



Business & Human Rights  
Resource Centre

# Renewable energy (in)justice in Latin America

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# Foreword

**Alejandra Ancheita** is founder and director of the Project for Economic, Social and Cultural Rights (ProDESC, AC), a Mexican feminist organization that aids and supports processes in defense of human rights with worker collectives, Indigenous and agrarian communities and human rights defenders.

The work of documenting and analyzing attacks against human rights defenders whose work is linked to environmental justice in Latin America is more necessary than ever. By highlighting emblematic cases and allegations of abuse, this report shines a light on the tension between big, transnational corporations, often from the Global North, and the owners of land and territory in the region. This illumination also provides opportunities for civil society to jointly identify effective strategies to prevent violence against human rights defenders and to hold businesses accountable for their deeds.

The COVID-19 pandemic has forced states in the region to think about what comes next and how to build fairer societal structures. In this context, states also need to rethink how they approach energy generation. Governments and energy companies must now ask who is most affected by their projects and, therefore, who should be included in the energy generation debate, and to push for agreements to that end. This report provides essential information which will help achieve a just transition.

The allegations of abuse linked to the renewable energy industry in Latin America and the accompanying analysis of climate justice within this report underscore both the need for new systems to produce energy, and further, for a whole new economic model: one which is sustainable and respects the human rights of the communities who own the territories and natural resources.

Different organizations and players around the world have worked together for over a decade to build a different energy development narrative. We sought to find it on the recognition and rectification of the historic exclusion of many groups who demanded their rights and resisted the imposition of models of exploitation: agrarian, Afro-descendant and Indigenous communities, women, sexual diversity groups and union members. That is to say, we care for a participatory development, jointly decided by everyone, built from the perspective of human rights; one that is gender-aware and intersectional and that prioritizes economic, social and cultural rights.

Despite the existence of international laws and norms, abuses in renewable energy management models are endemic, relating to violations of the human rights to land, territory, water, non-discrimination, effective participation and free, prior and informed consent, among many others. This reinforces the demand civil society organizations have presented for years: we need a legal framework for the effective protection of economic, social and cultural rights. Most importantly, we need an effective legal framework to hold businesses to account across all industries — not only the fossil fuel industry, but also the renewable energy industry, which will play an essential role in building a more sustainable future.

This report by the Business and Human Rights Resource Centre opens — with hard data, cases and analysis — the door to a new, serious, rigorous discussion about the impact of renewable energy industries, their challenges and deficiencies. Above all, it reminds us of the urgent need to prioritize an energy transition that is fair for all, especially for communities who have lived, worked on and protected their territories and the environment since time immemorial.

This report offers clear and robust evidence for debates on business accountability, uncovering the dark side of the “clean” energy industries. We expect this analysis will be a useful addition to the just transition debate and help achieve the urgently-needed reforms in the regions highlighted, where communities continue to face abuse.

Kudos to the BHRRC, and congratulations for a job well done!

# Executive summary

As the global community presses for a just energy transition to a net-zero carbon economy, we must pay particular attention to monitoring and addressing rising human rights risks associated with the deployment of renewable energy projects. Without robust due diligence and strong regulations, renewable energy projects can harm communities, including Indigenous Peoples, who bear the burden of natural resource exploitation on their land and waters and upon which their lives and livelihoods often depend. Many of the renewable energy projects (solar, wind farms and hydroelectric projects) are taking place in the Global South, including Latin America. In fact, according to the International Renewable Energy Agency (IRENA), Latin American countries get more than a quarter of primary energy from renewables, which is twice the global average.<sup>1</sup> However, this energy transition is coming at a high price, with repeated human rights abuse allegations related to the projects.

Between **January 2010 and September 2020** the [Business & Human Rights Resource Centre \(The Resource Centre\)](#) recorded **501 cases of abuse** in its database, accounting for over **2,300 allegations of human rights abuses** allegedly perpetrated by **156 renewable energy companies** and private and state banks operating in **17 countries across Latin America**. Many cases involve multiple individual allegations of abuse. During this period, yearly abuses across the whole of Latin America **grew by 1,050%** (from 8 reported cases in 2010 to 92 cases in 2020).

Across the world, renewable energy development is in too many cases replicating the social and environmental violence that has characterized the fossil fuel sector. **Latin America disproportionately bears the burden: with 61% of all allegations of abuse recorded globally**, it is the region with the highest number of abuses in renewable energy development, and the number is growing.<sup>2</sup>



**Abuses across Latin America** grew by 1,050% (from 8 reported cases in 2010 to 92 cases in 2020)



Latin America is the region with the **highest number of abuses** in renewable energy development, with 61% of all **allegations of abuse** recorded **globally**.

## COUNTRIES WITH THE HIGHEST INCIDENCE OF ALLEGED ABUSE





## HUMAN RIGHTS ABUSES BY SOURCE OF RENEWABLE ENERGY

Number of operational companies

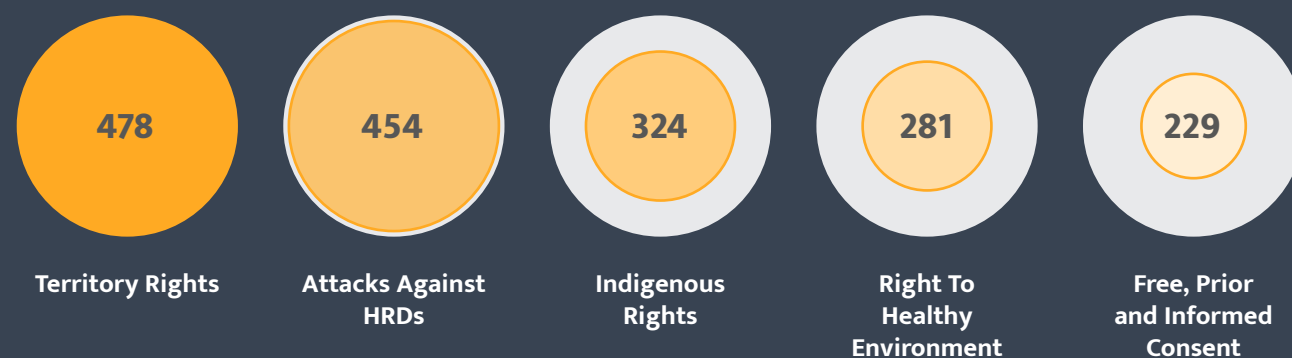


Allegations of abuses by sector



● hydroelectric sector ● Wind sector ● Solar sector ● Other sectors

## MOST COMMON HUMAN RIGHTS ABUSES AND RENEWABLE ENERGY



The burden of abuse falls predominantly on **Mexico** and **Central America**, representing 68% of all recorded cases (343 cases). The countries with the highest incidence of alleged abuse are **Honduras** at 28% (138 cases), **Mexico** at 27% (136 cases) and **Colombia** at 13% (67 cases).

Across the region, the most common categories of alleged abuses were violations of land and **territory rights** (478 allegations), **attacks against human rights defenders** (454 allegations) and **violations of Indigenous rights** (324 allegations).

