

Honduras

Amnesty International submission to the UN Universal Periodic Review

Ninth session of the UPR Working Group, November-December 2010

C. Promotion and protection of human rights on the ground

Introduction

Concerns about human rights protection and impunity for human rights violations in Honduras have intensified since the democratically elected President José Manuel Zelaya Rosales was forced from power in a *coup d'état* on 28 June 2009 and expelled from the country by a military-backed group of politicians led by Roberto Micheletti, former leader of the National Congress and also a member of the Liberal Party of Honduras.

The *coup* prompted a political crisis and deterioration in the respect for human rights and the rule of law. The military was brought onto the streets to maintain law and order. From 28 June onwards people who took to the streets to protest against the *coup* were frequently the target of excessive use of force by members of the security forces. Decree PCM-M-016-2009, issued on 16 September 2009, temporarily curtailed freedom of expression and several media outlets were closed as a result.

Amnesty International is deeply concerned that members of both police and military forces frequently committed human rights violations during the rule of the *de facto* government in Honduras, including excessive use of force, unlawful killings, arbitrary detention, torture and other ill-treatment. Reports of intimidation and harassment of critics, including journalists, human rights defenders, members of the judiciary, and suspected members of the opposition movement also were, and remain, common.

A *de facto* government headed by Roberto Micheletti remained in power throughout the crisis. President Zelaya returned clandestinely to Honduras and took up residency in the Brazilian Embassy in September. Despite the failure of political negotiations, mediated by the OAS, to restore the elected government, the *de facto* authorities proceeded with elections in November. Porfirio ("Pepe") Lobo of the National Party won the majority of the vote, though abstention was reportedly very high, and took office on 27 January 2010.

A delegation from Amnesty International visited Honduras from 28 July – 1 August 2009 to investigate reports of human rights violations following the military-backed *coup d'état* on 28 June. The delegation held meetings with representatives from across a wide range of civil society and visited persons in detention and several people receiving medical treatment in hospitals. Amnesty International also visited Honduras during the electoral period in November 2009 (24 November - 4 December). On that occasion, the delegation met with a wide range of representatives from civil society, as well as 32 victims of human rights violations and their relatives. Delegates also met with several authorities and travelled to both Tegucigalpa and San Pedro Sula; however, meetings requested with the Chief of the Army and with the Attorney General were not granted.

Excessive use of force by police and military

Amnesty International is seriously concerned at the disproportionate and excessive use of force by the police and military to suppress opposition and, in particular, by the methods employed by the police in response to the widespread demonstrations which occurred since 28 June 2009, in the months following the *coup d'état*. It is alleged that many of the police involved in the violent action against demonstrators were from the special command "Cobra" branch, an elite section of the Honduran police force.

In the months subsequent to the *coup d'état* excessive use of force by police and military was routine and hundreds of peaceful demonstrators were subject to arbitrary detention. For example, on 30 July 2009, the police, supported by the military, broke up a peaceful march in El Durazno, in the capital Tegucigalpa. According to eye witnesses, the police charged at the thousands of demonstrators without warning, causing panic and chaotic scenes as people tried to flee. Military personnel were deployed behind the rows of police charging at the protestors and allegedly shouted

support for the police beating the demonstrators. There were also reports of military personnel throwing stones at the fleeing protestors.

Eye witnesses allege that the police pursued the protestors, beating many of them as they fled. Nearly all those interviewed by Amnesty International said they had been struck across the back, buttocks and the back of the legs by the police batons. Hundreds of protestors were rounded up by the police and detained in several different police stations across the capital, including Jefatura Metropolitana No. 3 (commonly known as the "Station No. 4") and Comayagua police stations. Amnesty International delegates gained access to the "Station No. 4" and were able to interview many of those detained.

Amnesty International also collected data which indicates that there were cases of sexual harassment, physical abuse and rape of women and girls committed by members of the security forces during demonstrations and arrests.

According to witness statements, the security forces often gave no warning, or allowed insufficient time for people to disperse, before firing tear gas at crowds of thousands of people, sometimes from very close range.

On 22 September 2009, around 15 police officers fired tear gas canisters into the confined space of the offices of the Committee of Relatives of the Disappeared in Honduras (COFADEH) where scores of pro-Zelaya protestors, including children, had taken refuge to avoid suffering further abuses by the police and military forces and to document abuses which they had suffered during a demonstration.

