

**HONDURAS:
DEMOCRACY DENIED**

**A REPORT FROM THE CCIC'S
AMERICAS POLICY GROUP WITH
RECOMMENDATIONS TO THE
GOVERNMENT OF CANADA**

APRIL 2010

The Americas Policy Group (APG) is a working group of the Canadian Council for International Co-operation (CCIC) focused on development and social justice issues in the Americas. It brings together approximately forty international development and humanitarian NGOs, human rights groups, labour unions, research institutions, as well as women's, church and solidarity groups.

The APG provides space for collective reflection and the articulation of coordinated policy positions, as well as dialogue, and advocacy with the Canadian government, other governments, and other decision-making bodies.

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HONDURAS: DEMOCRACY DENIED

EXECUTIVE SUMMARY

This report by the Americas Policy Group examines the coup in Honduras, key issues for democracy and human rights, and Canada's role. Specifically, the report reviews Canadian diplomatic efforts during the crisis, as well as the role of Canadian investors and businesses operating in the country prior to and during the coup. It provides recommendations on measures the Canadian government should adopt to facilitate a genuine return to democracy with a strengthened constitutional order, respecting the human rights and development needs of Honduran citizens.

The coup d'état in Honduras on June 28, 2009 represents an extremely grave crisis for democratic governance in the hemisphere. Persistent, widespread pressure from Honduran citizens, as well as the international community, failed to reverse the coup and restore constitutional order prior to the November 29 elections and January 2010 transfer of power.

Despite the Honduran authorities' attempt to present Honduras as getting back to "normal" following the transfer of power, the country remains deeply divided. It is also clear that Honduras remains a country in a democratic crisis. Honduras is still governed by those who backed the coup, and no significant measures have been put in place to sanction or remedy the failings of institutions that played a role in the coup d'état and its aftermath. Serious human rights violations, including attacks on social leaders, have yet to subside. Impunity remains widespread.

Hondurans may well see a widening conflict in the year ahead. The January 26 Amnesty Decree adopted by the National Congress of Honduras, which coincided with the inauguration of Porfirio Lobo Sosa, has raised serious concerns at the level of the Inter-American Commission on Human Rights (IACHR). The IACHR has since urged the Honduran authorities to review the decree, taking into account the State's obligations in light of international treaties, especially the obligation to investigate and punish serious human rights violations, noting that in practice, the application of amnesty laws has obstructed the clarification of grave human rights violations and the prosecution and punishment of those responsible, leading to impunity.¹

Most analysts agree that the recent events in Honduras have significant regional implications. Failure by the Inter-American community to protect democracy, human rights and the rule of law in Honduras creates a troubling precedent that increases the vulnerability of democracy in other countries. The Honduran crisis poses a particular challenge for Canada given that the Americas have been made a foreign policy priority and the promotion of democratic governance has been made a cornerstone of Canada's Americas strategy. Honduras is also the sole priority recipient of Canadian foreign aid in Central America and was recently named as one of 20 focus countries for Overseas Development Assistance.

¹ Inter-American Commission on Human Rights. (2010, February 3). *IACHR expresses concern about amnesty decree in Honduras*. (IACHR Press Release N° 14/10). Washington, D.C.: OAS. Retrieved from <http://www.cidh.org/Comunicados/English/2010/14-10eng.htm>

The Canada-Honduras relationship is important for civil society. Canadian civil society organizations that form the CCIC's Americas Policy Group (APG) have long standing partnerships with Honduran organizations, including labour, faith-based, women's, and community-based organizations and NGOs. APG members have been actively monitoring the situation in Honduras, and organized several delegations to the country in the months preceding and following the coup.

National Reconciliation

Despite the highly controversial nature of the November elections, Canada was quick to recognize the victory of Porfirio Lobo Sosa and to express support for his announcements ostensibly aimed at establishing a process for national reconciliation, including the setting up of a Truth Commission. However Canada has not made a public statement regarding the problematic nature of the amnesty decree, nor asked that those responsible for overturning the democratic order and carrying out the coup be held to account.

The idea to set up a Honduran Truth Commission came out of the Guaymuras dialogue and formed part of the Tegucigalpa / San José Accord. The initial goal was to clarify the deeds that occurred before and after June 28 2009, and to identify the acts that led to the coup, in order to prevent repetitions. However, the Truth Commission has already come under fire for having been set up without consultation and input from civil society and for not being oriented to ensure that those responsible for carrying out the coup d'état and violating human rights will be held to account. The Truth Commission is being set up at a time when serious human rights violations are continuing with widespread impunity, raising questions about both the political will to establish a credible process for truth and reconciliation, and the safety of witnesses who would come forward at this time.

In the first 100 days of the coup alone, the Honduran human rights group, Committee of the Families of the Detained and Disappeared of Honduras (COFADEH), documented 4,234 violations, conceding that these only represented the tip of the iceberg.

Source: COFADEH 2009. *Second Summary Report of Human Rights Violations Since the Coup.*

Another serious concern is the projected four months allocated for the commission's work, which is inadequate for the scope of abuses that took place.

Following the June 28 coup in Honduras, the IACHR, Amnesty International and numerous other human rights organizations documented the suspension of constitutional rights, censorship and attacks against media outlets, repression of peaceful demonstrators, arbitrary detentions of thousands of people, cruel, inhuman and degrading treatment, police beatings, and assassinations. Reports have also been made on the targeting of and impact of the coup on specific vulnerable groups including Nicaraguan nationals, the Garifuna (Afro-Honduran community), women and youth opposed to the coup, journalists, teachers, unionists, and members of the lesbian, gay, bisexual and transgender (LGBT) community.

Business and Human Rights

The coup and its aftermath raise critical concerns about the influence that private enterprises and investors have on governance, human rights and democratic institutions.