The most popular forms of renewable energy in Latin America, as defined by the total number of operational companies, are the **hydroelectric sector** (99 companies, representing 63% of all renewable energy companies and banks), the **wind sector** (49 companies, representing 31% of all renewable energy companies and banks), and the **solar sector** (9 companies, representing 6% of all renewable energy companies)<sup>3</sup>. Six of these companies and banks operate across multiple renewable energies, and are thus counted more than once in the above figures.

Of these three sectors, hydroelectric and wind pose the highest incidence of alleged abuses. The hydroelectric sector is responsible for 79% of the allegations of abuse, while the wind sector is responsible for 15% of the allegations and the solar sector for 4%. The other 2% is related to other sectors or general allegations connected to renewable energy.

Renewable energy development is governed by national laws and international guiding principles, treaties, and standards. An important set of international guiding principles are the [UN Guiding Principles on Business and Human Rights](#). Established in 2011, the principles are a set of voluntary guidelines for companies and governments to prevent, address and remedy human rights abuses committed in business operations. Companies have, as a minimum requirement, the responsibility to respect human rights, as well as to abide by these domestic laws and regulations. Among the top companies with allegations of human rights abuses, seven out of 13 are European.

Both the State and companies have the duty to provide access to legal remedy and grievance mechanisms for victims of abuses. Despite such regulations and standards, abuses in renewable energy development are seemingly endemic. One key governance gap we identified is a lack of codification and enforcement of mandatory environmental and human rights due diligence laws. Without legal systems in place that can hold corporations and governments accountable for their actions in renewable energy development, such as through sanctions or other liabilities when violations occur, a culture of abuse and impunity can remain pervasive.

While mandatory due diligence to respect human rights and environmental protection is key, it is not the only answer and might not be sufficient. Our report profiles cases of alleged abuse by two European companies from countries that have taken steps towards legislating on due diligence: Electricité De France (EDF), from France, a country with a due diligence law<sup>4</sup>, and Enel, from Italy, a country with a legislative decree<sup>5</sup> promoting due diligence.

While progress has been made in regulations, the number of cases and abuses in this report suggests that current structures and systems are insufficient to prevent abuses. A just energy transition in Latin America must incorporate an energy justice framework for promoting real participation in the design and development of energy projects. Energy justice means taking procedural justice seriously, the fair sharing of positive and negative impacts of energy systems, and the recognition of previously and currently excluded populations whose voice and opinions must have a central place in all stages of decision-making. It is also imperative companies and governments recognize the right to peaceful opposition to energy injustice and human rights abuses when they occur.<sup>6</sup>

If social equity and human rights continue to be ignored by energy companies, there is a risk of social and political pushbacks that will slow down or reduce the potential for a sustainable energy market.<sup>7</sup> Sustainable energy is essential to fight climate change, but how the transition takes place is of paramount importance. There is a need for a more public and inclusive discussion on how renewable energy should be produced and by whom, including questions on the location, size and ownership of renewable energy projects. There is also a need to question which kind of renewable energy projects are needed, who consumes this energy, and which are the best modes of organizing and governing the energy systems. Alternative energy projects could imply smaller renewable energy projects, owned and controlled by users and communities putting people's energy needs first.

The aim of this report is to contribute to the debate around the energy transition by presenting an angle often ignored: the human rights abuses linked to large-scale energy projects in Latin America. The report shows the frequent and most common human rights abuses in wind, solar and hydroelectric projects. By doing so, in combination with case studies, it illustrates the behavior of companies when developing large-scale renewable energy projects and indicates the areas most in need of reform.





# Energy justice in Latin America

The social license of green and “responsible” companies and investors is currently under scrutiny due to the increasing human rights abuse allegations related to sustainable energy projects.<sup>8</sup> If renewable energy projects continue to reproduce the injustices of fossil energy systems and “petro-capitalism” through dispossession, exclusion, and the unfair distribution of access to energy and resources, we cannot have a just energy transition.

**Energy justice** takes into consideration the tenets of environmental justice — distribution, procedure and recognition — and applies them to energy systems. Energy justice is defined as a global energy system that fairly disseminates both the benefits and costs of energy services, and one which has representative and impartial energy decision-making.<sup>9</sup> This report utilizes this framework to uncover multiple energy injustices, while highlighting opportunities to rethink how the energy transition could take place.

## The three elements of energy justice in relation to large-scale renewable energy projects

➔ **Distributional justice** implies a fair distribution of the positive and negative impacts of renewable energy systems. This translates into a question of who benefits and who suffers social and environmental harm from energy production and consumption. For instance, in large-scale energy projects (understood as projects which produce 10 MW of energy or more), distributional justice invites us to reflect on who is producing the energy, who is using it, and who bears the consequences of the project. One aspect of distributional justice is **energy poverty**. In some of the cases included in this report, local communities living next to the solar, wind and hydroelectric projects do not have access to energy or must pay a high price for it.

➔ **Procedural justice** sheds light over participation and decision-making. In this context, ‘participation’ is not merely the opportunity to say ‘yes’ or ‘no’: it should allow for multiple alternative perspectives and opportunities to engage in the energy production process. Effective participation mechanisms are essential to assess actual and potential risks of human rights abuses. The most common mechanisms include the perceptions, grievances and demands of stakeholders as defined by international principles, and include free, prior and informed consent (ILO 169 Convention) and due diligence (UN Guiding Principles on Business and Human Rights). Guaranteeing participation requires presenting accessible and adequate information. To evaluate the potential impacts of energy projects, environmental, social, and human rights assessments are key. Projects should also be transparent regarding the companies involved, their financing and the contracts of energy production.

➔ **Recognitional justice** implies recognizing previously excluded populations and those who have been harmed by energy projects or other megadevelopment projects. It also questions whose needs should be prioritized. The debate is grounded in recognizing whose access to energy has been relegated (rural, Indigenous and some urban communities) and those whose differentiated needs have not been recognized, such as those of women. Analyses incorporating recognitional justice also shed a light on those whose voices are marginalized in decision-making arenas and who suffer disproportionately as a result.

➔ **The right to resist** has been recently added to the list of principles that compose the agenda of energy justice. It includes the right to resist energy projects that are not wanted by the communities or individuals who face the burden in their land or territories, as well as the right to resist systemic changes in energy access from privatization. Latin America is the deadliest region for human rights defenders, specifically environmental defenders. The Resource Centre has documented 194 attacks against people resisting activities related to companies in Latin America in 2020<sup>10</sup>



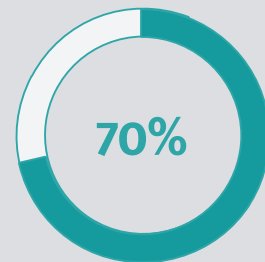
# Methodology

Photo: ProDESC A.C.

The Resource Centre captures allegations of human rights violations and abuse by companies in [our online database](#). Between 2010 and 2020, we recorded 501 cases of abuse linked to renewable energy development across Mexico, Central and South America, accounting for over 2,300 allegations of human rights abuse perpetrated by 156 renewable energy companies operating in 17 countries.

