

HUMAN RIGHTS WATCH

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Washington, D.C., October 3rd, 2013

Miguel Facusse
Executive President
Corporación Dinant
P.O. Box 684
Tegucigalpa, Honduras

Dear Mr. Facusse:

Human Rights Watch is preparing a report focused on the functioning of the government, in particular security forces and the criminal justice system, in cases of killings, disappearances, and other violent crimes in the Bajo Aguán Valley. Our research focused on cases since 2009 that may be related to disputes over land ownership.

In the course of our research, we have looked into the state response in cases of violent death, disappearances, and other violent crimes in Bajo Aguán, including in cases in which there are allegations that:

- Guards employed by Corporación Dinant or contractors on its behalf to secure private lands were alleged to have perpetrated violent crimes;
- Guards or workers employed by Corporación Dinant or contractors on its behalf were alleged to have been the victims of violent crimes;
- Bodies of victims were discovered on land under the control of Corporación Dinant, or believed to have been moved onto Corporación Dinant property.

The purpose of this letter is to present substantive questions the answers to which would improve our understanding of these cases and key issues related to public security and the rule of law in Bajo Aguán. We believe that your perspective on these cases and on the broader issues that underlie them is important, and we would like to ensure that it informs our analysis.

Our research for this report does not assign responsibility for the violent crimes that we investigated. Nor does it seek to do so. Nonetheless, we believe it is important to give Corporación Dinant an opportunity to provide information regarding specific cases in which its employees or people employed by contractors on its behalf have been or are alleged to have been involved, or which may otherwise be linked to its operations. We also think it important that Corporación Dinant describe any policies or procedures that are in place to prevent, detect or respond to violent crimes and other human rights abuses that are potentially linked to its operations, employees or people employed by contractors on its behalf.

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As part of this inquiry, we would also like to understand what efforts and interactions law enforcement or public prosecutors have had with the corporation to advance their investigations into these violent crimes. We understand that the company has also worked with the International Finance Corporation to develop policies and procedures regarding security and human rights.

In April 2013, two Human Rights Watch researchers spoke with Roger Pineda, Corporate and Banking Relations Director, on some of these issues. We were grateful for his time. Prior to and since that meeting, we also spoke to representatives of peasant organizations, families of victims, police, prosecutors, judges, and others regarding violent crimes believed to be related to land conflicts in Bajo Aguán. In Tegucigalpa, we spoke to human rights groups and prosecutors.

These discussions and additional research are the basis for the following questions.

General questions on the functioning of security guards:

- 1) We understand that Dinant may have as many as 300 armed security guards for its various operations. Could you describe how security is provided to Dinant's operations, including the number of guards currently used by the company? Are these personnel employed directly by the company, or through a third party contractor, and for what purposes.
- 2) What measures, if any, does Corporación Dinant carry out to ensure that guards it employs or those employed by firms it hires have training to respect company policies, human rights standards and Honduran law in their security role?
- 3) What measures, if any, does Corporación Dinant carry out to vet guards it employs or those employed by contractors on its behalf to ensure that they do not have criminal convictions?
- 4) Do security guards employed by Corporación Dinant, or by contractors on its behalf, have powers to arrest or detain individuals, and if so, what is the source of that authority?
- 5) Under what legal authority are security guards employed by Corporación Dinant or by contractors on its behalf entitled to carry arms and what weapons are they permitted to carry?
- 6) Does Corporación Dinant maintain a register of weapons, including the names of the personnel to whom they are issued?
- 7) Does Corporación Dinant maintain a daily record of security guards working at its facilities?
- 8) What are the most important security issues faced by private security personnel employed by Corporación Dinant?
- 9) What modes of lethal and non-lethal force are security personnel employed by Corporación Dinant or contractors on its behalf authorized to use when involved in

confrontations? What legal standards and/or company-mandated rules of engagement govern the use of these weapons?

- 10) How does Corporación Dinant monitor the day-to-day conduct of its security guards and those employed by contractors on its behalf to ensure that they comply with human rights standards, legal requirements and company policies?
- 11) Has Corporación Dinant taken any measures to ensure that its security personnel and those employed by contractors on its behalf can report misconduct by others employees with adequate guarantees of confidentiality and without fear of reprisal?
- 12) Does Corporación Dinant investigate every incident where security guards are alleged to have used force and/or acted inappropriately in carrying out their duties? How many such investigations were opened from 2009 through the present?
- 13) What disciplinary measures are invoked in cases where Corporación Dinant or contracted security personnel are found to have used force without adequate justification or committed other abuses?
 - i. How frequently have such measures been invoked?
 - ii. How many investigations were closed due to lack of evidence?
 - iii. In how many investigations was the determination reached that no wrongdoing had occurred?
- 14) Who is responsible for conducting Corporación Dinant's investigations into allegations of criminal misconduct by security personnel? What steps are taken to ensure the independence and impartiality of said investigators?
- 15) Do procedures exist to refer cases involving allegations of serious abuse by Corporación Dinant security personnel (including those employed by contractors on its behalf) to the police? If so, do those procedures include the handing over of the results of any internal investigation to the police? Have such procedures ever been invoked?
- 16) Has Corporación Dinant taken any steps to align its policies and procedures with the Voluntary Principles on Security and Human Rights? If so, please describe these.

