecutor filed charges against Entremares – a subsidiary of Goldcorp Inc. – for severe water contamination near the San Martin gold mine. The charges were brought against two executives from Entremares and a former DEFOMIN official (Buncombe 2006; Rights Action 2009; Rights Action 2008; CAFOD 2010).

LEGAL FRAMEWORK

Under the Constitution of Honduras (1982), mining activities are regulated by law. According to the Mining Law (1998), the state owns all minerals, petroleum, hydrocarbon and gas deposits within its territory. The law classifies mining activities into: prospecting, exploration, exploitation, processing and commercialization. The law was struck down by a ruling of the Supreme Court (GOH Constitution 1982; Martindale-Hubbell 2008).

A new Mining Law was introduced to Congress that includes environmental regulations, an income tax and increased municipal taxes. The law restricts the operation of open-pit mines and gives greater importance to environmental concerns. In addition, the law calls for the creation of an Institute of Geology and Mines to replace DEFOMIN. As of April 2010, the law was stalled by Congress' inability to reconcile the competing interests of mining companies and environmental groups (El Heraldo 2010b).

TENURE ISSUES

Concessions. Honduras may grant divisible concessions to individuals or entities that can range from 100 to 1000 hectares, or more in the continental shelf. Mining concessions may be alienated, transferred or encumbered and must be registered. Holders of mining concessions must pay an annual fee per hectare and minimum annual production is required. In case of noncompliance, the annual fee may be increased. Concessions may be terminated by cancellation, nullity and waiver (Martindale-Hubbell 2008).

Operation contracts. Operation contracts for exploration or exploitation of petroleum are limited to a maximum of 100,000 hectares onshore and 200,000 hectares offshore, and may be assigned. Exploration may last four years, renewable for an additional two years. If oil is found, the contractor can enter into a 20-year exploitation contract renewable for five additional years. The State agrees to compensate the contractor until the contractor reaches profitability, but the contractor may have to reimburse that compensation through local distribution. In most instances, all equipment and installations must be turned over to the state at the termination of the operation contract (Martindale-Hubbell 2008).

Prospecting. No contract or concession is required for prospecting in Honduras, except in lands covered by a valid permit of exploration, or by a valid concession of exploitation. More than 2000 families make a living through the artisanal mining of gold along the Guayape, Guayambre and Patuca rivers (Martindale-Hubbell 2008).

GOVERNMENT ADMINISTRATION AND INSTITUTIONS

The Executive Director of Mining Development (DEFOMIN) is responsible for managing the mineral industry. DEFOMIN is charged with the promotion of mining in Honduras, as well as with monitoring the impact of the sector. Concessions must be registered by the holder with the Public Registry of Mining Rights (Wacaster 2008; Martindale-Hubbell 2008).

GOVERNMENT REFORMS, INTERVENTIONS AND INVESTMENTS

The Supreme Court of Justice declared the Mining Law partially unconstitutional in 2006, invalidating thirteen articles, including the provision that allows mining companies free access to water. Following this action, reforms to the law prohibited open-pit mining and the use of chemicals such as cyanide, mercury and arsenic. As of April 2010, however, these reforms were stalled in the Honduran Congress (Martindale-Hubbell 2008; CCODP 2007; May I Speak Freely 2006).

While previous governments had announced plans to implement a moratorium on new oil exploration activities, the opening of any new open-pit mines, and any commercial-scale cyanide processing, those restrictions are not in place today (Wacaster 2008).

DONOR INTERVENTIONS AND INVESTMENTS

None found.

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