**Allegations** and **cases** of abuse were collected through news and media reporting, reports by civil society, non-governmental organizations, academic institutions and government agencies, field researchers, testimony, and legal and regulatory actions. For each allegation, the Resource Centre invites companies to respond when we find no evidence they have otherwise responded to the concerns. For each case of abuse recorded in our [company database](#), our team invited the companies and banks responsible to respond to the allegations. In total, we invited companies to respond 126 times and obtained 89 responses (70% response rate). In addition, we invited the companies with the highest number of allegations referenced in this report to comment on the whole report.<sup>11</sup>

## RESPONSE RATE



### Companies and banks

126 invitations,  
89 responses

There are two levels of abuse catalogued in the database: cases and allegations of abuse. **Cases** are occurrences of a company allegedly perpetrating abuse(s) against a community or individual in relation to a particular energy project. **Allegations** of abuse are types of abuse that happened within the case. For example, one case of the solar farm of Scatec Solar in Honduras involves seven allegations of abuse. The database reports on 40 types of abuse across 11 major themes. Based on the categories of human rights abuses on the Resource Centre's website, we have classified the different abuses into the four axes of energy justice<sup>12</sup>.

Findings of this report are grouped regionally as Mexico, Central America, and South America.

## Abuses by category

ENERGY JUSTICE DIMENSION	THEME	ABUSES INCLUDED
<b>Distributional</b>	➔ Right to a healthy environment	Climate change, Environmental degradation
	➔ Social rights and livelihoods	Housing, Health, Poverty/Development/Economic & Social rights, Labor rights
	➔ Rights to land and territory	Access to water, Right to food, Land rights, Displacement
	➔ Financing	Project financing and loans, General business and human rights issues
<b>Recognitional</b>	➔ Indigenous rights	Abuses against Indigenous Peoples, Cultural issues
	➔ Racial and ethnic group discrimination	Racial discrimination, Ethnic group discrimination, Religion
<b>Procedural</b>	➔ Free, prior & informed consent	Free, prior and informed consent
	➔ Access to information	Impact Assessment, Access to information
	➔ Access to justice	Complaint mechanism, System of Justice, Unfair trial
<b>Right to resist</b>	➔ Attacks against human rights defenders (HRDS)	Complicity, Beatings and violence, Torture and ill-treatment, Intimidation and threats, Death threats, Disappearances, Arbitrary detention, Criminalization, Denial of freedom of movement, Sexual harassment, Surveillance, Injuries, Security issues and conflict zones, Freedom of Association, SLAPPS
	➔ Assassinations	Killings





# Human rights abuses in Latin America 2010-20

Photo: Tlachinolán

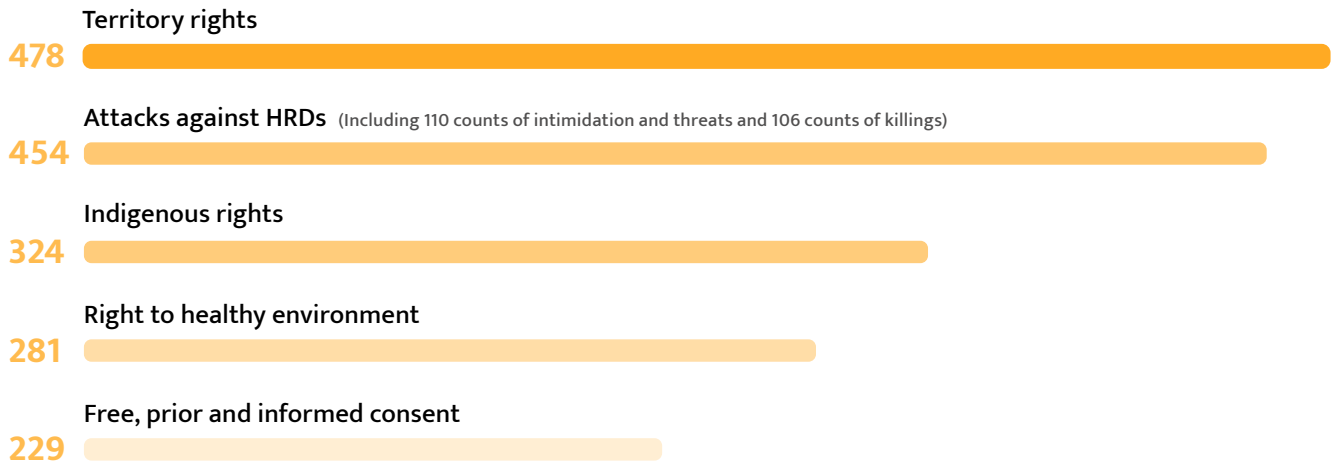
Globally, the production of renewable energy has grown steadily since 2000; between 2010 and 2020, total electricity generation capacity more than doubled, from 1,332 Gigawatts (GW) to 2,888 GW.<sup>13</sup> In Latin America renewable energy exhibits similar trends. According to the International Renewable Energy Agency (IRENA), more than a quarter of primary energy is obtained from renewables, which is twice the global average.<sup>14</sup> Countries like Costa Rica, Uruguay and Paraguay generate almost all of their electricity from renewables while countries including Mexico, Chile and Brazil were in the top ten for investment in renewable energy markets in 2015.<sup>15</sup> Moreover, the region is host to some of the world's most dynamic renewable energy markets and initiatives.

Yet, this progress is not without criticism or dire social and environmental costs. Around the world the acceleration of large-scale renewable energy projects<sup>16</sup> has resulted in increased human rights abuses in the sector.<sup>17</sup> Our database presents a similar pattern in Latin America over the past decade, suggesting the renewable energy sector is replicating the patterns of social and environmental violence associated with the fossil fuel sector. If renewable energy companies continue to behave in a similar way to companies from other extractive sectors, it is likely human rights abuses will increase in parallel with the expansion of large-scale energy projects. However, this does not have to be the case: renewable energy projects can be smaller scale, decentralized, and locally owned and governed.

Latin America disproportionately bears the burden of human rights abuses: with 61% of all allegations of abuse globally, it is the region with the highest number of human rights abuses in renewable energy<sup>18</sup> development and the number is growing. In this analysis the burden of abuse falls predominantly on **Central America**, representing 41% of all recorded cases (207 cases), followed by **South America** at 32% (158 cases), and **Mexico** at 27% (136 cases). Between 2010 and 2020, yearly abuses across all of Latin America **grew by 1,050% (from 8 reported cases in 2010 to 92 cases in 2020)**.

# Most common human rights abuses

## MOST COMMON ALLEGATIONS OF ABUSE



Across the region, the most common categories of abuse were those that violated **land and territory rights** (478 allegations), **attacks against HRDs** (454 allegations, including 110 counts of intimidation and threats and 106 counts of killings) and **Indigenous rights** (324 allegations), the **right to a healthy environment** (281 allegations) and **free, prior and informed consent** (229 allegations).

Violations of **land and territory rights** include displacement and the non-observance of land rights that are owned communally, through hereditary and ancestral connections or through formal land titles. Abuses of land and territory rights also violate access to water and the right to food and other abuses to social rights and livelihoods.

