

The Situation of Human Rights and Democracy in Honduras Since the Elections of November 2013

Written testimony of Alexander Main to the Subcommittee on International Human Rights of the House of Commons of Canada; December 9, 2014.

Thank you for this opportunity to discuss with you the current situation of human rights and democracy in Honduras. In my work as an analyst for the Center for Economic and Policy Research, I focus primarily on political, economic and social developments in Latin America and the Caribbean. For the past five years I have been closely monitoring developments in Honduras and have had frequent interaction with human rights defenders, academics, journalists and officials located in that country.

On June 28, 2009, a coup d'Etat led to the forced removal of democratically elected President José Manuel Zelaya. The coup was followed by widespread repression, media closures and censorship and a prolonged political crisis. Elections held under the coup government of Roberto Micheletti in late 2009 were boycotted by opposition groups and were recognized by only a small number of the region's governments, among them the U.S. and Canada.

Honduras has long been plagued by poverty, high levels of crime, and weak and corrupt institutions. The 2009 coup dramatically escalated these problems and has sparked significant regression in other areas. Following the coup, the Honduran government's democratic legitimacy was severely compromised; targeted killings, violent attacks and threats against members of at-risk sectors of society escalated; impunity reached record levels; and law enforcement became increasingly militarized.

In November of 2013, new elections were held. Opposition parties participated, the European Union and Organization of American States sent electoral monitors, and human rights groups expressed hope that the elections would allow the country to begin turning the page on the coup and its bitter aftermath. This hope was dampened by political violence and reports of irregularities and fraud.

My presentation today will focus on the 12 months that have transpired since these elections. I'll offer my assessment of whether or not the country's negative trends in the areas of human rights and democracy have begun to reverse course under the government of the contested winner of the 2013 elections, Juan Orlando Hernández. I'll focus on addressing the issues that the Subcommittee has expressed particular interest in, and will also touch on additional aspects that I believe can help provide a better understanding of the overall situation.

1. Targeted Groups and Individuals

Honduras has, for several years now, been sadly notorious for having the world's highest murder rate. The country's already high rate of violent crime rose sharply after the 2009 coup and has remained at record levels ever since.

Less attention has been paid to disturbing patterns of killings, attacks and threats targeting individuals and groups that may pose a threat to powerful interests. Though police and judicial officials are often quick to attribute these incidents to gang activity and common crime, their frequency and the available anecdotal and circumstantial evidence suggest that the victims are often targeted because of the work they do. Among the targeted groups are media workers, human rights defenders, lawyers and other justice sector workers, campesino groups and political opposition activists.

In early December of 2014, the Inter-American Commission on Human Rights (IACHR) stated that an astounding 46 media workers were murdered in Honduras between 2009 and 2013, compared to a total of three during the preceding six years. In 2012 the U.N. Special Rapporteur on the situation of Human Rights Defenders stated that journalists covering "street protests and human rights violations after the coup were particularly vulnerable" as well as those "working on social, economic and cultural rights, particularly indigenous and Afro-Hondurans and those working on land issues."

Unfortunately, after a lull in the number of killings of journalists in 2013, the pace of homicides in this sector has picked up considerably with at least eight killed in the last 12 months, including the chief correspondent of a TV news program, a TV presenter who had investigated local corruption, and the host of a satirical political radio show. A number of other journalists have received death threats. Popular news reporter Alex Sabillón went into hiding in August after being subjected to 11 attacks over three years and after his police escort and an official who had denounced corruption on his show were both murdered.

The situation has also deteriorated for human rights defenders. Honduran Human Rights NGO ACI-Participa reported in late September that at least five human rights defenders were killed between January 1 and September 17. Many of the victims were supporting communities opposed to plans for large-scale private ventures, such as hydroelectric dams, mining, logging or large agricultural projects that threatened to displace these communities or damage their habitats. Margarita Murillo, a long-time defender of campesino women's rights, shot dead as she was working the land on August 27.

