

CHANGING THE CALCULATION: INTERNATIONAL BUSINESS IMPACTS ON HUMAN RIGHTS

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In December 1995, the Nigerian government executed [nine activists](#) who were protesting against a petroleum company destroying their indigenous land in the Niger Delta. The Ogoni activists murdered by the state were opposing the Ogoniland activities of the Shell Petroleum Development Company of Nigeria. These executions marked a turning point in efforts by human rights campaigners to raise the profile of the role that international corporations play in violating human rights, and to hold them to account for these abuses.

Twenty-one years after the killings, there is still no international mechanism by which corporations can be held accountable for human rights violations. Corporations are engaging with civil society, but mutual suspicions remain.

BUSINESS AND HUMAN RIGHTS DEFENDERS

In many ways, companies share common goals with human rights defenders (HRDs): accountability, transparency, the rule of law and due process. However, businesses usually do not have mechanisms to engage with civil society until after they are already established on a project, and often only then do so in an effort to meet corporate social responsibility (CSR) goals. CSR goals are typically not informed by human rights standards or framed with input from HRDs. Further, in too many places, the interests of some industries are diametrically opposed to the interests of the communities impacted upon, and businesses, including investors, seek only to implement projects, rather than withdraw due to human rights or environmental concerns.

Business and human rights is a trending topic in the international human rights movement, as rights activists work to address the actions of non-government actors that abuse a variety of human rights. Companies used to be the targets of human rights campaigns only when they violated the rights of labourers, such as when they provided poor working conditions or restricted their workers' freedom of association. Now this has expanded to a much larger concern about the impact of corporations

and the roles they play, directly or indirectly, in the suppression of human rights, including violence towards, threats against and the harassment and intimidation of HRDs. From global north companies providing spyware and other digital surveillance technologies to repressive governments to local, private security companies hired by mining operations, and from international development banks to green energy technology projects, virtually all commercial activities are being scrutinised for their impacts on land, the environment, communities, workers and indigenous peoples.

With more information available, more awareness among local communities, and more interconnectivity between international civil society, a new-found power in organising and confronting business is gaining unprecedented attention, and in some cases, winning concessions. Yet despite the positive developments, HRDs that confront business have likely never been in more mortal danger all over the world than they are today, and governments seem to be learning from each other about the ways of suppressing opposition to elite corporate interests.

HRDs who work to protect land rights, the environment and indigenous peoples' rights are most at risk, as their work often involves trying to stop large-scale projects such as dams, mining operations or other activities that impact on the lives and livelihoods of communities. In part because these communities are often remote and marginalised, it has often been difficult to gain attention for what is happening before it is too late, when communities have been displaced, the environment has been damaged or ways of life have been destroyed. HRDs find themselves exposed with little recourse to protection. Additionally, because large-scale projects almost always have some level of state involvement, as well as that of local and corporate elites, HRDs find themselves pitted against not only corporate money and power, but also the entire apparatus of the state: both its formal mechanisms, such as the police and the courts, and informal mechanisms, such as corruption and physical force.

For those HRDs who are not confronting such projects, the role of businesses in their repression is varied. Private security companies can carry out physical attacks on HRDs while technology companies may provide digital spying solutions to governments that enable them to exercise surveillance over HRDs, infiltrate HRD networks and generally intimidate or harass HRDs. Front Line Defenders has taken up advocacy on a wide range of cases in which the private sector plays a role in targeting or abusing HRDs.

LESSONS FROM HONDURAS

On 3 March 2016, Honduran indigenous and environmental rights defender Berta Cáceres of the Council of Popular and Indigenous Organizations of Honduras (COPINH) was assassinated while she was asleep in her home.

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For years, Berta and other members of COPINH had received death threats related to their peaceful activism. One of the leaders of COPINH, Tomas Garcia, was killed in July 2013. Just days after Berta's murder, her colleague Nelson García was killed outside his house. Berta was a well-known figure in Honduras. She led a campaign challenging dam projects in the region inhabited by the Lenca indigenous people and brought both national and international attention to the struggle. She was well known for her activism across Honduras, and in 2015 her efforts were recognised by the [Goldman Environmental Prize](#), bringing her a new level of international attention.

Her assassination, the first in what was another year of sustained attacks against indigenous and social movement leaders and activists in Honduras, was planned and executed to remove opposition to the Agua Zarca Dam – a project involving leading Honduran politicians and business elites, with investment from numerous international actors. Berta was [previously threatened](#) with death, but police and security agencies offered no help, and in fact were seen as part of the problem.

Those who authored the killing were presumably confident that there would be no consequences: the authorities would not launch a legitimate criminal investigation; popular outrage could, they assumed, be easily contained because Berta's community and Honduran civil society are under siege; international investors were unlikely to withdraw financial backing for the dam. After all, they must have reasoned, in all the previous attacks against Berta's colleagues and other community leaders, no such consequences had materialised.

Yet, in this case, Berta's assassination led to the withdrawal of investors from the Agua Zarca project, and the fate of the dam is in question. This, perhaps, is the true impact of the international profile: that the increased international attention made it possible to pressure investors to suspend involvement in and move to withdraw from the project. Two investment banks, the Entrepreneurial Development Bank (FMO) in the Netherlands and FinnFund in Finland, made clear statements in response to the killing.

But did this action have to wait until after we lost Berta? Could international investors have made known and communicated effectively to local actors that the death of HRDs was their red line? Could Berta have been offered protection by virtue of an alignment of various interests, regardless of the merits of the business undertakings? As it happened, no one won this battle: Berta's family and community, and the international human rights community, are still mourning her loss, and the hydroelectric company lost funding.