In **Mexico**, nearly one in five (18%) of all abuses related to renewable energy development regard land rights. In **Central America**, land and territory rights violations are the second most reported abuse (second only to abuses against HRDs [24%]), comprising 18% of all regional cases. Central America is also the region with the highest individual counts of land rights abuses (192) when compared to Mexico (98) and South America (188). In South America, one quarter (25%) of all regional abuses are of land and territory rights. Nevertheless, **South America** reports the highest allegations of displacement from renewable energy development (51) with the largest proportion related to hydroelectric development (76% of all cases of displacement due to renewable energy development in South America) as well the most violations of the right to food (25).

Renewable energy projects are extensive and need more land than other energy projects which are underground.<sup>19</sup> Therefore, an expansion of renewable energy projects creates competing claims over land ownership and land use, as shown in this report.

## Abuse in Focus:

### Abuses of social rights and livelihoods

- ➔ Violations of social rights and livelihoods account for a fifth (20%) of cases in Latin America.
- ➔ As a region, South America has the highest number of abuses against the right to housing (8), the right to health (31), of labor rights (27), and against economic, development, and social rights broadly (111).
- ➔ Infringements of economic, development and social rights are at least 3.5 times higher in South America than in both Central America (28) and Mexico (33).

Mexico has the highest allegations of violations against the right to **free, prior and informed consent (FPIC)** of any country (85 allegations of abuse). In fact, FPIC is one of the top five most commonly abused human rights in all of Mexico, accounting for 16% of reported allegations. This perhaps is not surprising if considered in the context of the energy legal reforms of 2013-2014 which, as some scholars and practitioners have noted, have resulted in a system of consultation in renewable energy development that is largely out of alignment with international standards (169 ILO Convention).<sup>20</sup> In Central America there were 91 allegations and in South America 53 allegations of abuse against FPIC.

In Central America, violations of Indigenous peoples and their rights are the third most common abuse in renewable energy development, accounting for 14% of regional cases. Indigenous rights are intricately tied to FPIC rights. From our database, 183 cases, or 33% of the cases, involve abuses against both Indigenous rights and FPIC.

## Abuses against human rights defenders

As mentioned above, our methodology tracks 15 specific abuses against human rights defenders (HRDs) who are speaking out against the negative impacts of renewable energy project. These abuses include death threats, arbitrary detention, beatings and violence, torture and ill-treatment, and security issues.

In Central America, **attacks against HRDs** feature in nearly a quarter of the cases in the region. **Intimidation and threats are the most pervasive form of abuse of defenders** in Central America and the highest reported count of this abuse across all regions, with 72 individual allegations of abuse reported across cases. **Central America also has the highest rates of arbitrary detention (24), beatings and violence (27), criminalization (16), death threats (22) and surveillance against HRDs (13)** when compared with Mexico and South America.

In Mexico, nearly one in every five (18%) of all country-level reported abuses are attacks against HRDs. **The most common attacks against HRDs in Mexico are intimidation and threats (27 allegations of abuse).** Defenders in Mexico experience more **torture and ill-treatment** than defenders in Central and South America combined, and suffer disproportionately across other areas. Mexico has almost **twice the amount of arbitrary detention (5) of defenders than South America (3) and more beatings and violence (12) than**



is dispersed across the 12 countries in **South America** (11). Mexico has also recorded almost as many **death threats** against defenders (14) **as the whole region of South America** (15).

In South America, **14% of cases of abuse are attacks against HRDs**. South America has four times the number of abuses against defenders for religious purposes than Mexico and double that of Central America. It also has the highest count of **disappearances of defenders** (9), **denial of freedom of movement** (8) and of **abuses against freedom of association** (6).

## Case study: Attacks against HRDs' and Scatec Solar in Honduras

In 2015, machinery arrived to the communities of Prados I and Prados II, Choluteca, Honduras to cut down trees on several hectares of land to make way for the installation of a mega photovoltaic plant. Local communities organized in opposition to the energy project and demanded their rights be respected.<sup>21</sup> In 2016, the local communities installed two peaceful protest camps.<sup>22</sup> The companies responded by presenting charges and criminalizing at least 11 of the community leaders.<sup>23</sup> Strategic Lawsuits against Public Participation (SLAPPs) by companies are a form of legal harassment designed to silence HRDs by tying them up in costly and lengthy litigation processes.<sup>24</sup> In 2018, the peaceful resistance camps were evicted following a judicial order. On International Women's Day, more than 450 heavily armed policemen evicted the community members using violence. Due to the work of local organizations, such as the Red de Abogadas de Derechos Humanos de Choluteca<sup>25</sup>, the case against the HRDs was dismissed in 2019.

In addition to violence against those opposing the solar farm,<sup>26</sup> the organization has documented corruption in granting the permits for the parks. One of the companies involved is Scatec Solar, a Norwegian company. To date,<sup>27</sup> Norway has not passed mandatory human rights due diligence legislation. However, there are related parliamentary motions<sup>28</sup> and activities by civil society organizations. In August 2018, the Norwegian Government, based on two parliamentary resolutions, appointed an expert committee to investigate a potential law on ethics information and a right to information on companies' human rights impacts. In January 2019, the Norwegian Forum for Development and Environment presented a letter to the Justice Committee pressing for human rights due diligence legislation.<sup>29</sup> Then, in November 2019, the expert committee appointed in 2018, published a draft act on supply chain transparency, the duty to know and due diligence.



Photo: Red de Abogadas DDHH

# Energy sectors and human rights abuses

## ALLEGATIONS OF ABUSE



Total 2,348 allegations: **Hydroelectric sector** (1862 allegations), **wind sector** (341 allegations), **solar sector** (98 allegations) and **other sectors** (47 allegations).

### Mexico



### Central America



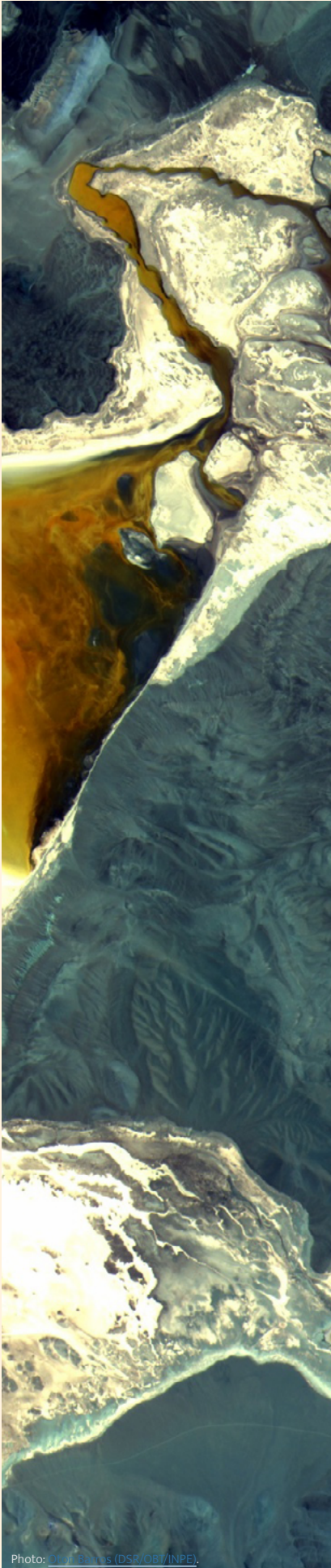
### South America



The most popular forms of renewable energy in Latin America, as defined by the total number of operational companies, are the hydroelectric sector (99 companies, representing 63% of all renewable energy companies), the wind sector (49 companies, representing 31% of all renewable energy companies), and the solar sector (9 companies, representing 6% of all renewable energy companies).