Other testimonies collected by Amnesty International indicate that the security forces also misused different chemical riot control irritants. On 14 August 2009, lawyers belonging to the "Lawyers Resistance Front" arrived at a police station in Choloma, Cortés Department to verify the legal situation of detained demonstrators. One of the lawyers, Nicolás Ramiro Aguilar Fajardo, told Amnesty International that when he and his colleagues arrived, there were around 400 people outside the station. The police brought forward a water cannon and began firing water at the crowd. As Nicolás and the other lawyers ran away from the water, they saw one of their female colleagues being dragged along the ground by her hair by a police officer, and beaten on the buttocks with a baton. When Nicolás tried to intervene to stop the officer beating his colleague, another police officer tapped him on the shoulder to make him turn around, and then sprayed him directly in the face with an unknown chemical spray, causing temporary blindness.

Unlawful killings

Sources differ as to the number of deaths attributed to security forces through the excessive and abusive use of force, including the use of live ammunition. However, most reports coincide in that at least 10 people were killed during or shortly after demonstrations, or during curfews, or in and around military or police checkpoints in the months following the *coup d'état*. The causes of death and serious injury attributed to members of the security forces include shooting at the head, face and abdomen, using live ammunition or rubber bullets.

At least two protestors have died as a result of gunshot wounds: nineteen-year-old Isis Obed Murillo died on 5 July at Toncontin airport in Tegucigalpa, where protestors awaited the return of President Zelaya, and on 1 August, 38-year-old teacher Roger Abraham Vallejo died in hospital as a result of injuries sustained from a bullet wound to the head, reportedly fired by police during the break up of the protest which took place in Tegucigalpa on 30 July 2009. As of April 2010 the crime remains under investigation.

On 27 November 2009, 32-year-old Angel Salgado was driving home in the capital Tegucigalpa with three friends when, according to eye witnesses military, officials fired shots at their car as they drove through an unmarked check point. Angel Salgado was hit in the head by a bullet. He lost control of the vehicle, which then crashed and seriously injured a bystander. According to eye witnesses, military personnel began cleaning the scene of evidence immediately after the incident took place. After spending five days in a coma, Angel Salgado died in hospital on 2

December. As of April 2010, no one has been accused or brought to trial for Angel Salgado's death, and no reparation has been provided to his family.

On 13 December 2009, human rights activist Walter Tróchez, who worked to promote and protect the human rights of members of the lesbian, gay, bisexual and transgender community, was murdered in Tegucigalpa. Nine days earlier, he had escaped abduction by several masked men who demanded the names and addresses of members of the opposition movement and told him they had orders to kill him. Walter had been involved in documenting police and military abuses against demonstrators since 28 June, taking photographs and collecting testimonies from individuals. The investigation is still ongoing, and as of April 2010 no-one has been brought to justice for his murder.

Arbitrary detention and ill-treatment

In the months following the *coup d'état* the security forces were responsible for hundreds of cases of arbitrary detention, primarily of demonstrators and suspected members of the opposition movement, but also of bystanders. Many of those arbitrarily detained suffered other human rights violations such as torture and other ill treatment. No results of any investigation into these cases are known.

A 16-year-old girl Francisca (not her real name) was arbitrarily detained on 26 October 2009 by police in Tegucigalpa after enquiring where they were taking her father. She was detained for several hours, allegedly for "being a trouble maker", in a cell with nine other women. One of the police officers soaked toilet paper in a chemical and set fire to it, releasing toxic smoke into the cell. The girl and women detained reported breathing difficulties and burning eyes and throats, in some cases lasting for several days.

On 12 August 2009, Alex Matamoros, a human rights defender working for the Centre for the Investigation and Promotion of Human Rights (CIPRODEH) was arbitrarily detained in Tegucigalpa when he intervened to stop three boys, who had already been handcuffed, from being beaten by police officers after a demonstration. Alex Matamoros was detained at Manchen Police Headquarters for nearly 12 hours before being released without charge.

On 29 November 2009, the day of the general elections, a local human rights organization found 14 children detained at Jefatura Metropolitana No. 3 police station in Tegucigalpa. The children had been arrested near a polling station. The police justified their detention on the basis of Decree PCM-M-016-2009, which prohibited meetings of more than three people. The Decree was issued in September 2009, but had been officially annulled on 19 October. All 14 children were eventually released without charge.

Alejandra (not her real name) was separated from her family during a demonstration in Choloma, Cortés department, on 14 August 2009. She was arbitrarily detained by police officers who, after dropping other detainees off at a police station, took Alejandra to a remote location where four police officers raped her consecutively. The local office of the Special Prosecutor for Human Rights in San Pedro Sula is currently investigating the case.