What this case suggests is that international funders and businesses need to begin to set clear limits on what sort of behaviour they are willing to accept from local partners, including dam builders, security companies and local authorities, by establishing consequences for the targeting of HRDs. It is possible that Berta would be alive today if at any time following the first reporting of credible threats to HRDs in the Rio Blanco region, FMO or FinnFund had explicitly communicated to local partners in Honduras that investments would be withdrawn if HRDs were killed. If threats persisted, the firms could have easily renewed their conditions, citing the threats.

If international businesses did this, it would signal to local actors – local businesses, politicians and other interested parties – that any calculation of targeted violence would need to consider the implications for investment. If investment in their project was at stake, the reason for targeting an HRD would be challenged. Preventing the targeting of HRDs in cases where business interests are at stake is a question of information pertaining to calculated risk. And it is incumbent – and socially responsible – for corporations and development banks to make explicit these parameters to any and all local partners and contractors, such as security firms, at local levels.

While businesses may not initially be amendable to such conditions, a growing number of cases like Berta's prove that they should have cause for concern if they target HRDs. More and more companies are being negatively impacted upon or punished for their role in persecuting, harassing and murdering activists. And while the withdrawal of support for business operations that violate human rights, damage the environment or harm the ability of communities to sustain their cultures or livelihoods is indeed welcome, there is really no reason why HRDs or others need to pay for this with their lives, when the same entities have it within their power to prevent the killings.

LESSONS FROM AFRICA

A case in South Africa in 2016 again proved that business decisions can be impacted on when three things happen: extreme violence is carried out against HRDs; this is followed by targeted international solidarity efforts; and this is coupled with sustained local protest.

On 22 March 2016, Sikhosiphi Rhadebe was shot and killed. Sikhosiphi was Chairperson of the Amadiba Crisis Committee, an advocacy group launched in 2007 to campaign for the rights of the residents of the Xolobeni Community in Eastern Cape. He had led protests against an Australian-owned mining company, Mineral Commodities Ltd (MRC), and its locally owned subsidiary, Transworld Energy and Minerals. The mining project threatened the community's rights to its traditional land, as well as the livelihoods of residents.

In the aftermath of the killing, international organisations upped their pressure on the company, particularly in London, UK, where the main financial backer of MRC was based. This forced the company to first deny involvement in the killing, and then to try to justify its actions in the region. Ultimately, just three months after Sikhosiphi's killing, MRC announced it was divesting from the project. While not a complete victory for the community, this marked another situation in which the assassination of a local HRD led to an unexpected outcome, and one that could have been avoided had the company acted more forthrightly and responsibly in informing its local partners not to harm HRDs.

Another case from Africa in 2015, involving this time not a killing, but rather a judicial harassment of an HRD, also indicates how companies can take pre-emptive steps to protect HRDs. Rafael Marques, an Angolan journalist and HRD, had investigated and published reports of corruption in the Angolan government and military related to the extraction of the country's mineral wealth, including diamonds. His book caused a sensation and exposed information and connections that had long been kept secret, revealing the level to which the ruling elite in Angola absorbs the country's wealth.

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Subsequently he was charged with defamation and found guilty, receiving a six-month suspended sentence. Immediately following the announcement of his sentence, leading diamond companies - Tiffany & Co., Leber Jeweler Inc. and Brilliant Earth - issued a letter calling on the government to drop the verdict. This demonstrated a clear statement of support for Rafael and offered the government a strong disincentive to pursue additional measures against him, something that was of concern to Rafael and his lawyers. The combination of local efforts to support Rafael, combined with the solidarity efforts of the international human rights movement, led to positive action by businesses.

WHAT MORE IS NEEDED

While these examples point to possibilities and opportunities for engaging business entities, they unfortunately remain the exception rather than the rule. In fact, following Berta's killing, the World Bank President, Jim Yong Kim, responded to a question about Berta that seemed to indicate that the killing was part of [cost of doing business](#) – a tone deaf response that belied the general lack of concern towards HRDs among business and investment elites. But it is also becoming more and more apparent that businesses are being forced by collective action from civil society to become more accountable and more responsive to human rights concerns.

Local elites in countries around the world are the ones who organise repression against HRDs, but international investors and corporate partners must bear responsibility for the actions of their local partners. It is not enough that actions by corporate officers, development bank officials and shareholders occur after an HRD is killed. They must make explicit that there will be consequences for violence committed against HRDs, and they must insist that standards and parameters are observed when officials are informed of threats against HRDs, by local HRDs, organisations and international solidarity actors, including human rights organisations such as Front Line Defenders.

Civil society actors both know about and report on threats and intimidation against HRDs on a regular basis. We make this information public, when HRDs agree or request that we do so, and we seek to engage various agents to ensure the safety and protection of targeted people. Yet businesses too often absolve themselves when approached, either by not engaging with the concerns raised, or by issuing statements pointing to their CSR policies.

When corporations, banks and investors take positions to demand the safety and security of HRDs in countries where their business operates - even if they do not engage on other relevant issues at stake, such as land rights and environmental rights - it does not necessarily impact negatively on corporate profits or profit margins. There are even indications that asserting principles of support for HRDs can have positive impacts on corporate reputation and profits, as exemplified by the public support generated for the numerous corporate actors around the world that have taken positions supportive of LGBTI rights.

The challenge for international civil society, and local level civil society, is to organise our efforts to communicate effectively to businesses, and to articulate how the leverage business actors possess can best be used to protect the lives of individuals defending their communities' rights.

The killings of Berta Caceres and Sikhosiphi Rhadebe were preventable. As much as we in civil society can raise the alarm and take precautionary measures, perhaps it is only corporate actors who can guarantee the safety of such HRDs by letting their local partners know the consequences that ultimately will – and in these cases, did – happen if harm is inflicted upon the Bertas and Sikhosiphis of the world.

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