In the months leading up to the coup, there were burgeoning concerns from international investors, including Canadian investors, surrounding the speed and conditions under which Honduras should open sensitive markets.

While the mainstream media coverage of the events of June 28 focused on President Zelaya's initiative to conduct a non-binding poll on future constitutional reform, economic factors were equally important in the buildup of tensions between Zelaya and influential sectors in and out of the country.

Some of the strongest critiques of the policies of President Zelaya came from the Honduran private sector. Business platforms such as the National Business Council (COHEP), and the Honduras' National Association of Industries came out strongly in favour of the coup and lobbied Washington not to impose sanctions on Honduras.²

Canada is the second largest foreign investor in the country. Canadian investors are active in the fields of mining and telecommunications in Honduras. These sectors were among those exerting strong pressure on Honduran policy making in the context of the global recession. Canadian companies and other multinational corporations took part in joint pressure campaigns, which included tactics such as freezing investments. In the months before the coup, a Canadian mining company was one amongst a consortium of five that reportedly offered to invest \$ 1.75 billion dollars in Honduras should the 2006 executive decree prohibiting new mining concessions be overturned and the investment climate made more favourable for foreign corporations.³

Despite this, and in response to broad based grassroots calls for reform, President Zelaya presented a bill to Congress in May 2009 for a new mining law that proposed, among other things, a tax reform to recoup revenues for the state from mining, a prohibition of open-pit mining, the establishment of community approval as necessary for the issuing of mining concessions, and a ban on the use of toxic substances such as cyanide and mercury. The bill was due to be voted on August 16, 2009.

In the aftermath of the coup d'état – the most extreme rejection possible of the fundamental tenets of the Inter-American Democratic Charter, and of international law and human rights standards – Canadian companies interviewed by the media reported a “business as usual” approach.⁴ Similarly, while a number of governments and multilateral institutions were withholding funds and instituting sanctions against the de facto authorities headed by Roberto

² The Associated Press. (2009, July 20) U.S. increases pressure on Honduran coup Leaders. CBC News. Retrieved from <http://www.cbc.ca/world/story/2009/07/20/honduras-coup.html>

³ Diario El Heraldo. (2008, December 11) Ofrecen inversión de \$1,750 millones. *El Heraldo*. Retrieved from <http://www.heraldo.com/index.php/Pa%C3%ADs/Ediciones/2008/12/12/Noticias/Ofrecen-inversion-de-1-750-millones>

⁴ Koven, P. (2009, July 1) Canadian miners unfazed by Honduras coup. *Financial Post*. Retrieved from <http://www.nationalpost.com/m/story.html?id=1749647>

Micheletti, Gildan Active Wear, a Montréal-based textile exporter, and a delegation of Canadians interested in exploiting metallic mining signaled plans to expand operations in the country.⁵

Meanwhile, in Honduras the coup has provided the context for rolling back important gains in the peaceful and legal resolution of conflicts between peasant groups and powerful landed business interests over access to land titles. There have been violent clashes and serious human rights violations in rural areas such as the Aguán valley, where military and police have forcibly evicted peasant families from their lands despite agreements negotiated with the Zelaya government to investigate land claims.⁶

The Role of Canada and the Organization of American States (OAS)

Throughout the crisis, Canadian diplomats played an active role in multilateral fora. The APG supported Canada's condemnation of the coup as expressed initially in a communiqué by Minister Kent, and subsequently through Canada's participation in various international fora including the G-16 group of donors. However, the APG was deeply alarmed that numerous public statements by Canadian representatives led to ambiguity with respect to Canada's official position and weakened the international consensus. This diminished the impact that the international community might have had in pressing the coup regime to return power to the democratically-elected President. For example, as the negotiations to bring both parties to sign onto the San Jose Accords proceeded with great difficulty, the media reported that the "OAS consensus on how to handle the Honduran crisis faltered when the United States, Canada, Costa Rica, Bahamas and Peru proposed dropping Zelaya's return to power as a precondition for legitimate elections".⁷

Promoting the San Jose Accords, without the reinstatement of the democratically-elected Head of State, sent a highly troubling message to other countries that coups do not have to be reversed; that presidents can be removed from power by force and replaced.

⁵ Desjardins Securities analyst Martin Landry confirmed to the National Post that Gildan plans to further expand production of t-shirt, socks and underwear in the country, and stated that "President Zelaya had alienated Honduras' congressional politicians by joining the Bolivarian Alternative for the Americas, an alliance led by Venezuelan president Hugo Chavez that seeks to integrate left-leaning Latin American countries." Landry also suggested the coup may turn out to be a positive for Gildan if it brings back a more business-friendly government. Ratner, J. (2009, June 30) Honduras coup could bring more business-friendly government, *National Post*. Retrieved from

<http://network.nationalpost.com/np/blogs/tradingdesk/archive/2009/06/30/honduras-coup-could-bring-more-business-friendly-government.aspx#ixzz0T07iVtHZ>

Mejia, W. (2009, August 19) Inversionistas de Canadá vienen a Honduras. *El Heraldito*. Retrieved from <http://www.heraldito.com/Ediciones/2009/08/20/Noticias/Inversionistas-de-Canada-vienen-a-Honduras>

⁶ Trucchi, G. (2010, February 17) Palma Africana y Garrote. Asesinatos, secuestros, torturas y desalojos en la nueva era de 'Pepe' Lobo. *Adital/Rel-UITA*. Retrieved from <http://www.adital.com.br/site/noticia.asp?lang=ES&cod=45155>

⁷ Markey, P. (2009, September 30) Honduran police crackdown, but pressure mounts. *Reuters*. Retrieved from <http://www.alertnet.org/thenews/newsdesk/N3095905.htm>

The coup and its aftermath also raised questions about the degree to which multilateral bodies such as the OAS are still able to defend basic tenets of constitutional democracy. Polarization within the OAS, particularly around the question of the need to restore the democratically elected President, prevented the delivery of a consistent unified message. The result was a weakened ability for the OAS to apply all of its protocols, which might have helped to end the coup.