Of these three sectors, hydroelectric and wind pose the highest incidence of alleged abuses. The hydroelectric sector is responsible for 79% of the allegations of abuse, while the wind sector is responsible for 15% of the allegations and the solar sector for 4%. The other 2% is related to other sectors or general allegations connected to renewable energy.

While the mining sector is represented by just six companies in this report (slightly more than 3%), the practices of the mining sector are important to consider when reporting on the human rights record of the renewable energy sector. As reported by the Resource Centre in the [Transition Minerals Tracker](#), there are six minerals critical for producing the technologies, like wind turbines, solar panels, and electric vehicle batteries, that are powering the renewable energy transition: cobalt, copper, lithium, manganese, nickel and zinc. The most recent data update of the Tracker shows that Latin America also bears the burden of abuses by the mining sector in the renewable energy transition: as a region, Latin America has the highest number of allegations of abuse at 138 cases, with Peru recording the most of any country globally at 77.



## Necessary minerals for a renewable energy transition: Lithium in the Andean Mountains

For more than 40 years, US, Canadian and Chinese companies have entered the Chilean Atacama Desert (the driest region of the world), and later the salt flats of northwestern Argentina, to initiate the extraction of lithium through evaporation.

In the late 1970s, during the dictatorship of Pinochet in Chile, lithium was discovered in high Andean salt flats. These reserves of lithium were immediately considered a "strategic mineral resource", by the national nuclear energy division.<sup>30</sup> Subsequently, the company Sociedad Química y Minera (SQM),<sup>31</sup> was privatized. Currently, the company has a significant investment from the Chinese company Ganfeng.<sup>32</sup>

Lithium has been used in batteries for years, and demand has recently increased due to the growth in electric vehicles.

Lithium extraction for industrial volumes has had a severe impact on water sources.<sup>33</sup> There has been an expansion of operations in the salt flats of Bolivia (Uyuni) and southeastern Peru (Puno). Classifying lithium as a strategic mineral has also led to the militarization and state control of territories in Bolivia and Argentina. Argentina joined the Voluntary Principles of Security and Human Rights in 2018, anticipating conflicts with local communities. The communities in which lithium extraction is taking place are largely Indigenous,<sup>34</sup> and they have organized to demand their rights to control and manage their natural resources.

Numerous corruption scandals are also associated with SQM's extraction operations.<sup>35,36</sup> Conflicts have erupted between companies over the amount of water used and the benefits they bring to communities. In the case of Argentina, organizations of Indigenous peoples have succeeded in filing lawsuits to seek recognition of their collective and ancestral lands. In Bolivia and Peru, FPIC is not in process. In this context of human rights abuses, various initiatives of civil society organizations have resulted in advocacy actions with companies engaged in the production of electric vehicles. Volkswagen and Daimler have initiated communication<sup>37</sup> with local authorities and communities in Chile and are open to dialogue with civil society to respond to the due diligence standards to which they will soon be bound in Germany and in the European Union.



# Hydroelectric projects and human rights

Large-scale hydroelectric projects are common across Latin America and despite the deployment of other energies like solar and wind, are still the predominant contributor to 'renewable energy' in the region<sup>38</sup>. As previously mentioned, the hydroelectric sector has the highest number of abuse allegations in Latin America. Across all regions, the hydroelectric sector accounts for 370 cases with 1,862 allegations of abuse; in other words, the hydroelectric sector is responsible for nearly four in five allegations of abuse covered in this report. Large hydroelectric projects have been associated with massive displacement.<sup>39</sup> There are a total of 73 allegations of displacement across cases involving hydro energy in the region in our database, which accounts for nearly one in every five (19%) forms of violations against land and territory rights.

In Mexico, the hydroelectric sector accounts for 42 cases, or 31%, of all cases of abuse by renewable energy companies in the country. The most prevalent categories of abuse are violations of **land and territory rights** (50), **attacks against HRDs** (35), and violations of the **right to a healthy environment** (28). Data shows that over the past 10 years, the most widespread forms of abuse are related to the **environment** (27), **access to water** (23), and violations of **free, prior and informed consent** (16). One case that exemplifies the severity of the attacks against HRDs related to the hydroelectric sector are the three extrajudicial killings of members of the Consejo de Ejidos y Comunidades Opositoras a la Presa La Parota (CECOP) and in La Coordinadora Regional de Autoridades Comunitarias – Policía Comunitaria (CRAC-PC) who had been defending their rights in their opposition to the hydroelectric dam, La Parota, in Guerrero.<sup>40</sup>

In Central America, the hydroelectric sector is alleged to be responsible for 196 cases of abuse, or 95% of all abuses across the entire region, and more than 90% of violations across all categories. The most prevalent forms of abuse in this sector were **attacks against HRDs** (236 or 93% of all regional abuses in this category) and **violations of land and territory rights** (184 or 96% of all regional abuses in this category). Abuses against Indigenous Peoples are endemic in the hydroelectric sector of Central America: between 2010-2020, there were 134 allegations of alleged abuses against Indigenous Peoples, accounting for 13% of all abuses occurring across all renewable energy sectors in Central America. This is the single highest percentage for any abuse we captured in our database for the renewable energy sectors of Mexico, Central America and South America. All cases of racial and ethnic discrimination (8) in Central America were perpetuated by the hydroelectric sector. Compared with Mexico and South America, the hydroelectric sector is the deadliest in Central America, directly linked to the deaths and killings of 74 people connected to the last decade. Abuses related to the **environment** (107), or 10% of all regional violations, and against **land rights** (103), or 10% of regional violations, are also rampant.

In South America, 84% (132 cases) of all abuses are carried out by the hydroelectric sector. The most common forms of abuse are **attacks against defenders** (featuring in 100 or 93% of all regional cases in this category), **violations of land and territory rights** (featuring in 156 or 83% of all regional cases in this category), and **abuses against social rights and livelihoods** (featuring in 91 or 82% of all regional cases reported in this category).

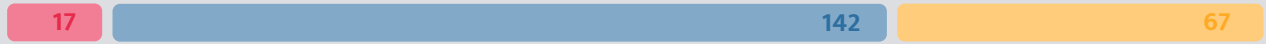
The most persistent and widespread allegations of abuse in South America involve the environment (71), land rights (53), and Indigenous peoples (48). Hydroelectricity is also the deadliest renewable energy sector in South America, related to all deaths and killings of 20 people in the last 10 years.