The IFC Review:

We understand that the World Bank's International Finance Corporation (IFC) has provided a US\$30 million loan for Corporación Dinant's operations, and that it began an investigation into IFC compliance with its social and human rights policies as a result of allegations of violence by security guards and of displacement of land users. We would appreciate further information on this investigation and other cooperation with IFC. Specifically:

1. We understand that sometime in or after 2010, the IFC helped Dinant identify a consultant to review the company's security and human rights policies and procedures, in order to be consistent with IFC's performance standards and industry standards such as the Voluntary Principles on Security and Human Rights. The consultant was also supposed to train security personnel. Can you detail that cooperation and those

efforts, including who was hired, what was their scope of work, and when that occurred?

2. We understand that the IFC's Compliance Advisor and Ombudsman ordered an audit of the project in April 2012. What is the status of the IFC review and can you describe the company's views on this process?
3. What efforts did Dinant or IFC make to assess social or human rights impacts of the company's operations prior to obtaining the loan or afterwards?
4. Could you provide the social and environmental assessment as well as any other materials that pertain to human rights policies and procedures?
5. We understand that then-IFC vice president, Lars Thunell, met with President Porfirio Lobo of Honduras to discuss allegations of abuse relating to Corporación Dinant. Can you provide further details on any discussions you had with Thunell or the office of the president in relation to this meeting?

Questions Regarding Specific Cases in Bajo Aguán:

Deaths of Five Individuals, El Tumbador Plantation, November 15, 2010.

On November 15, 2010, a group of peasants from the Movimiento Campesino del Aguán (Peasant Movement of the Aguán, or MCA), a land claims group, approached the El Tumbador plantation, where guards employed by Corporación Dinant were allegedly stationed.

The initial police report into the incident said that "a confrontation with firearms between a group of peasants and security guards" had occurred that took the lives of five campesinos: Teodoro Acosta, Raul Castillo, Ciriaco de Jesus Munoz Aguilar, Ignacio Reyes and José Luis Salcedo Pastrana.

- 1) Can you confirm that Corporación Dinant owned, operated or otherwise controlled the Tumbador plantation in November 2010?
- 2) Were the security guards who were on duty at the time direct employees of Corporación Dinant, or employees of a private security contractor employed by Corporación Dinant?
- 3) Does Corporación Dinant believe the initial police report was accurate in concluding that five campesinos were killed in an exchange of gunfire with security personnel employed by the company?
- 4) Please provide a detailed account of Corporación Dinant's understanding of how the incident described above unfolded.
- 5) Did Corporación Dinant conduct an internal review of the incident, including an examination of whether any security personnel involved in the incident behaved justifiably? If so, what were the results?
- 6) Did Corporación Dinant contact the police or other authorities to provide them with information on the incident? If so, can you describe that process?

- 7) Did police investigators or prosecutors interview Corporación Dinant officials, employees or contracted personnel about the incident, and did Corporación Dinant cooperate fully with their investigation?
- 8) Did Corporación Dinant supply police with lists of weapons provided to guards on and off duty at the time of the incident?
- 9) Did Corporación Dinant supply police with the names of guards on duty at the time of the incident?

Disappearance and Killing of Gregorio Chávez, July 2, 2012:

Chávez disappeared near his home on July 2, 2012. According to police and Chávez's family, his body was found buried inside Paso Aguán plantation on July 6, 2012.

- 1) Did Corporación Dinant own, operate or otherwise control the Paso Aguán plantation in July 2012?
- 2) Does Corporación Dinant believe it to be accurate that Chavez's body was discovered on the plantation?
- 3) Does Corporación Dinant have a position on how Gregorio Chavez was killed, and/or on how his body allegedly came to be discovered on the plantation?
- 4) Did the corporation carry out an internal investigation into the case? If so, what were the results?
- 5) If the corporation did carry out an investigation, did it turn over its findings to government officials?
- 6) Did Corporación Dinant contact the police or other authorities to provide them with information on the incident? If so, can you describe that process?
- 7) Did police or prosecutors interview employees or guards on the Paso Aguán plantation after Chávez went missing and/or after the body was discovered, and did Corporación Dinant cooperate fully with their investigation?