Following the controversial elections, which were held without official election observers, and in which only one side was able to campaign freely (Carlos H. Reyes, the main opposition candidate, spent much of the campaign period in hospital recovering from a severe beating from Honduran security forces), Canada was one of the only countries to state that the elections “appear to have been run freely and fairly”.⁸ Canada’s statements not only stood in stark contrast to statements issued by the Mercosur bloc of nations and other countries across Latin America and the Caribbean, but also failed to take into consideration ongoing egregious violations of political and other human rights.

For example, the IACHR observed that restrictions on the exercise of public office remained in place following the coup in the three branches of government, including threats and assaults on congressional representatives, military takeover of local mayors’ offices, and removal of public officials deemed unfavourable to the coup.⁹

The Canadian government’s post election statements have isolated Canada along with the U.S. and a handful of nations. This stance, coupled with the troubling ambiguity about Canada’s views regarding the rights of President Zelaya and the culpability of coup actors, has undermined Canada’s own stated vision, laid out in the Americas Strategy, to help advance democratic governance and “to strengthen democratic institutions, practices and principles that deliver freedom, human rights and the rule of law.”¹⁰

The Canadian government can still play an important role to support the struggle for democracy in Honduras going forward, but it must tread carefully given recent missteps. How will Canada make clear its support for broad-based citizen participation in the development of socio-economic plans, and the promotion of political reforms in a way that is respectful of democratic principles?

⁸ Department of Foreign Affairs and International Trade. (2009). *Canada Congratulates Honduran People on Elections*. (News Release N° 364 , December 1, 2009).

⁹ During its on-site visit the Commission confirmed serious violations of political rights in Honduras, noting the de facto authorities perpetrated repressive acts that constituted serious limitations, both *de jure* and *de facto*, on the exercise of political rights, in particular those rights associated with the exercise of public office and those related to political participation. Inter-American Commission on Human Rights. (2009). *Honduras: Human Rights and the Coup D’état*. (OEA/Ser.L/V/II. Doc. 55). Washington, D.C: OAS.

¹⁰ Government of Canada. (2009). *Canada and the Americas*. (Catalogue Number FR5-41/1-2009, ISBN 978-0-662-06708-5) Ottawa, Canada.

RECOMMENDATIONS: 2010 AND BEYOND

Based on the gravity of the crisis, as well as our historic knowledge of the country and long-standing partnerships, the APG submits the following recommendations for measures the Canadian government could adopt to facilitate a genuine return to democracy in Honduras, with a strengthened constitutional order, respecting the human rights and development needs of all Honduran citizens.

The Americas Policy Group urges Canadian action in five key areas:

1. Lay the groundwork for a return to a peaceful and democratic order.

Canada should call on the Honduran authorities to take immediate measures to:

- Repeal all legislation, decrees and executive orders issued by the de facto authorities.
- Immediately halt the intimidation, arbitrary arrests, forced disappearances, torture and killings of individuals and groups; and free those jailed arbitrarily for expressing their opposition to the coup.
- Fully restore freedom of expression, ensuring that journalists, opposition parties and critics can safely express dissenting opinions. Re-open all media and stop the attacks, vandalism, seizures and closure of independent media outlets.
- Ensure the armed forces return to their barracks, allowing law enforcement duties to be fully resumed by the police force.
- Reverse all displacement and transfers of lands of peasant groups and cooperatives by the military and police that have taken place since the coup, and ensure land tenure disputes are settled with the participation of all stakeholders in concert with the National Agrarian Institute.
- Uphold obligations under international treaties to guarantee the protection of economic, social and cultural rights as well as civil and political rights. Special attention should be paid to vulnerable groups such as children, youth, migrants, women, Afro-Hondurans, Indigenous and LGBT people.

2. Urge Honduran authorities to end impunity for human rights violations and ensure the accountability of coup actors.

Canada should press the Honduran authorities to:

- Ensure that human rights violations are not amnestied, in light of State obligations to investigate and punish serious human rights violations as recommended by the Inter-American Commission on Human Rights.
- Ensure immediate, independent and thorough investigations are conducted into all reports of human rights violations since June 28, 2009 so that all those responsible, including members of the security forces, are brought to justice in proceedings which meet international fair trial standards.

- ❑ Form a Special Unit of Investigation into Crimes against Women to ensure a process to thoroughly investigate specific cases of violence against women by security forces during the coup and its aftermath.
- ❑ Provide reparation to the victims of abuses, based on principles of restitution, compensation, rehabilitation, and guarantees of non-repetition. Any truth commission should be constituted in accordance with international standards and with proper consultation with civil society. The rights of the victims should be enshrined as the highest priority, and justice and reparations must remain the key goals.

3. Implement a human rights based approach to trade and investment with Honduras:

Canada should:

- ❑ Commit to initiate an independent, impartial, and comprehensive human rights impact assessment before signing or implementing any bilateral or multilateral trade agreement with Honduras. The recommendations of such an assessment should be addressed before Canada enters into any agreement.
- ❑ Commit to implementing the recommendations of the Standing Committee on International Trade, issued in the first session of the 39th Parliament, which called on Canada to disclose all draft texts and Canadian negotiating proposals for the Canada-Central America Four Free Trade Agreement Negotiations (CA4FTA).
- ❑ Develop mechanisms for authentic public debate on trade with Central America, including transparent stakeholder consultations with a broad representation of civil society organizations.