## ABUSES BY THE HYDRO SECTOR 2010-2020

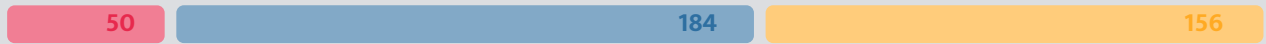
Right to a healthy environment



Indigenous rights



Land and territory rights



Social rights & livelihoods



Access to information



Free, prior & informed consent



Access to justice



Racial & ethnic group discrimination



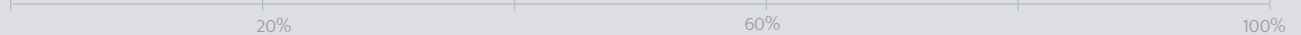
Attacks against human rights defenders



Assassinations



Financial



● Mexico ● Central America ● South America

## Case study: Hydroelectric projects in Brazil

The number of hydropower plants built in Amazonian ecosystems has grown substantially in recent years. Despite being considered a source of clean energy, hydroelectric plants cause negative impacts on ecological processes that are fundamental for the maintenance of ecosystem services and biodiversity conservation.<sup>41</sup>

Formed by two large dams, Jirau and Santo Antônio, the Madeira River Hydroelectric Complex<sup>42</sup> in Rondônia, Brazil, has caused social, economic and environmental harm in the region, including cutting river connectivity, which resulted in water level variations affecting droughts and floods.<sup>43</sup> In addition, the construction of the dams would have limited the passage of migratory fish, which represent 80% of the landings at the fishing terminals, including on the Bolivian side.<sup>44</sup>

Social impacts caused by the installation of the dams were also identified, such as the relocation of people from their homes and small farms,<sup>45</sup> resulting in the removal of their source of income and representing an enormous social shock.<sup>46</sup> In addition to the impact of the dams, fishermen from Bolivia and Peru also face difficulties.

One of the most critical aspects of the process of installation of the power plants was the absence of participation of those affected in the decisions related to the project. There is also no concrete compensation or mitigation initiative. Another critical issue is the control of information by the companies that cause and monitor the impact.





# Wind energy and human rights

In 2019, the Global Wind Energy Council reported a three-fold increase in wind power installations across Central America, South America and the Caribbean since 2010.<sup>47</sup>

Mexico, one of only two Latin American countries (along with Argentina) with a “statistically significant share of global wind energy capacity” (BNAmericas, 2020),<sup>48</sup> is host to a violent wind energy development sector. In Mexico, over half (51%) of all cases of abuse in this report linked to in the wind sector. Abuses against **FPIC** are the highest and account for 72% of abuses against FPIC across all the renewable energy sectors in Mexico captured in our database. One in every 10 abuses are **violations of FPIC**. **Abuses of Indigenous rights** (55 cases) are very widespread. In fact, the wind sector is responsible for 63% of all abuses against Indigenous rights in Mexico.

In Central America, two cases of abuse linked to the wind sector were recorded. While the total case count is smaller than that of South America and Mexico's wind sectors, **Indigenous rights** are three times more likely to be violated by the wind sector in Central America than any other human right we've tracked and reported in the database.

In South America, 10% of all cases of human rights abuses (16) are perpetrated by the wind sector. The highest counts of abuse are classified as **violations of land and territory rights** (26), **violations of Indigenous rights** (14) and abuses that impact **social rights and livelihoods** (11). Specifically, the most endemic forms of abuse by the wind sector in South America are **violating Indigenous peoples and their rights** (14), **failing to uphold land rights** (14), and **displacement Projects** (12).



## ABUSES BY THE WIND SECTOR, 2010-2020

Right to a healthy environment



Indigenous rights



Land and territory rights



Social rights & livelihoods



Access to information



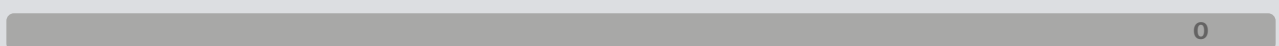
Free, prior & informed consent



Access to justice



Racial & ethnic group discrimination



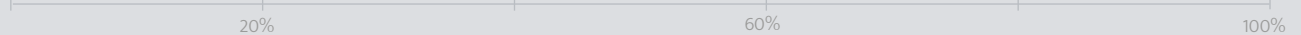
Attacks against human rights defenders



Assassinations



Financial



● Mexico ● Central America ● South America



Photo: INDEPAZ

## Case study:

### Wind energy in La Guajira, Colombia<sup>49</sup>

Many renewable energy projects are being constructed in places with a history of extractives and human rights abuses. These energy projects are therefore part of trajectories of dispossession. In some cases the abuses are interconnected. The wind energy project was in the northernmost region of La Guajira and was developed in parallel with the exploitation of thermal coal in the central and southern area. This is the largest open pit mine in South America, run by Cerrejón<sup>50</sup> (of Anglo American, BHP and Glencore). The impacts of coal extraction include forced population displacement, air pollution and the disappearance of at least 16 water sources. The expansion of this open pit mine took place in a context of massacres, death threats, murders and harassment against social leaders who questioned the damage to the health and environment related to this industry.<sup>51</sup>

In 2019, the Colombian government opened an international bid under the auspices of promoting an urgent energy transition. This bid took place after years of lawsuits and the imminent threat of the closure of coal mines in La Guajira, as had just happened in the neighboring department of Cesar, and in the global context of the drastic fall in coal prices and increasingly stringent measures. According to the NGO INDEPAZ, because of the bidding process of 2019, Colombia would add 2,200 MW to the installed electric capacity. The five wind farms in the region selected in the bidding were owned by three multinational companies: AES Chivor, Energía de Portugal (EDP Renaváveis) and Celsia del Grupo Argos. After this initial bidding, 19 multinational companies started to develop 57 wind farms in the Middle and Upper Guajira.<sup>52</sup>

These companies are simultaneously conducting more than 300 processes of FPIC with Wayúu Indigenous communities,<sup>53</sup> in the midst of the COVID-19 pandemic. These processes do not provide the conditions for the Indigenous family clans to respond to impacts for the wind farms regarding the loss of their territories. In addition, the area is already unsafe for defenders: human rights NGOs have pointed out Indigenous women experience death threats from coal mining operations already in the area (the Wayúu are a matrilineal society), without the State even offering to investigate and sanctioning those responsible for these threats.

The renewable energy transition is taking place in the context of poverty, uncertainty, and discrimination,<sup>54</sup> as has been recorded by the Inter-American Human Rights Commission.



# Solar energy and human rights

In Mexico, 11% of all reported cases are perpetrated in the solar industry. **Nearly a quarter (24%) of abuses against social rights and livelihoods** in Mexico are linked to the solar industry. With 15 counts of abuse, **Indigenous rights are the most commonly abused human right by the solar sector, accounting for 17% of all recorded cases** of Indigenous abuses across renewable energy sectors in Mexico. Attacks against HRDs were also persistent, with nine cases recorded between 2010-2020.

In Central America, we recorded seven cases of human rights abuse by the solar industry, accounting for 3% of all regional cases. **Attacks against defenders** were common, with 14 individual allegations of abuse. Criminalization is the most prevalent attack against defenders (5), followed by arbitrary detention (3).