Disappearance and Killing of José Antonio López Lara, April 29, 2012

López Lara went missing on April 29, 2012, his daughter told Human Rights Watch. In April 2013, a body was found on Paso Aguán plantation that López Lara's wife says is that of her husband. Authorities have not yet confirmed whether the body is López Lara's.

- 1) Did Corporación Dinant own, operate or otherwise control the plantation between April 2012 and April 2013?
- 2) Does Corporación Dinant have any understanding as to how the person whose body was allegedly found on Paso Aguán plantation died, and/or how his body came to be on the plantation?
- 3) Does Corporación Dinant have an opinion as to whether the body allegedly found on Paso Aguán plantation was that of Lopez Lara?
- 4) Did Corporación Dinant carry out an internal investigation into the incident described above? If so, what were the results?

- 5) Did Corporación Dinant contact the police or other authorities to provide them with information on the incident? If so, can you describe that process?
- 6) Have police or prosecutors interviewed employees of the corporation or its security guards on the Paso Aguán plantation, either since April 2013 when the body was discovered, or in the time after López Lara went missing in April 2012? If so, did Corporación Dinant cooperate fully with their investigation?

Disappearance of Francisco Pascual López, May 15, 2011

López went missing on May 15, 2011, while grazing cattle. A member of the peasant organization to which López belonged told Human Rights Watch that on the day López went missing, a trail of blood led from where he was last seen onto the property of the Panamá plantation ten meters away.

- 1) Did Corporación Dinant own, operate or otherwise control the Panamá plantation in May 2011?
- 2) Was Corporación Dinant aware of allegations that a trail of blood led onto the plantation? Does it believe these allegations to be credible?
- 3) Did the corporation carry out an internal investigation into the case? If so, what were the results? Did Corporación Dinant contact the police or other authorities to provide them with information on the incident? If so, can you describe that process?
- 4) Since López went missing, have police or prosecutors interviewed employees of the corporation, its security guards (or those employed by contractors on its behalf) regarding his disappearance? If so, did Corporación Dinant cooperate fully with their investigation?

Killing of Four Dinant Security Guards and a Laborer Employed by Dinant, August 14, 2011

Four Dinant employees—Marco Antonio Guillen, José Darling Guzman, José de Jesus Garcia Flores, and José Alfredo Aguilar—and farmworker Ramón Lobo, were killed in an armed confrontation at Paso Aguán.

- 1) Does Corporación Dinant have any information regarding the nature of the confrontation that resulted in the five men's deaths, or the identity of their assailants?
- 2) Did Corporación Dinant carry out its own internal investigation into this incident? If so, what were the results? Did the company turn over its findings to police or other authorities to provide them with information on the incident?
- 3) As far as Corporación Dinant is aware, did police or prosecutors interview any suspects in these killings?
- 4) Did Corporación Dinant contact the police or other authorities to provide them with information about the incident? If so, can you describe that process?
- 5) Since the time of the incident, have police or prosecutors interviewed employees of the corporation or its security guards? If so, did Corporación Dinant cooperate fully with their investigation?
- 6) To the corporation's knowledge, what is the current status of the criminal investigation into the killings?

Additional Investigations

Is Corporación Dinant aware of any other cases or official investigations in which its security guards or guards employed by contractors on its behalf were involved or alleged to have been involved in perpetrating serious crimes such as killings, disappearances, or other violence in Bajo Aguán?

Is Corporación Dinant aware of other cases or official investigations into incidents in which Dinant employees or security personnel working for Dinant contractors are alleged to have been victims of serious crimes such as killings, disappearances, or other violence in Bajo Aguán?

Please provide as much specific detail as possible about any such cases as well as answers to the following questions, where applicable:

- 1) Has Corporación Dinant contacted the police, prosecutors, or other authorities to provide them with information on any of the alleged incidents? If so, can you describe that process?
- 2) Has Corporación Dinant cooperated fully with all such criminal investigations, if any are open?
- 3) How many of those investigations have led to suspects being charged, and how many of those cases have resulted in criminal convictions?
- 4) In the view of Corporación Dinant, in those cases have police and public prosecutors fulfilled their responsibilities to thoroughly and promptly investigate violent crimes? If not, in what ways have they failed to fulfill these responsibilities?

Thank you in advance for your cooperation. If you are able to respond to this letter by October 24, 2013, we will ensure that your reply is incorporated into our report.

Please feel free to contact my associate, Teresa Cantero (cantert@hrw.org, +1-202-612-4335) if you have any further comments or questions.



José Miguel Vivanco
Director
Americas Division