**PROJECT TYPE**
Hydroelectric projects in Yichk'isis.

**FINANCING IN FOCUS**

**REPRISALS**
- Defamation.
- Harassment.
- Criminalization.
- Shootings.
- Torture.
- Killings.

**TIMELINE**

- **2009**
  In a consultation, San Mateo Ixtatán communities express their opposition to mining and hydroelectric projects in their territory.

- **2011**
  UN expert publishes a report on the human rights violations suffered by Indigenous Peoples affected by extractive projects in Guatemala.

- **2012**
  The Inter-American Commission on Human Rights denounces lack of consultation with Indigenous communities about development projects in their territories.

- **2013**
  IDB Invest provides US$ 13 million to develop two hydro-projects in Yichk'isis.

- **2017**
  Among an escalation of criminalization, threats and attacks, Sebastián Alonso, an Indigenous community member, is killed during a peaceful protest.

- **2018**
  Criminalization and other reprisals continue. Two Indigenous community members, Nery Esteban Pedro and Domingo Esteban Pedro, are killed.

- **2018**
  Community members submit a complaint to the IDB’s complaint mechanism (MICI).

- **2019**
  After MICI’s visit, Indigenous leader Julio Gómez Lucas and six family members are kidnapped and tortured.

- **2021**
  MICI publishes its report, recognizing that IDB Invest had violated numerous operational policies.
In 2013, IDB Invest (formerly known as Inter-American Investment Corporation) provided US$ 13 million to the company Energía y Renovación S.A., to develop two hydroelectric dams in the municipality of San Mateo Ixtatán, in the department of Huehuetenango, in northwestern Guatemala.56 The project also included the construction of a transmission line and several electrical substations.

In this area, 97.69% of the local population is Indigenous.57 There are different Maya communities (including the Chuj, Q’anjob’al and Marn), for a total of almost 44 thousand people distributed across different villages and hamlets.

The project presents serious environmental, social, security and gender related impacts.58 It risks polluting the rivers, with a devastating impact in an area where most of the people rely on small-scale agriculture for their livelihoods,59 and it could adversely impact the local flora and fauna.60 The project has also damaged archeological and sacred sites (impacting the culture and traditional way of life of local Indigenous people), created social conflicts and insecurity, and broken the community fabric.61 Women have particularly suffered from these social, environmental and economic impacts.62

The local communities have been peacefully resisting the project and mobilized in the Peaceful Resistance of the Microregion of Ixquisis, a movement integrated by nine communities, including Indigenous Peoples and persons of mixed Amerindian and European descent.63 They have been protesting against the project impacts and the lack of meaningful consultations. In the project assessment, they were not recognized as Indigenous and therefore the required safeguards were not applied. The lack of proper human rights due diligence led to an escalation of reprisals against those opposing the project, who have been facing violent attacks, including defamation,

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59 Interviews with human rights defenders (anonymous for security reasons), conducted online by the Coalition for Human Rights in Development, November 24, December 13 and 14, 2021.
61 Ibid.
In 2018, members of the affected communities of Yich’k’isis (also spelled as Ixquisis) submitted a complaint to the IDB’s Independent Consultation and Investigation Mechanism (MICI).64 Three years later, MICI published its final report, determining that the bank had violated numerous operational policies.65 MICI made 29 recommendations, some of them related to this specific project, and others aimed at the implementation of institutional changes to avoid breaching the social and environmental safeguards in future projects.66 In what was pointed out as an unprecedented event, MICI’s report also opened the possibility of a responsible withdrawal from the project, as requested by the communities.67 Finally, after the publication of the MICI report that detected noncompliance with IDB Invest’s policies and safeguards, the bank announced its decision to withdraw its financing from the project, and also designed a responsible exit plan.68

Retaliations

During the 36-year internal armed conflict (1960–1996), people in the area impacted by the project suffered violence and massacres, perpetrated by the army and paramilitary groups. When the project started, the company hired former paramilitary and military personnel as private security guards.69 The area was again heavily militarized, deepening historical tensions and bringing back insecurity, fear and violence.70 Security guards and the police threatened people opposing the project, and violently and repeatedly cracked down on protests.71 Many people injured during the protests were hospitalized and even children were intoxicated by tear gas.72

In 2017, Sebastián Alonso, a 72-year-old Indigenous man, was killed during a peaceful protest, when armed men hiding behind bushes shot at protesters, in the presence of public security forces.73 In 2018, Nery Esteban Pedro and Domingo Esteban Pedro, two brothers leaders of the Bella Linda community who opposed the project, were murdered.74 The killer was identified as a person close to the company.75

After the MICI visit in 2019, Indigenous leader Julio Gómez Lucas, and six family members, including his wife,

64 The complainants belong to the Maya Chuj and Maya Q’anjob’al Indigenous Peoples, from the communities of Bella Linda, Yulchen Frontera, Nuevo San Mateo, Pojom Nueva Concepción, and Caserio San Francisco, which are all belonging to the municipality of San Mateo Ixtatán. They were represented by the Q’anjob’al, Popti, Chuj, Akateko, and Mestizo Plurinational Ancestral Government, with the support of the AIDA and the International Platform against Impunity. See: “Guatemalan Indigenous communities file complaint for dams’ damages”, AIDA, August 2018, https://aida-americas.org/en/press/guatemalan-indigenous-communities-file-complaint-for-dams-damages.