## ABUSES BY THE SOLAR SECTOR 2010-2020

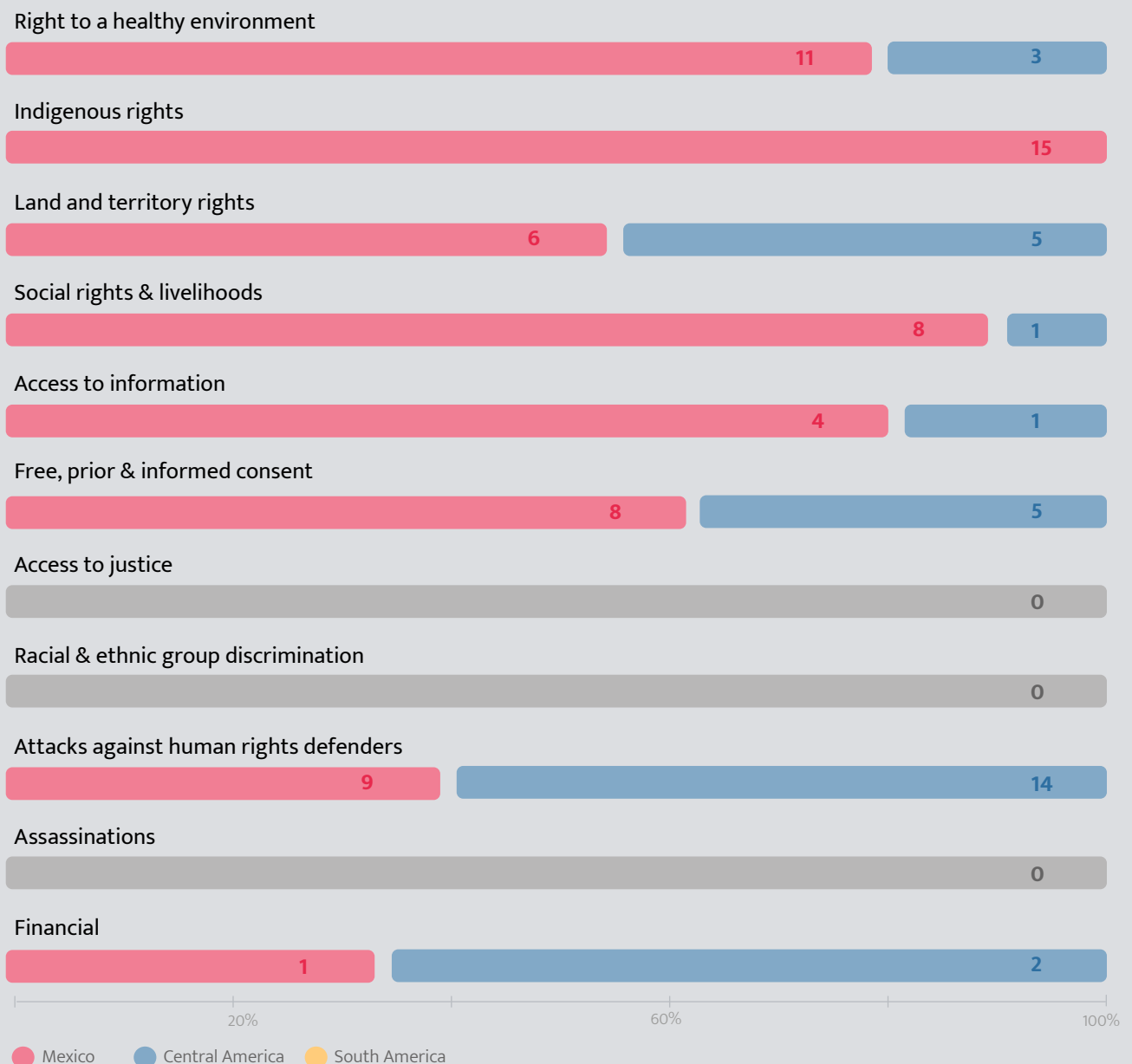




Photo: Junilly.

## Case study: Solar energy in Yucatan, Mexico: the case of Sunpower and the limits of CSR

The Yucatan Peninsula has seen an expansion of renewable energy projects. At an inaugural renewable energy auction launched in November 2015, 11 companies won contracts for 18 projects, half of which (nine) are in the Yucatán.

There are currently more than 10 solar farms in different stages of development in the Yucatan region. As projects are developed, local communities have denounced the lack of adequate access to information, lack of respect for Indigenous rights - including self-determination and autonomy<sup>55</sup> - and threats against HRDs.<sup>56</sup>

SunPower Corporation<sup>57</sup> acquired the Ticul A and Ticul B<sup>58</sup> solar projects during the first renewable energy auction in Mexico in 2016 and has since carried out activities for the development of projects located within and near the communities of San Jose Tipceh, in the municipality of Muna and Planchac, Sacalum. The company has human rights policies and a code of ethics. Nevertheless, communities, civil society and NGOs have denounced several human abuses of the solar energy project. Communities have alleged damages related to lack of FPIC, free determination, the right to a healthy environment, deforestation of around 600 hectares, and that cultural rights have not been respected.<sup>59</sup> There have also been reports of threats, attacks and defamation against community members.<sup>60</sup>

The UN Special Rapporteur on the rights of Indigenous peoples reported that in "initial contracts... it underscored the freedom of the consultation process and caused divisions and tensions within the community."<sup>61</sup> The solar project would involve the deforestation of 603 hectares and there are legal proceedings against the parks.<sup>62</sup> The case is currently under litigation.

Renewable energy projects planned in Yucatan are estimated to require more than 12,000 hectares of land, some of which are close to protected areas, local populations or sacred and archaeological sites.<sup>63</sup> Many projects are also on socially owned land, or ejidos. Although environmental and social assessments have been carried out for individual projects, there is no clear assessment of the cumulative effects of such a concentrated installation of multiple energy projects.

# Corporations, human rights abuses and renewable energy development

Photo: ProDESC A.C.

The UN Guiding Principles on Business and Human Rights (UNGPs) are internationally accepted legal norms to promote corporate respect for human rights and sustainable business.<sup>64</sup> Established in 2011, the principles are a set of guidelines for companies and governments to prevent, address and remedy human rights abuses committed in business operations. The UNGPs are not a binding legal instrument but outline the obligations of States and companies and are based on established international law principles. States have a duty to protect against human rights abuses through policies, law, and regulations to create an operating environment that “fosters business respect for human rights and accountability for adverse impact”.<sup>65</sup> Companies have, as a minimum requirement, the responsibility to respect human rights, as well as to abide by domestic laws and regulations. Both the State and companies have the duty to provide access to legal remedy and grievance mechanisms for survivors of human rights abuses.

While the UNGPs suggest businesses conduct a human rights due diligence process to identify and subsequently prevent, mitigate and account for negative human rights impacts, national standards mandating such processes are not uniform and there is not an international, legally-binding standard of mandatory human rights and environmental due diligence for businesses, nor for the renewable energy sector.

Globally,<sup>66</sup> efforts are currently being made to change the lack of mandatory due diligence regimes. To date, Europe<sup>67</sup> has been a leader in the movement. However, not all commitments and plans are codified as law and even in countries where mandatory due diligence is legally codified, as is the case in France, gaps in enforcement that lead to severe abuses exist, as outlined below in the case of Electricité de France (EDF) wind development in Mexico.<sup>68</sup>

The lack of codification and enforcement of mandatory environmental and human rights due diligence laws are a major governance gap that is at least partially responsible for the alarming trends of human rights abuses by companies in renewable energy development in Latin America, and globally. Without legal systems in place to hold corporations and governments accountable for their actions in renewable energy development, a culture of abuse and impunity can remain unchallenged.