4. Ensure corporate accountability of Canadian businesses and investors in Honduras:

Canada should:

- ❑ Implement legally binding, mandatory mechanisms to ensure accountability of Canadian companies active in Honduras to international human rights and environmental standards. Passage of Bill C-300¹¹ is an important first step in this regard.
- ❑ Encourage Canadian companies and investors in Honduras to respect the human rights of Indigenous peoples, including the right of free, prior and informed consent, as affirmed in international laws and standards including International Labour Organization (ILO) Convention 169, which was ratified by Honduras in 1989.
- ❑ Encourage Canadian corporations and investments in Honduras to contribute to the promotion of decent work opportunities for women and men, by respecting fundamental principles and rights at work as outlined in the Decent Work Agenda of the ILO.

¹¹ Government of Canada. *Private members Bill C-300. An Act Respecting Corporate Accountability for the Activities of Mining, Oil or Gas in Developing Countries*. Ottawa, Canada: House of Commons Publications.

5. Review aid and support longer-term efforts for democratization and human rights:

- ❑ At multilateral fora and as a top priority within Canada's bilateral relations with Honduras, the Canadian government should clearly and consistently press Honduran authorities to uphold their obligations under Inter-American and United Nations human rights treaties, and the *Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms*.
- ❑ Review current state-to-state bilateral aid programs in terms of their compliance with the ODA Accountability Act, including explicit assurances that continued disbursements are fully consistent with international human rights standards.
- ❑ Help build the capacity of Honduran civil society to strengthen local democratic governance and ensure local ownership of development strategies. This includes supporting civil society organizations' (CSO) crucial role in human rights monitoring, and ensuring broad-based citizen participation in social and political processes such as the development of the socio-economic Plan for the Nation, as well as possible constitutional reforms.
- ❑ Strengthen the Office of the Special Prosecutor for Human Rights and other prosecutors with a mandate to investigate human rights violations, and help increase the effectiveness of the witness protection program.

HONDURAS: DEMOCRACY DENIED

1.0 INTRODUCTION

The Honduran Coup d'état of June 28, 2009 represents an extremely grave crisis for democratic governance in the hemisphere. Persistent and widespread pressure from Honduran citizens and from the international community failed to reverse the coup and restore constitutional order prior to the November 29 elections and January 2010 transfer of power.

Despite attempts by the new Honduran authorities to present Honduras as getting back to “normal” following the transfer of power, the country remains deeply divided. Honduras is still governed by those who backed the coup, and no significant measures have been put in place to sanction or remedy the failings of institutions that played a role in the coup d'état. Serious human rights violations, including attacks on social leaders, have yet to subside. Impunity remains widespread. As a result, Honduras may well see a widening conflict in the year ahead. The need for the international community to act urgently to ensure the new Honduran authorities work to end impunity and extend political participation to diverse sectors, remains great.

Canada was quick to recognize the victory of Porfirio Lobo Sosa following the highly controversial elections held on November 29, 2009. The Canadian government has also expressed support for President Lobo's announcements to establish a process for national reconciliation, including the setting up of a controversial Truth Commission.¹² While the Inter-American Commission on Human Rights (IACHR) has raised serious concerns regarding the January 26, 2010 Amnesty Decree, the Canadian government has not made a public statement regarding the problematic nature of the decree. Nor has Canada asked that those responsible for overturning the democratic order and carrying out the coup be held to account.

Most analysts agree that the recent events in Honduras have significant regional implications. Failure by the Inter-American community to protect democracy, human rights and the rule of law in Honduras creates a troubling precedent that increases the vulnerability of democracy in other countries. The coup has also raised questions about the degree to which nationally-elected authorities, as well as multilateral bodies such as the Organization of American States (OAS), are still able to defend basic tenets of constitutional democracy in the face of mounting pressure from powerful organized lobbies, including investors. Polarization within the OAS, particularly around the question of the need to restore the democratically elected president, prevented the delivery of a consistent unified message. The result was a weakened ability of the OAS to apply all of its protocols, which might have helped to end the coup.

The Honduran crisis poses a particular challenge for Canada given that the Americas have been declared a foreign policy priority and the promotion of democratic governance has been made a cornerstone of Canada's Americas strategy. While Canada spoke out against the coup at the

¹² Department of Foreign Affairs and International Trade. (2010) *Meeting with the new Honduran government*. Ottawa, Canada: DFAIT <http://www.international.gc.ca/international/honduras.aspx?lang=eng>

outset, mixed messages regarding the rights of President Zelaya and the culpability of coup actors in the subsequent months led to a troubling ambiguity in Canada's overall stance, which has raised concerns about Canada's credibility to advance a democracy promotion agenda in the region.

Furthermore, following the controversial elections, Canada was one of the only countries to state that the elections "appear to have been run freely and fairly", without major violence.¹³ Canada's statements not only stood in stark contrast to statements issued by the Mercosur bloc of nations and other countries across Latin America and the Caribbean, but also failed to take into consideration the ongoing egregious violations of political and other human rights.

Still, the Canadian government is positioned to make an important contribution in Honduras to the strengthening of democracy, respect for human rights, support for peace-building and longer term inclusive state-building that addresses poverty and inequalities. Honduras is the sole priority recipient of Canadian foreign aid in Central America and was recently named as one of 20 focus countries for Overseas Development Assistance. Canada is also the second largest foreign investor in the country. CIDA recently announced that Honduras is slated to become a hub for advancing Canadian bilateral programming in Central America. Canada also remains active in the G-16 group of donors, having recently rotated out of the presidency, a position it occupied during the first six months following the coup.

The Canada-Honduras relationship is also important for civil society. Canadian civil society organizations that form the CCIC's Americas Policy Group (APG) have long standing partnerships with Honduran organizations, including labour, faith-based, women's, and community-based organizations and NGOs. APG members have been actively monitoring the situation in Honduras, and organized several delegations to the country in the months preceding and following the coup.