65 The projects were approved under 2016 IDB’s environment and safeguards compliance policies, which were then updated in 2020. When the project was approved, the bank should have complied with: Operational Policies of the IDB, the Performance Standards on Social and Environmental Sustainability of the International Finance Corporation (PS), the World Bank Group/International Finance Corporation Environmental, Health, and Safety Guidelines (EHS Guidelines), and relevant industry sector guidelines. In its report, MICI noted that the bank did not comply with its applicable policies. The case shows that in addition to policies, it is important to analyze the bank’s practices in the implementation of social and environmental safeguards. See: Compliance review report, pages 76–78, MICI, 2021, https://didocs.iadb.org/wsdocs/get-document.aspx?docnum=EZSHARE-1567711961-1773.


were kidnapped and tortured for eight hours by some members of the Tz’ún’ununkab community. They were dragged to a community center, where local residents were summoned to witness the punishment.

Women, including pregnant ones and young girls, suffered intimidation, harassment, assaults and sexual violence. Also a young girl was raped. These abuses were reportedly committed by security forces and women are still feeling particularly intimidated by their ongoing presence. Their freedom of movement is restricted, as they fear being sexually assaulted.

According to one organization that accompanies the communities in Yichk’isis, at least 63 people have been criminalized on unfair charges so far. They were accused of acts of violence, attempts of murder, instigation to commit a crime, illicit meetings and demonstrations, and being part of illegal armed groups.

Members of the Peaceful Resistance movement were also subjected to smear and defamation campaigns through fake social media profiles. Several media depicted the activists as violent, defining the protests as acts of terrorism, and accused protestors of having attacked the police. In the case of one defender – who was

accused of having damaged the project machinery – the judge confirmed that media outlets had spread false information that benefited the interest of the company.

**IDB Invest’s failed due diligence**

**Lack of assessment of the risk of social conflict**

Bank documents published before the project approval had identified the risk of social conflict. However, the documents only analyze the possible impact on the project, rather than the risk for the communities and particularly for those opposing it. The documents also fail to address specific security risks related to the previous armed conflict, such as the impact on the community fabric.

In its final report, MICI found several violations of specific components of IDB’s Sustainability Policy related to human rights risks assessment and the impacts of the project on social cohesion, violence and insecurity.

According to MICI, the policies required an assessment that included the risk that people might be stigmatized and criminalized for their opposition to the project.

MICI also recommended specific measures to strengthen the bank’s institutional capacity to prevent reprisals and address reprisals risks. IDB Invest’s current policy makes reference to reprisals but does not establish a

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77 Ibid.


79 A detailed account of the different gender impacts of the project is registered in the “Comments from the Requesters on the Preliminary Verification Report on the Compliance of the MICI regarding the Generadora San Mateo S.A. Projects and Generadora San Andrés S.A. in Guatemala”, included as Annex III in the MICI report.


86 Ibid, page 55.
methodology to guide reprisals risks assessments. The bank, together with IFC, has also co-published guidelines for the private sector, on addressing risks of retaliation. The recommendations however are only addressed to clients, and fail to explain how the bank will act to prevent and address reprisals linked to projects.

FAIL TO CHARACTERIZE THE AFFECTED PEOPLE AS INDIGENOUS COMMUNITIES

According to MICI, 86% to 96% of the local population in the area impacted by the project is Indigenous. However, IDB Invest’s environmental and social impact assessment stated that communities were mostly non-Indigenous. In May 2009, the communities of San Mateo Ixtatán participated in a good faith consultation, ratified by a municipal act, and expressed their opposition to mining and hydroelectric projects in their territory. However, the consultation outcome was not respected by municipal authorities and was not taken into account by the bank.

The right to FPIC is required by the United Nations Declaration on the Rights of Indigenous Peoples. Violating this right was one of the factors that generated social conflict in the area and led to protests, that the company tried to silence and violently repress. As IDB Invest did not correctly identify the presence of Indigenous communities in the region and did not respect their right to self-determination, it also failed to identify potential human rights risks related to these communities, which could have been avoided through HRDD.