## Case study: Electricité de France (EDF) Wind Farm in Mexico<sup>70</sup>



In 2017, France enacted the Law on Duty of Care<sup>71</sup> (also known as the Law on Duty of Vigilance), which mandates large French companies to publish and implement vigilance plans that identify and prevent human rights abuses and risks in their activities.

EDF, 84% owned by the French Government<sup>72</sup>, is regulated under this law. However analysis<sup>73</sup> by non-governmental organization Sherpa, found EDF's vigilance plans were inadequate<sup>74</sup>, including a failure to link company activities with human rights impacts in supply chains. The impacts of these inadequacies can be seen in the company projects Oaxaca, Mexico.

EDF has been developing large-scale wind farms in Mexico since 2011. We have tracked separate counts of abuse by EDF, including alleged attacks against 14 individual HRDs and against Indigenous communities in Oaxaca in the building of mega-wind parks Gunaa Sicarú, La Mata, Cinco Palmas, and La Ventosa.

Since at least 2015 Indigenous communities, like Union Hidalgo, have been opposing wind projects in the region, due to violations of FPIC, illegal grabs of ancestral community lands that have threatened the food and economic security of Indigenous Peoples living there, and attacks against defenders and the community for its activism. Company-linked allegations of attacks against HRDs include [defamation and threats](#)<sup>75</sup> spread through social media and local radio stations against the Asamblea de Comuneros ante Megaproyectos de Energía Eólica, detaining<sup>76</sup> and charging activists with extortion, and death threats<sup>77</sup> against project opponents.

It is also notable that communities shouldering the brunt of these abuses are doing so in the name of renewable energy development for major national and international corporations - any benefits do not reach them as the electricity from these wind farms is sold directly<sup>78</sup> to large companies to power their operations and will never be used by the impacted communities.

Multiple lawsuits have been filed against the company for such human rights violations in Oaxaca. In October 2018 the Mexican federal court ordered EDF to launch a consultative process aligned with the ILO Convention 169 on FPIC and with the Mexican constitution. Despite this order, the situation did not improve. In October 2020, human rights organization ProDESC, the European Center for Constitutional and Human Rights, and representatives of Unión Hidalgo filed a lawsuit (outcome pending) against EDF in France for failures under the French law on the duty of vigilance.<sup>79</sup>

Among the companies with the highest number of allegations of human rights abuses referenced to in this report, six out of 10 are headquartered in Europe. In addition to responses by many of these companies to previous and related allegations by civil society available on our website, we invited all 10 companies to respond to the whole report and to the allegations included in it. Only three companies sent us their response to the report (Enel, Siemenes Gamesa, and Engie), while seven did not respond (Desarrollos Energéticos (DESA), Hidroeléctrica Centrales El Progreso (Hidrocep), EDF, Scatec Solar, Isagen, Iberdrola, and Mitsubishi Group). **All the company responses and non-responses can be found [here](#).**

That European renewable energy companies are among the key perpetrators of abuse across Mexico, Central America, and South America is hardly surprising; it is, in fact, a reflection of the culture of exploitation in renewable energy resources by the 'Global North' of countries outside of its borders, collectively referred to as the 'Global South'.

In early 2020, the Business and Human Rights Resource Centre released the Renewable Energy and Human Rights Benchmark,<sup>69</sup> featuring analysis on 16 of the largest publicly traded wind and solar energy companies. The report found that none of the profiled companies are meeting their responsibility to respect human rights under the UNGPs. In fact, the average score for governance and policy commitments to respect human rights across all companies was a mere 31%. Of the 16 companies the report analyzes, 14, or 88%, of them are either European or North American. Thus, it is clear that the model of development and practices by renewable energy companies needs to be interrogated and reformed.





# Energy (in)justices in Latin America: Conclusions and a way forward

We can conclude that human rights violations related to energy projects in Latin America occur in the three main sectors (hydroelectric, wind and solar). Human rights abuses were also documented in the multiple and interconnected dimensions of energy justice.

Regarding **distributional justice**, the report documented injustices by taking into account the multiple harms of energy generation on social rights and livelihoods and abuses to land and territorial rights. When thinking about distributional rights we should focus on who stands to gain from the energy generation and who is being negatively impacted. As shown by the numbers, in at least 776 incidents there were reports of negative consequences upon access to water, the right to food, land rights, housing, health, provoked displacement and was related to labor abuses. In short, the renewable energy projects had many negative impacts suffered mostly by local communities living in the land, located nearby or whose livelihoods depended upon the lands where the project are located.

When thinking about distributional justice we can analyze who benefits from the energy generation. As described in this report there are 10 companies and banks that were involved in many of the cases of the renewable energy project analyzed in this report. For a just energy transition to take place, better mechanisms are needed both reduce harm and improve distribution benefits (including access to energy). The solutions could be linked to scale of the projects, their design, the ownership of the renewable energy projects and, of course, procedural justice.

**Procedural justice** has been weak in the cases analyzed in this report. There are 400 allegations of violations to access of information, needed for meaningful participation, and problems with FPIC, impact assessments, and obstacles for accessing justice. Procedural justice is interconnected with distributional justice, recognition and the right to resist. If there is not transparency and real decision-making mechanisms, risk for those who are most affected by the renewable energy project cannot clearly share their concerns and requirements with the state and the companies. Procedural justice including full access to information and consultation is the bare minimum for energy justice. For a just energy transition, we need to be better regulations on the quality of the impact assessments (environmental, social, cumulative and human rights assessment), FPIC, and protection of the right to say no for Indigenous and Afro American peoples. Access to justice and, if required, a fair trial to demand companies and the state to comply with human rights, is also a must.



Regarding **recognitional justice** and the need to include those who have been traditionally excluded from energy justice debates, it is alarming our research finds Indigenous peoples are those most harmed by renewable energy projects. There were a total 345 allegations related to Indigenous rights violations (not including FPIC), cultural rights, and racial and ethnic discrimination. Most of the abuses took place in Central America (152), followed by South America (103) and Mexico (100). Unfortunately, from the data we cannot observe other communities whose energy needs are being ignored or who are disproportionately impacted by the energy transition. From the data we must conclude there is a need for alternative energy models and inclusion mechanisms.

Finally, regarding **the right to resist**, we documented many attacks against communities and HRDs demanding their rights and opposing an unjust energy transition were widely documented. The attacks include complicity, beatings and violence, torture and ill-treatment, intimidation and threats, death threats, disappearances, arbitrary detention, criminalization, denial of freedom of movement, sexual harassment, surveillance, injuries, security issues and conflict zones, freedom of association, SLAPPS, and killings. The largest number of allegations is related to limits to the right to resist.

# Endnotes

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## Business & Human Rights Resource Centre

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Business & Human Rights Resource Centre is an international NGO that tracks the human rights impacts of over 10,000 companies in over 180 countries, making information available on our 10-language website.

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