Many human rights defenders have been attacked in recent months: On August 22, gunmen blocked the car of Centro de Investigación y Promoción de Derechos Humanos (CIPRODEH) director Wilfredo Méndez, pointed guns at him and his colleagues, and threatened to kill them. A member of the staff of human rights

group Comité de Familiares de Detenidos Desaparecidos en Honduras (COFADEH) was kidnapped on June 4 for several hours, beaten on the face with the butt of a gun and stabbed repeatedly with a pencil. Many other similar incidents have occurred this year.

Violent attacks against lawyers and other justice workers have continued at a steady rate. Early in the year, the Association of Judges for Democracy estimated that 67 lawyers had been murdered between 2010 and 2013. Since the beginning of the year at least eight more have been killed, including a judge and a lawyer killed in separate incidents on March 14 and a justice of the peace, who was ambushed and shot dead on his motorbike on June 23.

Other sectors that have suffered disproportionate numbers of attacks are campesino groups engaged in land conflicts with large agro-business enterprises – for instance, in the Bajo Aguán, where more than 100 campesino land rights activists have been killed during a drawn-out conflict with the Dinant Corporation –; indigenous and Afro-Honduran community leaders who oppose their forced displacement from traditional lands by tourism and residential development projects, among them the Canadian-funded Alta Mira project ; and political party activists, a category that I'll touch on more in regard to Honduras' elections.

Two points regarding this wide range of targeted attacks are worth emphasizing: One, in a large number of cases state security forces are alleged to have played a role in the attacks; second, the vast majority of cases are characterized by impunity.

2. Impunity

Rule of law has traditionally been weak in Honduras, a phenomenon that human rights advocates believe stems in part from the fact that security forces were never held accountable for disappearances and atrocities perpetrated against dissidents during the military dictatorship and the 1980s period of transition to democracy.

In an effort to keep this phenomenon from repeating itself, an OAS-sponsored Truth and Reconciliation Commission identified, in its 2011 report, a number of extrajudicial killings allegedly perpetrated by security forces in the wake of the 2009 coup. In its recommendations to the Honduran government, the commission called for the investigation and prosecution of all the human rights violations committed from the date of the coup to the date of the inauguration of President Porfirio Lobo, winner of the controversial elections of November 2009, underscoring the need to sanction those at the “highest levels of responsibility.”

With the exception of one case involving the closure of a television channel in the days following the coup, the Honduran government has evidently failed to act on this recommendation and, in general, investigations and prosecutions of human rights crimes allegedly involving state security agents are highly exceptional.

The overall rate of impunity surrounding human rights abuses, whether perpetrated by state or private actors, is stunningly high. And there is no indication that the situation has genuinely improved under the administration of Juan Orlando Hernández.

While over the last several years prosecutions have been made in a very small number of emblematic homicide cases, including in the cases of killings of members of the LGBTI community and two killings of journalists, the immense majority of killings and attacks of members of at-risk sectors remain in impunity.

The IACHR, which visited Honduras in early December of 2014, stated in its initial findings that, according to civil society estimates, the country's rate of impunity oscillates between 95 percent and 98 percent. The IACHR and other human rights organizations have noted that the investigative and prosecutorial capacity of judicial authorities is weak, but also note that there is often little will to carry out investigations and prosecutions, particularly for crimes involving state agents.

The question is: is the Honduran government implementing measures that may improve this situation? Are its policies overall moving things in a better direction, or are they counterproductive?

3. Government measures

One recent government-backed measure that initially received support from various civil society groups, is a draft "Law for the Protection of Human Rights Defenders, Journalists, Justice Sector Workers" that is currently in its third reading in the Honduran Congress. During its recent visit, the IACHR encountered much concern about the legislation among Honduran civil society representatives who considered the draft text to be complex and to have an unclear operational framework, to have an ambiguous model for risk analysis and to be unclear regarding funding sources. These representatives also stated that, though they were consulted early on in the drafting process, they were no longer aware of the content of the draft law, though it could soon be approved.

The government has claimed to have made great strides in weeding out corruption and organized crime from the ranks of both the police and the judiciary, but – in both cases – the results have been deeply inadequate.