The Honduran authorities are anxious to normalize relations, particularly economic ones, with the international community and international financial institutions. Canada can play an important role, but it must tread carefully, particularly given recent missteps. How will Canada support processes for accountability for human rights violations following the coup? How will Canada make clear its support for broad-based citizen participation in the development of socio-economic plans, and the promotion of political reforms in a way respectful of democratic principles?

This report by the APG examines the coup in Honduras, key issues for democracy and human rights, and Canada's role. Specifically, the report reviews Canadian diplomatic efforts during the crisis, as well as the role of Canadian investors and businesses operating in the country prior to and during the coup. It provides recommendations on measures the Canadian government could adopt to facilitate a genuine return to democracy with a strengthened constitutional order, respecting the human rights and development needs of all Honduran citizens.

¹³ Department of Foreign Affairs and International Trade. (2009). *Canada Congratulates Honduran People on Elections*. (News Release N^o 364, December 1, 2009).

2.0 BACKGROUND TO THE CRISIS

Honduras is a country that is deeply polarized and fractured by social and economic inequalities. According to the Honduran Documentation Centre (CEDOH), a respected research institute based in Tegucigalpa, a handful of families own the majority of Honduras' wealth, controlling the country's banks, industries such as the maquiladora factories, coffee, banana and cattle production, and power generation. According to CEDOH, these same families own and control the principal media outlets in Honduras and wield considerable influence over Congress and the political system.¹⁴ It is understood that this includes the process for nominating the country's Attorney General, the Judges of the Supreme Court of Justice, the National Commissioner for Human Rights, the Magistrates of the Supreme Electoral Tribunal, and the Comptroller General, among others.

In a healthy democracy, these key bodies are meant to provide checks and balances, guard against corruption and illegality, and defend the rights and interests of all. In the case of Honduras, however, members of these bodies lost their impartiality when they supported the unconstitutional overthrow of the democratically elected President.

As outlined in greater detail below, there were mounting tensions between the Executive Branch and some sectors within Honduras in the months prior to the June 28 coup d'état. However, the conflict that precipitated the crisis revolved around President Zelaya's initiative to conduct a non-binding opinion poll to gauge public support for future constitutional reform.

While the question of the "constitutionality" of the proposed opinion poll remains an issue of heated debate, there is no doubt that the decision of the Honduran Congress to grant itself an impeachment power that does not exist under Honduran law, the kidnapping at gunpoint of the President by the armed forces, and President Zelaya's subsequent forced expulsion and exile from the country are all egregious violations of the Constitution.¹⁵ Indeed, the international community and international institutions have been unanimous that the June 28 ousting of the Honduran President constituted a military-backed coup.

In addition to the flash point of the proposed June 28 poll, there were a number of other equally important factors that led to tensions between Zelaya and important political, economic, church and military sectors in the country. These included:

- Raising the minimum wage by 60% from about \$6 to \$9.60 a day (\$289 a month).
- Honduras' entry into The Bolivarian Alternative for the Americas (ALBA) in August, 2008.
- Supporting an initiative by the Honduran women's movement to legalize the "morning after" pill.

¹⁴ Centro de Documentación de Honduras. (2007). *Poderes fácticos y sistema políticos*. Tegucigalpa, Honduras: Centro de Documentación de Honduras.

¹⁵ Krsticevic V., Mendez J. (2009, September 22). Honduras Havoc. *Forbes*. Retrieved from <http://www.forbes.com/2009/10/20/honduras-manuel-zelaya-law-library-opinions-contributors-coup.html>
Doug Cassel. (2009). Honduras: Coup d'Etat in Constitutional Clothing? *American Society of International Law, ASIL Insight*. (Volume 13, Issue 9).

- ❑ The entry of Honduras into Petro Caribe, thereby breaking the monopoly of existing oil refineries in the country.¹⁶
- ❑ The suspension of new mining concessions (since 2006) and the presentation of a new mining law in May 2009 that would ban open-pit mining and chemicals associated with it, and make mine approvals contingent on consent of affected communities. (*See section 3*)
- ❑ Partnerships with new banks that reduced the interest rates on home loans from 24 – 32% annually to 10.7 – 12.7%.

2.1 The Meaning of a Constituent Assembly for Many Hondurans

Broad-based civil society sectors have been clamouring for a constituent assembly in Honduras for years in order to reform the country's Constitution. This Honduran discussion is part of a broader regional trend of constituent assemblies in the Americas. Such processes have gained momentum as alliances between social movements, grass roots organizations and governments elected to redress issues of poverty and exclusion, experiment with new institutional configurations to channel citizens' voices. The polarized debate that accompanied the call for a renewed Constitution is also not unique to Honduras. Elsewhere in the hemisphere, proposals for constitutional change that involve greater input from traditionally disempowered sectors have been met with resistance, largely from traditional elites.

In Honduras, the broad-based groups calling for constitutional change, with direct participation from citizens, feel they are acting to claim their constitutional rights. Article 5 of the Honduran Constitution states that governments must be based on the principle of participatory democracy, and include the participation of all political sectors. It also specifically states that in order to ensure such participation, citizen consultation mechanisms, such as referendums and plebiscites shall be used.¹⁷

In other Latin American countries, constituent assemblies have enabled all citizens to forge new legal frameworks for decision-making processes in the state. Many of these reforms, such as in Bolivia, Venezuela, and Ecuador to a lesser degree, have enabled the perspectives of people living in poverty, as well as those from traditionally excluded and marginalized ethnicities, such as Indigenous Peoples and Afro-Latinos, to contribute to the determination of how the nation's resources are used and distributed.

