Statement in Defense of Sovereignty and Collective Rights in Honduras - Returning to ICSID is a sign of Nasry Asfura's Subservience to Transnational Capital

The undersigned organizations speak out against the decision of the new Honduran government to rejoin the International Centre for Settlement of Investment Disputes (ICSID), an international arbitration body that for decades has prioritized corporate interests over state sovereignty, human rights and environmental protection.

We recall that Honduras denounced the ICSID convention in February 2024, and that withdrawal took effect on August 25, 2024, in response to the onslaught of multimillion-dollar international arbitration claims filed against the state before this institution.

The communication that the current Honduran administration sent to ICSID on day one of its mandate requesting reinstatement to the body is not a simple technical formality, but a sign of Nasry Asfura's subservience to transnational capital. The clear intention is to once again orient Honduras' priorities toward the maximum protection of corporate interests, even when those interests have had adverse consequences for the Honduran people.

Below are some alarming facts about the impact of ICSID in Honduras:

- Currently, Honduras faces 14 corporate claims, mainly before ICSID, for $9.895 billion dollars (approximately 262 billion Lempiras). This is equivalent to a quarter of Honduras' current GDP.
- Noteworthy are claims from the Próspera Group's Zone of Employment and Economic Development (ZEDE) for $1.63 billion dollars and by ZEDE Morazán for $100 million, following repeal of the legal regime that ceded territorial sovereignty to private actors. These demands occur in a context of pressure from individuals with ties to the ZEDEs to encourage US interference in the 2025 elections and to grant a pardon to convicted drug trafficker Juan Orlando Hernández, who was president of the Honduran Congress when the corrupt legal framework that gave free rein for the creation of the ZEDEs was passed in 2013.

These claims show that membership in ICSID has not protected the country, but has served as a platform for multimillion-dollar lawsuits that put pressure on the state and condition sovereign decisions concerning public, social, and environmental policy.

Contrary to official arguments that associate reincorporation with "legal certainty" and the attraction of foreign investment, various studies and international experiences show that joining ICSID does not guarantee greater flows of foreign direct investment. Brazil, one of the top recipients of foreign direct investment in Latin America, is not and has never been a member of this mechanism. This shows that the underlying issue is not attracting investment, but rather maintaining intact the privileges that facilitate corporate claims against government decisions adopted in the public interest.

On the contrary, returning to ICSID augurs other risks, such as the expansion of extractive projects rejected by the communities and peoples affected, the handing over of territories and collective resources to ZEDEs and other megaprojects, and the reinforcement of legal frameworks that favor private actors at the expense of social and environmental rights.

Given the above, we reject Honduras' return to ICSID. The people of Honduras cannot be held hostage by mechanisms that subordinate state sovereignty to international tribunals that privilege transnational investors. The defense of sovereignty, social justice, and environmental protection must prevail over political signals that place the country once again in the logic of transnational capital.

Honduras' potential accession to the 1965 ICSID Convention requires not only the signature of the Executive Branch, but also the approval of the National Congress, for which reason:

- We demand the opening of a public debate and dialogue with civil society organizations in Honduras regarding the government's intentions to resume Honduras' membership in ICSID.
- We call on Honduran Congressional representatives with dignity to open this debate with the Honduran people, so that they can hear what is truly at stake from individuals and groups knowledgeable on this issue and who have suffered the consequences of investments brought to ICSID.

National Congress and the government have an obligation to deliberate on the issue of Honduras' possible return to ICSID with the population, as a matter of public interest. The people have the right to know what the government wants to do and how this may affect Honduras and Hondurans' rights in the long term.

Background:

Contrary to representing "a neutral and effective framework for the resolution of investment disputes," as stated in the January 27 letter to ICSID from President Nasry Asfura, who was imposed by Donald Trump, this arbitration center is a symbol of the exclusive privileges that the Investor-State Dispute Settlement (ISDS) system provides to transnational investors. Many of the foreign investors who have resorted to ICSID to sue Honduras have projects that have involved the dispossession of indigenous communities and peoples of their territories, lands, waters, and social cohesion, leading to processes of militarization, repression, criminalization, and violence against defenders of collective rights, such as Berta Cáceres and Juan López, among many others.

ICSID, a branch of the World Bank, was established in 1966 and is the arbitration tribunal most used by investors globally to sue governments for decisions they feel have affected the value of their investments. In the run-up to its establishment, during a World Bank meeting in Tokyo in 1964, the government of Honduras, along with 18 other Latin American governments, the Philippines, and Iraq, opposed its creation because of the privileges this system would confer on foreign investors, who already had the same rights and protection as domestic investors, meaning they could take their disputes to national courts like everyone else.