Restrictions on freedom of expression: Journalists and critics at risk

Tension and polarization is rife in Honduras since the forced removal of President Zelaya, and freedom of expression is being routinely curtailed and attacked as journalists try to cover events and provide information to the Honduran public. Police and military officials during the *coup d'état* actively denied the right to freedom of expression and information, through the closure of media outlets, the confiscation of equipment and physical abuse of journalists and camerapersons covering events.

Amnesty International delegates heard repeated allegations that several special interest radio programmes, such as the youth programme "La Bullaranga"; "Tiempo de hablar", a programme run by women's organizations; and "Voces contra el olvido", a programme run by the Committee for the Relatives of the Disappeared (COFADEH) had transmission interrupted or were completely blocked for periods of time since the *coup*. Media outlets such as Radio

Globo, Canal 36, Maya TV and Radio Progreso were closed down by the military and the *de facto* authorities or taken off the air, particularly in the days immediately after the *coup* on 28 June.

During the period in which the *de facto* President, Roberto Michelletti, was in power, checkpoints, manned by military and police personnel, were maintained on the main highways in Honduras. Human rights activists and media workers attempting to carry out monitoring activities were obstructed and were often unable to pass the roadblocks.

The curfew measures introduced by the *de facto* authorities were applied arbitrarily and the legal status of such measures is questionable, since no notification was published in the *Gaceta* as required by the domestic law. The curfew law was also not sent to Congress for approval. The curfew times differed across the country and from day to day; in some regions 24 hour curfews were put in place.

A climate of insecurity has continued to impede the work of journalists, with the authorities having failed to take the action necessary to guarantee their lives and physical integrity. The state has also not taken steps to ensure the effective protection of their right to freedom of expression; not only journalists, but other critics and commentators who publish documents criticising the government or investigating organised criminal activity, continue to face threats and attacks.

In the evening of Sunday 14 March 2010, Nahún Palacios Arteaga, a 34-year old reporter and news director for the TV Channel 5, Aguán Television, who also worked for Radio Tocoa, was murdered as he drove home through Los Pinos district in the City of Tocoa, Colón department. Palacios was killed by two unidentified men who drove up alongside his vehicle firing AK 47 automatic weapons at those inside. The men shot at Palacios up to 30 times, killing him and injuring the two passengers in the car, before driving off. Nahún Palacios had publicly criticised and expressed his rejection of the 28 June 2009 *coup d'état* and had covered many of the demonstrations which took place against the *de facto* authorities. On 30 June 2009, a military operation was reportedly carried out which resulted in his home being raided, and television equipment necessary for his work confiscated.

On 24 July 2009, the Inter-American Commission on Human Rights had granted precautionary measures to Nahún Palacios, requesting that the Honduran State immediately adopt the necessary measures to protect his life and physical integrity. These measures were not implemented by either the *de facto* authorities, or the subsequent government which took office on 27 January 2010. In the weeks leading up to his killing, Palacios had covered a land dispute in the Aguán region and had also reported on the issue of drug trafficking. Palacios had allegedly received renewed threats against his life. On 16 March 2010, in official press statement No. 31/10, the Inter-American Commission on Human Rights (IACHR) expressed its "deep regret" over the killing of Nahún Palacios and the lack of implementation of the precautionary measures by the Honduran State. The IACHR also expressed its "deep concern over this third murder of a journalist in Honduras so far this month, following the violent deaths of Joseph Hernández Ochoa on March 1 and David Meza Montesinos on March 11. The Inter-American Commission calls on the State of Honduras to adopt urgent measures to guarantee the lives and integrity of journalists at risk and to ensure the effective exercise of the right to freedom of expression."

Harassment of members of the judiciary

Some judges viewed as critical of the *de facto* authorities have experienced a series of arbitrary transferrals and disciplinary proceedings. Members of the organization "Judges for Democracy", which works to promote judicial independence and principles of fairness and transparency in legal proceedings, were among those targeted. On 12 August 2009, Luis Chevez de la Rocha, a member of "Judges for Democracy", was arbitrarily detained in San Pedro Sula. Judge de la Rocha was watching a protest against the *coup* when he saw police officers beating demonstrators. When he insisted that police officers use restraint, one police official reportedly told his officers: "take this one too for disrespect for authority". He was pushed into the back of a police pickup truck and taken to a police station, where he was held for over three hours before being released without charge. In September 2009, Judge de la Rocha was informed that disciplinary proceedings had been opened against him due to "his presence in acts which breach the

peace” despite the fact that he had not taken part in the demonstration, had been detained arbitrarily and subsequently released without charge. The proceedings against him were still ongoing by mid-April 2010. The President of “Judges for Democracy”, Judge Adán Guillermo López Lone, also faces disciplinary proceedings for participating in a demonstration against the *coup* on 5 July 2009 in Tegucigalpa. Amnesty International has no knowledge of any proceedings having been initiated against the numerous judicial officials who attended demonstrations in favour of the *de facto* regime. As of April 2010, a total of seven members of “Judges for Democracy” continue to face what seem to be unfounded disciplinary proceedings relating to legitimate activities since the *coup* on 28 June 2009.