Although there were consultations, they were not meaningful. Representatives of the company talked to some community members and promised benefits, such as jobs, electricity, schools, health centers, and roads, without informing about possible risks and impacts. MICI found that “the support was uninform ed and largely based on the expectation of benefits” and that the communities did not have access to simple and accessible information in local languages about the project assessments, its impacts, and prevention and mitigation measures. MICI also noted that the community engagement strategy validated by IDB Invest did not include stakeholder mapping and many communities were not consulted. The lack of information about the risks and adverse impacts of the project, the lack of meaningful consultations with all stakeholders, and the promise of benefits to members of the communities supporting the project, through jobs, infrastructure and other assets, led to divisions and tensions among members of the communities.

MICI also found that IDB Invest wrongly assigned a risk category B to the project, which should have been categorized as A for the potential impacts. Therefore, it did not comply with requirements such as the publication of all environmental impact assessments at least 120 days prior to the Board’s approval and at least two meaningful consultations during the preparation stage.

LACK OF CONSIDERATION OF THE GENDER IMPACTS

Many of the reprisals linked to the high militarization of the area differentially affected women and girls, who were subjected to specific forms of violence because of their gender. MICI noted that the risk of gender-based violence was not identified in the initial social assessments and “no measures were taken beyond general statements that workers were subject to a code of conduct, and two training on gender-based violence conducted in 2019”. The bank could have anticipated risks of gender-based violence through consultations and effective HRDD, but the risk was not identified and there were no preventive measures in place.


90 The consultation (Act No 020-2009 From Municipality San Mateo Ixtatán) was organized by municipal authorities and was attended by 26,646 inhabitants of 72 communities in the region. Communities expressed their rejection of “open-pit mining exploration and natural resources in the municipality”.


92 Category A covers projects with significant impacts on protected or sensitive areas and/or vulnerable groups, including critical natural habitats, Indigenous territories, and cultural sites of spiritual, historical, or archaeological importance.


WEARING BLINDERS/ GUATEMALA: THE HYDROELECTRIC PROJECTS IN YICH’ISIS
THE BANK COULD HAVE ANTICIPATED RISKS OF GENDER-BASED VIOLENCE THROUGH CONSULTATIONS AND EFFECTIVE HRDD, BUT THE RISK WAS NOT IDENTIFIED AND THERE WERE NO PREVENTIVE MEASURES IN PLACE.

LACK OF AN INDEPENDENT ASSESSMENT

Even though the company had a clear conflict of interest, the bank relied entirely on the information it provided regarding the identification of affected communities, their characterization as non-indigenous, and the consultations with them. An independent evaluation and meaningful consultations would have revealed the risks of social conflict and reprisals. Instead, the bank assigned these crucial tasks to the company implementing the project, which had skewed incentives and failed to disclose potential impacts. The company also ended up amplifying divisions and, directly and indirectly, attacking those opposing the project.94 IDB Invest should have looked for information from outside sources, other than the client, given the polarized context.95

LACK OF CONSIDERATION OF THE SITUATION OF INDIGENOUS COMMUNITIES IN THE COUNTRY

In Guatemala, one of the most common causes of social conflicts is the exploitation of natural resources without consultation with Indigenous communities. The bank could have avoided and mitigated this risk, had it considered the reports by regional and international human rights treaty bodies that have documented many conflicts in Guatemala arising from the use of natural resources without the prior consent of the affected Indigenous Peoples, as well as the violent state response against those opposing extractive projects.96

In conclusion, the findings of this case study show that IDB Invest failed to assess potential reprisal risks and therefore did not plan or implement an appropriate risk mitigation strategy. If the bank had identified the Indigenous communities impacted by the project and carried out appropriate consultations, as well as an analysis of the wider context for Indigenous communities affected by development projects in the country, it would have been able to predict the high risks of retaliations for defenders and potentially take actions to prevent attacks from escalating.

94 Some of the reprisals suffered by communities that opposed the project were allegedly perpetrated by people who were recognized as employees of the company, or people who were hired by the company. The company also smeared defenders and contributed to creating divisions in the communities. See: Compliance review report, Annex V: Timeline of violent events, MICI, 2021, https://idbdocs.iadb.org/wsdocs/getdocument.aspx?docnum=EZSHARE-1567711961-1773; “Rigoberto Juárez Gobierno Ancestral Plurinacional Maya Q’anjob’al”, BHRRRC, November 10, 2018, https://www.business-humanrights.org/en/latest-news/rigoberto-juarez-gobierno-ancestral-plurinacional-maya-qanjobal/, among others.

95 MICI pointed out that “in such polarized climates as this one, an adequate monitoring of social performance requires seeking and receiving information through outside channels besides the Client. In this way, IDB Invest can ensure that the information on the implementation of the measures is comprehensive, systematic, and complete. That has not happened in this case”, Compliance review report, page 45, MICI, 2021, https://idbdocs.iadb.org/wsdocs/getdocument.aspx?docnum=EZSHARE-1567711961-1773.