Far from representing a "neutral and effective" system, lawyers who litigate within this system, such as George Kahale III, assert that ISDS, symbolized by ICSID, is a system highly biased in favor of foreign investors. This lawyer stated: "Why do I call arbitration the Wild West of international practice? … There really are no hard and fast rules. Briefs, motions, oral arguments, discovery and trials are nothing like what you see in federal court."

Apart from ICSID, other similar tribunals exist where foreign investors can sue governments, such as those at the United Nations Commission on International Trade Law (UNCITRAL), the

International Chamber of Commerce, and the Permanent Court of Arbitration in The Hague, among many others. As such, ICSID is only the tip of the iceberg of the ISDS problem. Although ICSID is the institution most used by foreign investors to sue sovereign countries, joining or leaving it does not prevent foreign investors form turning to any of the other arbitration centers.

The real problem lies in the clauses included in Free Trade Agreements (FTAs), Bilateral Investment Treaties (BITs), and investment laws, such as the Law for the Promotion and Protection of Investments approved by the Honduran Congress in 2011. These clauses are also found in contracts that grant foreign companies preferential treatment, as is the case with the Autopistas del Atlántico, Palmerola International Airport, and Eléctricas de Medellín Ingeniería y Servicios S.A.S. contracts in Honduras, which have sued Honduras.

More information: The corporate assault on Honduras: How mafia-style investments undermine the Honduran people's struggle for democracy and dignity.

SIGNATORY ORGANIZATIONS:

Honduras

1. Asociación para el Desarrollo de la Península de Zacate Grande en el sur de Honduras (ADEPZA)
2. Alternativa de Reivindicación Comunitaria y Ambientalista de Honduras (ARCAH)
3. Asociación Ixchel
4. Asociación para una Sociedad más Justa (ASJ)
5. Centro de Estudio para la Democracia (CESPAD)
6. Consejo Cívico de Organizaciones Populares e Indígenas de Honduras (COPINH)
7. Consejo coordinador de Sociedad Civil del municipio del Triunfo
8. Consejo tribal de Tribu Vegas de Tepemechín
9. Cooperativa Integral Humana
10. Equipo de Reflexión, Investigación y Comunicación (ÉRIC)
11. Foro Social de la Deuda Externa y Desarrollo de Honduras (FOSDEH)
12. Frente Común Contra las Zedes
13. Frente Triunfeño en Defensa de la Vida
14. Fundación San Alonso Rodríguez
15. Junta administradora de tierras del pueblo Indígena Chorotega Santa Lucía Yuculimay
16. Movimiento Ambientalista Social del Sur por la Vid (MASSVida)
17. Movimiento Independiente Indígena Lenca de La Paz- Honduras (MILPAH)
18. Organización Fraternal Negra Hondureña (OFRANEH)
19. Radio Comunitaria Cholula Triunfena
20. Red contra la Violencia Choluteca
21. Red de Abogadas Defensoras de Derechos Humanos (RADDHH)
22. Red Regional de Mujeres del Sur
23. Salvemos el Rio Danto
24. Savia Radio
25. SIDE consultores

International

26. A Legacy of Equality Leadership and Organizing (US)
27. Alianza Centroamericana Frente a la Minería - ACAFREMIN (Central America)
28. Alma de Izote Chicago (US)
29. Ceiba Colectiva (US)
30. Center for Economic and Policy Research (CEPR) (US)
31. Chicago Committee for Human Rights in the Philippines (US)

32. Chicago Religious Leadership Network on Latin America (CRLN) (US)
33. CoDevelopment Canada (Canada)
34. Comité por los Derechos Humanos en América Latina (CDHAL) (Canada)
35. Common Frontiers Canada (Canada)
36. Cross Border Network for Justice and Solidarity (US)
37. Denver Justice and Peace Committee (US)
38. Development and Peace--Caritas Canada (Canada)
39. European Trade Justice Coalition (Europe)
40. Global Exchange (US)
41. Global Justice Now (UK)
42. Honduras Solidarity Network (US)
43. Informationsgruppe Lateinamerika (IGLA) (Austria)
44. Institute for Policy Studies - Global Economy Program (US)
45. La Voz de los de Abajo Chicago (US)
46. Latin America Task Force of Interfaith Council for Peace & Justice (US)
47. Mawo (Canada)
48. MiningWatch Canada (Canada)
49. NOAH - Amigas de la Tierra Dinamarca (Denmark)
50. Rights Action (US y Canada)
51. Rochester Committee on Latin America (ROCLA) (US)
52. SAFES (USA)
53. Simcoe County Honduras Rights Monitor (Canada)
54. Task Force on the Americas (US)
55. TerraJusta (Bolivia)
56. Trade Justice Group of Council of Canadians- Northumberland (Canada)
57. US- El Salvador Sister Cities (US)