On September 22, National Director of Police Ramon Sabillon reported that around 1,400 police agents had been dismissed since 2012, allegedly for failing trustworthiness tests. However, the Honduran NGO Alliance for Peace and Justice has alleged that many dismissed officers include agents who passed tests and that few senior officers have been removed. Other organizations, such as COFADEH, have alleged that, in cases where senior officers have been removed (typically with honorable discharges, despite suspected involvement in criminal activity), other officers with records of alleged involvement in human rights abuses have replaced

them. For instance, Elder Madrid Guerra, recently promoted to the position of commissioner general has been charged with the illegal detention, ill-treatment and torture of 23 individuals during a peaceful protest against the coup on August 12, 2009.

A similar purge of judicial officials has been carried out by a recently-created Judiciary Council, with 66 justice workers suspended from their posts as of July 2014. But the judicial watchdog group Association of Judges for Democracy (AJD) has challenged many of the dismissals on both legal and procedural grounds and has characterized the purging process as nontransparent and arbitrary. These concerns were recently echoed by the IACHR in the “Preliminary Findings” that it published following its December 2014 visit to Honduras.

These purging measures also do nothing to remedy the problem of the judicial branch’s lack of independence, which reached its peak in December of 2012 when four out of five judges to the Constitutional Court were removed and replaced with governing National Party allies. Constitutional experts deemed the move to be unconstitutional and called it a “technical coup.” Meanwhile, four judges who were dismissed in 2009 for their opposition to the military coup have still not been reinstated despite strong support for their reinstatement from the IACHR and international and Honduran human rights groups.

Other recent measures that the Honduran government has taken have undermined its ability to address human rights abuses:

- In January of 2014, the Honduran Congress, presided over by president-elect Hernández, dissolved the Public Security Reform Commission (CSRP) that had been created two years earlier. The commission had, in accordance with its mission, designed plans for a new organic law for the police and a complete re-vamping of the training process for the police; and the investigation of bank accounts of members of security forces, prosecutors and members of the judiciary, which were supported by many human rights groups and systematically ignored by the government and the Congress. The CSRP’s last project was a National Pact for Security committing presidential candidates to a holistic approach to policing including community policing and a focus on crime prevention. All of the candidates signed the pact with the exception of Hernández, whose campaign was largely centered on promoting the country’s new military police force.
- Soon after taking office, Hernández restructured government ministries and, in the process, reduced institutional support for groups subjected to disproportionately high levels of human rights abuses. The Secretariat of State for Indigenous Peoples and Afro-Hondurans was reduced in status, leaving the office without a director and reportedly without an office location in which to receive members of those communities.

- In March 2014, the Honduran Congress appointed a new human rights ombudsman with no background in human rights. Backed by the ruling National Party, the new ombudsman – Roberto Herrera Cáceres – had previously been a spokesperson for the pro-coup group the Democratic Civic Union .

For many human rights advocates, the measure that has had the greatest negative impact on human rights, however, is Hernández's decision to further militarize law enforcement in Honduras, a development that I will discuss below.

4. Precautionary measures

In the absence of effective judicial and law enforcement institutions, individuals who are at risk of targeted attacks generally are more reliant than ever on the implementation of precautionary measures in order to enjoy some measure of personal safety. In the years since the 2009 coup, the IACHR has granted an ever-growing number of precautionary measures to human rights defenders, journalists, justice workers and other individuals deemed under threat of attack. The IACHR noted, in its recent report on Honduras, “grave deficiencies” and low or completely lacking efficiency in the implementation of the measures by the state.

In many cases, police units are unaware of how to implement precautionary measures, or lack the available resources to do so, or are even allegedly protecting or supporting the very actors believed to be threatening to the grantees. For instance, a Tolupan indigenous community in the locality of Locomapa – which received precautionary measures from the IACHR over a year ago after several of its members were killed as a result of their opposition to mining and logging interests – continues to endure regular harassment and threats from the individuals allegedly responsible for the killings. The police are aware of the identities and whereabouts of the assailants but, for over a year, have failed to arrest them.