As Max Cameron of the Andean Democracy Research Network has stated: "There is a positive element to this radical process pursued by constitutional means. Open rupture with the existing legal order has largely been avoided and processes remain faithful to a concept of constitutionalism."¹⁸

¹⁶ Petrocaribe S. A. is a Caribbean oil alliance with Venezuela to purchase oil on market value but with a flexible 25 year financing agreement at 1% interest. It allows for nations to pay part of the cost with products such as bananas, rice, and sugar. PetroCaribe only deals with state controlled entities, eliminating all intermediaries. It is said to have saved Honduras millions of dollars in the first year. http://www.jis.gov.jm/special_sections/summit/

¹⁷ República De Honduras. (1982). *Constitución De La República De Honduras*. Retrieved from Political database of the Americas, Georgetown University. <http://pdba.georgetown.edu/Constitutions/Honduras/hond05.html>

¹⁸ University of British Columbia. (2007). *Left Turns? Progressive Parties, Insurgent Movements, and Alternative Policies in Latin America*. Vancouver, B.C.: Peter Wall Institute for Advanced Studies, University of British Columbia.

3.0 PRESSURES IN AN EMERGING MARKET: ECONOMIC AND INVESTMENT CONTEXT IN HONDURAS

In the period leading up to the coup, over 50% of Hondurans were living in poverty. In the wake of the global economic crises, the Honduran economy became even more vulnerable because it is closely tied to that of the United States of America. The reduction in the demand for the region's exports, rising petroleum and food prices,¹⁹ and a drop in remittances,²⁰ upon which hundreds of thousands of poor families depend, had exacerbated poverty and increased economic pressures on elites.

There were also burgeoning concerns from international investors, including Canadian investors, in the months leading up to the coup. The lack of agreement on the speed and conditions under which Honduras should open sensitive markets to foreign investors, for example, had led to rising tensions between the executive and legislative branches. Many of these differences were rooted in competing visions about macro-economic development models and whether to allow the voices of the poor to inform national policy directions.

Canadian investors are active in the fields of mining and telecommunications in Honduras. These sectors were among those exerting strong pressure on Honduran policy making in the context of the global recession. Canadian companies and other multinational corporations took part in joint pressure campaigns, which included tactics such as freezing investments.²¹ In the months before the coup, a Canadian mining company was one amongst a consortium of five that reportedly offered to invest \$1.75 billion dollars in Honduras should the 2006 executive decree prohibiting new mining concessions be overturned.²² The decree itself came about amidst widespread local discontent with the prevailing mining law.

In 2007, the Canadian Catholic Organization for Development and Peace and the Catholic Agency for Overseas Development led three parliamentarians from Canada and the United Kingdom on a fact-finding mission to investigate serious issues related to mining in Honduras. The delegation met with a cross section of Honduran authorities, together with industry and civil society representatives. It heard about forced relocation of families, legal improprieties by the Canadian company Goldcorp-Entre Mares, depletion of water supplies, poor governance, corruption, and claims of disease caused by environmental pollution. The delegation concluded that the 1998 Honduran mining law, under which companies had been operating, put the interests of foreign mining companies before those of the Honduran state and its citizens.²³

¹⁹ In Honduras, food consumption among the poorest families reduced by 8%. 60% of the rural population has been affected by the food price crisis. Oxfam International. (2008, October 15). World must learn lessons from food price crisis. Press release *Oxfam International*. Retrieved from <http://www.oxfam.org/en/pressroom/pressrelease/2008-10-16/world-must-learn-lessons-food-price-crisis>

²⁰ El Observador Económico. (2009, July 6) Honduras. *Fundación Internacional para el Desafío Económico Global – FIDEG*. Retrieved from <http://www.elobservadoreconomico.com/articulo/789>

²¹ Rodriguez, L. (2008, September 4) Casi 40 empresas suspenden inversiones por ley marco. *El Heraldo*. Retrieved from <http://www.elheraldo.hn/Ediciones/2008/09/05/Noticias/Casi-40-empresas-suspenden-inversiones-por-ley-marco>

²² El Heraldo. (2008, December 11) Ofrecen inversión de \$1,750 millones. *El Heraldo*. Retrieved from <http://www.heraldo.hn/index.php/Pa%C3%ADs/Ediciones/2008/12/12/Noticias/Ofrecen-inversion-de-1-750-millones>

²³ Canadian Catholic Organization for Development and Peace. (2007). *Mining For Justice: The struggle of Honduran civil society for responsible mining. A report on an MPs' Fact-Finding Mission on Mining in Honduras, September 9-13 2007*. Montreal, Canada: Canadian Catholic Organization for Development and Peace.

As noted, in May 2009 in response to broad based grassroots calls for reform, President Zelaya presented a bill to Congress for a new mining law that proposed, among other things, a tax reform to recoup revenues for the State from mining, a prohibition of open-pit mining, the establishment of community approval as necessary for the issuing of mining concessions, and a ban on the use of toxic substances such as cyanide and mercury. The bill was due to be voted on August 16, 2009.²⁴

Telecommunications companies were also seeking an investor friendly telecommunications law in this period. In 2008, a group of 40 telephone service providers froze 100 million dollars of international investment and suspended operations in a bid to secure a new legal framework.²⁵ The National Association for Telecommunications (Asetel) complained that the tardiness in passing the law was having a negative effect on attracting international investment. Prominent foreign investors in the telecommunications field in Honduras include Canadian, as well as U.S. American, Chinese, European, and Mexican companies. Groups such as the G-16 group of donors, of which Canada is a member, also formally asked the government's legislative branch to speed up the implementation of a new legal framework.²⁶

As Canadians we need to ask why our government, as a donor, should have any role in the reform of Honduran telecommunications laws.

3.1 Business and Human Rights in the Context of a Coup

Business as usual is not an option. Honduras is a country where the democratically elected President has been removed from office, civil society leaders have been assassinated, journalists are being detained, offices of trade union and civil society organizations are being broken into and robbed, legal demonstrations have been tear-gassed and broken up, and media critical of the new regime is being silenced.