Impunity for human rights violations

Amnesty International recognizes that the problem of impunity for human rights violations is not new in Honduras. However, 28 June 2009 marked a new surge in violations by security forces which must be addressed as a matter of the utmost priority. The excessive use of force, including lethal methods, to repress those who opposed the *coup*, must not go unpunished. The use of military personnel alongside police to control demonstrations and undertake civilian policing functions is of concern.

Appendix 1: Amnesty International recommendations for action by the State under review

Amnesty International calls on the government of Honduras:

Impunity for human rights violations

- To ensure that immediate, independent, transparent and thorough investigations are conducted into all reports of human rights violations, including sexual violence, since 28 June 2009, bringing those responsible to justice in proceedings which meet international fair trial standards;
- To provide reparation to the victims of abuses, based on the principles of restitution, compensation, rehabilitation, satisfaction and guarantees of non-repetition;
- To ensure that police and military authorities cooperate fully with judicial investigations into human rights violations, including by providing full information and access to records and personnel;
- To strengthen the Office of the Special Prosecutor for Human Rights and other prosecutors with a mandate to investigate human rights violations;
- To ensure the strengthening and effectiveness of the witness protection programme;
- To ensure the armed forces return to their barracks, allowing law enforcement duties to be fully resumed by the police force;
- To improve policing methods by ensuring police officials are trained and accountability mechanisms strengthened in accordance with the UN Code of Conduct for Law Enforcement Officials and UN Basic Principles on the Use of Force and Firearms by Law Enforcement Officials, including by ensuring
 - that police officials are accountable, responsive and representative of the communities that they serve,
 - that there is a clear separation of powers between the military and the police;
 - that there is a clear chain of command and a traceable “audit trail” for any decisions taken during the management of policing operations; and
 - that the military is not generally used in civilian policing activities;
- To reject any political or legal measures, such as amnesty provisions, which could prevent reparation for victims of human rights violations or perpetrators being held to account;
- To issue a standing invitation to all UN and Inter-American Special Rapporteurs, in particular the UN Special Rapporteur on extrajudicial, summary or arbitrary executions; the UN Special Rapporteur on the independence of judges and lawyers; the UN Special Rapporteur on torture; the UN Special Rapporteur on violence against women; and the Rapporteur on Women and the Rapporteur on Freedom of Expression of the IACHR.

Harassment of members of the judiciary

- To ensure that unfounded disciplinary proceedings against judges perceived as critical of the *coup* are dropped;
- To establish training programmes for judges and judicial officials in the application of the 1985 UN Principles on the Independence of the Judiciary, as well as the application of legal duties contained in international human rights treaties to which Honduras is a party;
- To ensure that judicial appointments are made in accordance with the UN Principles on the Independence of the Judiciary.

National human rights plan

- To establish a comprehensive national plan for human rights, covering economic, social and cultural rights as well as civil and political rights, and addressing discrimination and protection of the rights of vulnerable groups such as women, children, indigenous and LGBT people;
- To ensure that the national plan for human rights is developed with the participation of all sectors of civil society, including human rights organisations, organisations working to represent victims of human rights violations and those representing women, children, indigenous peoples and LGBT people.

Human rights defenders

- To recognise and support the key role of human rights defenders in accordance with the UN Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms ("UN Declaration on Human Rights Defenders").

Freedom of expression

- To fully restore freedom of expression, including by ensuring that journalists, opinion formers and members of the opposition are free to express their criticisms and views;
- To ensure an end to the intimidation of those who opposed the *coup*.

Office of the Ombudsman

- To conduct an evaluation of the effectiveness of the Office of the Human Rights Ombudsman with a view to strengthening its independence and ability to contribute to respect for human rights. The evaluation should be conducted in liaison with an independent third party, such as the United Nations or the Inter-American Commission on Human Rights, and with the full participation of civil society.

Appendix 2: Amnesty International documents for further reference¹

- Honduras: Recommendations to the new Honduran government following the coup of June 2009 (Index Number: AMR 37/003/2010), Date Published: 28 January 2010
- Honduras: Human rights crisis threatens as repression increases (Index Number: AMR 37/004/2009), Date Published: 19 August 2009

¹ All of these documents are available on Amnesty International's website: <http://www.amnesty.org/en/region/honduras>