5. Elections

Honduras has experienced a prolonged political crisis since the 2009 coup d'Etat. Given that the subsequent elections of late 2009 were widely regarded, both within Honduras and in the rest of the region, as flawed and illegitimate the international community provided significant funding and technical support to the elections of November 2013 to try to ensure that the outcome would be a government with strong democratic legitimacy.

Though voter turnout was fairly high (61 percent), a number of irregularities were reported and both the LIBRE party, which ended up in second place in the final official tally, and the Anti-Corruption Party, which obtained over 13 percent of the vote, contested the results. LIBRE petitioned the country's electoral authority – the Tribunal Supremo Electoral (TSE) – to carry out a full recount of the vote.

Ultimately, the TSE only carried out a partial recount and LIBRE's appeal was rejected by the Constitutional Court.

Many Hondurans argue that the system is rigged in favor of the ruling party. Indeed, the electoral system is characterized by important weaknesses, identified by the National Lawyers Guild and other groups, which at the very least contribute to a biased and severely flawed electoral process:

- The TSE, in its current form, cannot be considered nonpartisan: The majority of its appointed magistrates were either elected officials when appointed or political party officials, even though such appointments are prohibited by the Constitution. The magistrates were either members of or were strongly identified with the country's two traditional ruling parties, a particularly problematic fact given that two new political parties with strong popular backing emerged in the last elections.
- In addition, any appeal of a TSE decision is made to the country's Constitutional Court, which – as previously mentioned – is tightly controlled by National Party supporters since the aforementioned “technical coup” of December 2012.
- The practice of selling party members' electoral credentials, which allows parties to closely monitor the voting process and tally within voting centers, is widespread and has been acknowledged by the OAS, Carter Center and other groups. This practice can facilitate fraud, since holders of these credentials are tasked with resolving disputes that can take place during the vote and tallying process.
- Many observers reported that vote-buying took place on a massive scale during the last elections, in the form of discount cards that were distributed by National Party members outside of many voting centers.
- During the campaign season a significant number of candidates and party activists were killed in impunity, creating a climate of terror that undermines both campaigning and voting. Shortly before the elections took place, COFADEH and the U.S./Canadian NGO Rights Action identified at least 35 killings of candidates, candidates' relatives and campaign organizers from the eight parties. Of this number, 18 victims were from the LIBRE opposition party.

6. Militarization

The 2009 coup marked the end of nearly two decades of progressive demilitarization of law enforcement in Honduras, following the transition from the country's military dictatorship in the 80s. The repression of peaceful demonstrations against the coup involved the military and, in 2012, then President

Porfirio Lobo began deploying the military for domestic policing for increasingly long periods of time, in violation of the constitution.

This re-militarization was reinforced by Hernández when, a few months before the November elections, he pushed a proposal for a military police force through the Congress and built his presidential campaign around a promise to “put a soldier on every corner.” As president, he today backs a constitutional reform that would enshrine the military police in the Constitution as a part of the nation’s armed forces.

Hernández has also supported another militarized police force called the TIGRES which includes army personnel, although it remains within a civilian chain of command.

Human rights defenders across the globe consider that the militarization of law enforcement is a grave threat to rule of law and human rights, particularly in a country like Honduras that was until fairly recently under military rule and whose military forces have a sad record of repression of popular movements with impunity.

Hernández’s Public Order Military Police (PMOP) have already faced allegations of serious abuses.

For instance, shortly before the 2013 elections, the Military Police raided the home of an activist from the opposition LIBRE party. In spring of last year, Military Police personnel attacked the well-known defender of children’s rights José Guadalupe Ruelas of Casa Alianza. He was beaten in the face, head, ribs and legs and dragged face down and kicked.

On November 21, a young woman waiting for a bus was allegedly kidnapped by a military police unit and raped by eight of the agents. To date, no one has been apprehended in relation to the crime, although the woman went public immediately and filed a report with the regular police force.