Lynda Yanz, Maquila Solidarity Network²⁷

The coup and its aftermath raise critical concerns about the influence that private enterprises and investors have on governance, human rights and democratic institutions.

Some of the strongest critiques of the policies of President Zelaya came from the Honduran private sector. Business platforms, such as the National Business Council (COHEP) and the Honduras' National Association of Industries, came out strongly in favour of the coup and lobbied Washington not to impose sanctions on Honduras."²⁸

²⁴ Beltrán, H. (2009, September 25) Coup leaves nation without mining law – Honduras. *Business News Americas*. Retrieved from http://www.bnamericas.com/news/mining/Coup_leaves_nation_without_mining_law

²⁵ Rodriguez, L. (2008, September 4) Casi 40 empresas suspenden inversiones por ley marco. *El Herald*. Retrieved from <http://www.elheraldo.hn/Ediciones/2008/09/05/Noticias/Casi-40-empresas-suspenden-inversiones-por-ley-marco>

²⁶ Ibid.

²⁷ Maquila Solidarity Network. (2009, July 28) Apparel brands speak out on Honduran coup. Retrieved from <http://en.maquilasolidarity.org/node/891>

²⁸ The Associated Press. (2009, July 20). U.S. increases pressure on Honduran coup Leaders. *CBC news*. Retrieved from <http://www.cbc.ca/world/story/2009/07/20/honduras-coup.html>

In June 2008, the United Nations Human Rights Council welcomed a new framework set forth by John Ruggie, the U.N. Secretary-General's Special Representative on human rights and transnational corporations and other business enterprises. Ruggie's Protect, Respect and Remedy Framework rests on three pillars: the state duty to protect against human rights abuses by third parties, including business, through appropriate policies, regulation, and adjudication; the corporate responsibility to respect human rights, by ensuring due diligence to avoid infringing on the rights of others; and greater access for victims to effective remedy.²⁹

In the aftermath of the coup d'état in Honduras – the most extreme rejection possible of the fundamental tenets of the Inter-American Democratic Charter, and of international law and human rights standards – Canadian businesses reported operations as usual.³⁰ Some international apparel brands such as Nike and Adidas spoke out against the coup and called for a return to democracy in Honduras.³¹

But this was not the case for Gildan Active Wear, a Montréal-based textile exporter, which announced plans to expand operations in the country.³² A delegation of Canadian textile companies also traveled to Honduras following the coup, and reportedly promised to invest 52 million dollars in the country. Similarly, in October 2009, the Honduran National Association of Industries (ANDI) announced that a delegation of Canadians interested in exploiting metallic mining was to visit Honduras.³³

One of the most disturbing reports on the link between human rights violations and the private sector following the coup came from the UN Working Group on the Use of Mercenaries. The Working Group expressed deep concern that 120 mercenaries, including 40 former Colombian paramilitaries, had been hired to protect properties and individuals in Honduras following the June 28 coup. The Working Group reminded the Honduran government that the recruitment, use, financing and training of mercenaries is prohibited under the International Convention on the issue, which Honduras has signed.³⁴ Reportedly, the mercenaries were protecting the properties of cane and palm plantation businesses.³⁵

²⁹ Ruggie, J. (2008). *Protect, Respect and Remedy: a Framework for Business and Human Rights*. (A/HRC/8/5 7 April 2009) N.Y.: U.N. Human Rights Council.

³⁰ Roven, P. (2009, July 1) Canadian miners unaffected by Honduras coup. *The Financial Post*. Retrieved from <http://www.canada.com/Business/Canadian+miners+unaffected+Honduras+coup/1749554/story.html>

³¹ Maquila Solidarity Network. (2009, July 28) Apparel brands speak out on Honduran coup. Retrieved from <http://en.maquilasolidarity.org/node/891>

³² Desjardins Securities analyst Martin Landry, confirmed to the National Post, that Gildan plans to further expand production of t-shirt, socks and underwear in the country, and stated that “President Zelaya had alienated Honduras’ congressional politicians by joining the Bolivarian Alternative for the Americas, an alliance led by Venezuelan president Hugo Chavez that seeks to integrate left-leaning Latin American countries.” Landry also suggested the coup may turn out to be a positive for Gildan if it brings back a more business-friendly government. (2009, June 30) Honduras coup could bring more business-friendly government. *National Post*. Retrieved from <http://network.nationalpost.com/np/blogs/tradingdesk/archive/2009/06/30/honduras-coup-could-bring-more-business-friendly-government.aspx#ixzz0T07iVtHZ> See also (2008, September 9) Nueva inversión millonaria para las maquilas. *El Herald*. Retrieved from <http://www.heraldo.com/hn/layout/set/print/content/view/print/14781>

³³ El Herald. (2009, October 3) Empresarios gestionan inversión extranjera. *El Herald*. Retrieved from <http://www.elheraldo.hn/Econom%C3%ADa/Ediciones/2009/10/04/Noticias/Empresarios-gestionan-inversion-extranjera>

³⁴ United Nations News Center. (2009, October 9) UN human rights experts raise concern over growing use of foreign mercenaries in Honduras. U.N. News Center. Retrieved from <http://www.un.org/apps/news/story.asp?NewsID=32482&Cr=honduras&Cr1>

The coup in Honduras raises concerns about the responsibilities of private companies to respect human rights. Private Members Bill C-300, currently before Parliament, would help address this governance gap, by providing a means to ensure Canadian extractive corporations receiving public support operate in a manner that is consistent with international human rights standards.³⁶

4.0 HUMAN RIGHTS VIOLATIONS AND THE COUP

Following the June 28 coup in Honduras, the IACHR, Amnesty International and numerous other human rights organizations documented the suspension of constitutional rights, censorship and attacks against media outlets, repression of peaceful demonstrators, arbitrary detentions of thousands of people, cruel, inhuman and degrading treatment, police beatings, and assassinations. Reports have also been made on the targeting of and impact of the coup on specific vulnerable groups including Nicaraguan nationals, the Garifuna (Afro-Honduran community), women and youth opposed to the coup, journalists, teachers, unionists, and members of the lesbian, gay, bisexual and transgender (LGBT) community.