Conventional military forces have also been involved in an increasing number of state-sponsored tasks normally in civilian hands. Sections of military bases have been converted into penitentiaries, and soldiers have taken on the role of prison wardens. They also participate in a new military education program, developed by Hernández, named “Guardians of the Fatherland”, which target children and adolescents. The minors participate in military-style activities with armed military personnel and are divided into groups with the names of battalions.

Military troops have also been deployed to the Bajo Aguán, a region with ongoing land conflicts, where they have been accused by campesino groups and human rights defenders of supporting the interests of powerful landowners and assisting private security personnel in attacks against land rights activists.

Colonel German Alfaro, who until recently commanded the police/military Xatruch force in the Bajo Aguán and later the joint task force Fuerza de Seguridad Interinstitucional Nacional for the north coast, has repeatedly engaged in public, verbal attacks against campesino groups, journalists and human rights defenders, including Annie Bird, then co-director of the Canadian/U.S. organization Rights Action.

Military and government authorities have repeatedly rejected concerns regarding Honduras' militarization trend from human rights groups and the Inter-American Commission on Human Rights. On December 4, Hernández was quoted in Honduran newspaper *El Heraldo* speaking out against those in the U.S. who criticize the military police, saying, "We are not going to tolerate anyone who comes here to question our decisions."

7. Conclusion and Recommendations

In summary, Honduras' human rights situation remains as dire as ever and, in many cases, targeted attacks against members of at-risk sectors – including human rights defenders and journalists – have recently increased in number. Meanwhile, impunity around these and other crimes remains appallingly high.

The government's response to this situation over the last 12 months has been grossly inadequate and, in some areas, completely counterproductive. The processes by which the government claims to address corruption and criminality within the security forces and the judiciary are arbitrary and ineffective. Genuine police reform appears to be off the agenda, following the dissolution of a reform commission whose proposals were systematically ignored, despite the backing of the human rights community. The government's plans to further militarize law enforcement activities, and to involve the military in other traditionally civilian tasks, including state-sponsored extracurricular activities for young people, is an alarming, negative trend that will further undermine human rights and democracy in Honduras.

In short, the government's record over the last 12 months indicates that it has little real will to address Honduras' human rights crisis.

The Canadian government is one of Honduras' most important trade partners and can and should exercise its leverage in the bilateral relationship to urge the Honduran government to take substantive measures.

Recommendations:

- The implementation of the Canadian-Honduran free trade agreement of 2014 as well as bilateral security assistance and Canadian support for IFI programs in Honduras should be contingent on genuine and substantive progress in the prosecution of human rights abuses.
- Canadian private companies should be urged to ensure that their operations and investments in Honduras are not directly or indirectly contributing to human rights abuses, environmental degradation, or violation of the laws of Honduras.
- The Canadian government should use its voice and vote in international financial institutions, including the Inter-American Development Bank, the World Bank Group, the International Monetary Fund, and in international organizations including the Organization of American States and the United Nations to uphold the above principles and to make respect for human rights and the rule of law in Honduras the first priority regarding all matters dealing with Honduras. In particular, the Canadian government should use its voice and vote to ensure that the IADB, World Bank and IMF are not contributing to human rights abuses or environmental degradation through funding for projects in Honduras.
- As the Inter-American Commission on Human Rights and other international groups have noted, there is little dialogue between the Hernández government and most civil society groups, including human rights groups. Canada should press the Honduran government and Congress to consult and engage more with these groups, particularly when it is elaborating plans that may impact human rights.
- The government of Canada should urge the Honduran government to implement IACHR precautionary measures in accordance with the wishes of the grantees.
- Canada should urge the Honduran government to remove military personnel from all domestic policing activities of any kind.
- Canada should call for the reinstatement of the four judges who were dismissed for their opposition to the coup, and whose restoration has been recommended by the IACHR.
- Canada should encourage the Honduran Congress to appoint impartial, independent magistrates to the Supreme Electoral Tribunal and impartial and independent judges to the Constitutional Court.