One APG member, Horizons of Friendship, led two separate delegations to Honduras in the months preceding the coup. Others, including the United Church of Canada, CoDevelopment Canada, Amnesty International, and Common Frontiers, have participated in fact-finding missions to the country since the start of the coup.

In the first hundred days after the coup, The Committee of the Families of the Detained and Disappeared of Honduras (COFADEH), a highly respected human rights organization, documented 4,234 violations, including 21 extrajudicial killings related to the coup, 3,033 illegal detentions, and 818 cases involving violations of the right to physical integrity (cruel and inhumane treatment, beatings, and, abuse by toxic gases and non-conventional weapons such as sonic devices used against the Brazilian embassy).³⁷ These numbers were believed by COFADEH to represent only the tip of the iceberg, as victims were often reportedly too terrified to report the abuse for fear of reprisal, and COFADEH acknowledged it was unable to document many of the violations that occurred outside the capital city. The real number of political executions is believed to be much higher. However, the mainstream media outlets have systematically portrayed additional deaths of those opposed to the coup as the result of unrelated criminal or gang activity.

The security situation in Honduras declined drastically following the coup. In a chilling move, de facto President Micheletti named retired Captain Billy Hoya Amendola, former head of the Intelligence Battalion 3-16 (a Honduran army unit responsible for carrying out political assassinations and torture of suspected opponents of the government in the 1980s) as his top

³⁵ Unidad investigativa. (2009, September 13). Estarían reclutando ex paramilitares para que viajen como mercenarios a Honduras. *El Tiempo*. Retrieved from http://www.eltiempo.com/colombia/justicia/estarian-reclutando-ex-paramilitares-para-que-viajen-como-mercenarios-a-honduras_6086547-1

³⁶ Government of Canada. *Private members Bill C-300. An Act respecting Corporate Accountability for the Activities of Mining, Oil or Gas in Developing Countries*. Ottawa, Canada: House of Commons Publications.

³⁷ The Committee of the Families of the Detained and Disappeared of Honduras. (COFADEH) (2009). *Second Summary Report of Human Rights Violations Since the Coup (In Spanish)*. Tegucigalpa, Honduras:COFADEH.

security advisor.³⁸ At least five other former military officers with reputed ties to the B3-16 were likewise named to key positions in policing, security, the armed forces and immigration by the de facto authorities.³⁹

Hondurans have not seen such levels of violence since the dirty war tactics applied during the 1980s. The January 2010 report of the IACHR, entitled *Honduras: Human Rights and the Coup D'état* confirmed “since the *coup d'état* in Honduras, serious violations of the human rights of its inhabitants have occurred, including deaths, arbitrary declarations of states of emergency, suppression of public demonstrations through disproportionate use of force, criminalization of

“Sons and daughters of leaders of the Resistance Front are being killed, kidnapped, attacked, and threatened as a strategy to silence the activists.”
Inter-American Commission on Human Rights, Press Release, March 8, 2010.

Source: Inter-American Commission on Human Rights. (2010, December 8). IACHR Deplores Murders, Kidnappings, and Attacks In Honduras. *IACHR*. Washington, D.C: OAS.

public protest, arbitrary detentions of thousands of persons, cruel, inhuman and degrading treatment and grossly inadequate conditions of detention, militarization of Honduran territory, a surge in the incidents of racial discrimination, violations of women’s rights, serious and arbitrary restrictions on the right to freedom of expression, and grave violations of political rights.”⁴⁰ The IACHR also established that the judicial remedies were ineffective in protecting human rights.

The IACHR report is filled with examples in which the armed forces demanded that mayors, heads of schools, and other organizations provide them with a list of the names of those engaged in resistance to the coup. The report also notes that the Honduran Network for Sustainable Development (RDS-HN) was told to hand over a list of the names and emails of nationals on their electronic membership list.⁴¹

Human rights violations in Honduras did not stop with the elections or transfer of power to the new authorities. From June 2009 to February 2010, COFADEH documented forty-three cases of politically motivated murders in Honduras, while noting that the real number of political killings is believed to be much higher.⁴²

³⁸ Berlanga, A. (2009, July 18) Un represor en el gabinete de Micheletti. *Página 12*. Retrieved from <http://www.pagina12.com.ar/diario/elmundo/4-128427-2009-07-18.html>

³⁹ May I Speak Freely Media. (2009) *Honduras: Government-Supported Human Rights Abuses and the Legacy of Impunity*. Retrieved November 1, 2009. <http://www.mayispeakfreely.org/files/HONDURAS~%20Government-Supported%20Human%20Rights%20Abuses%20and%20the%20Legacy%20of%20Impunity.pdf>

⁴⁰ Inter-American Commission on Human Rights. (2009). *Honduras: Human Rights and the Coup D'état*. (OEA/Ser.L/V/II. Doc. 55). Washington, D.C: OAS.

⁴¹ Ibid.

⁴² The Committee of the Families of the Detained and Disappeared of Honduras. (2010) *Register of Politically Motivated Violent Deaths of Individuals June 2009 to February 2010*. Retrieved from <http://quixote.org/sites/qc/files/COFADEH%20REGISTRY%20OF%20DEATHS%20SINCE%20COUP.pdf>

More recently the IACHR has decried the ongoing grave harassment directed against active members of the resistance in Honduras. A March 2010 statement points to more than fifty detentions, eight cases of torture, two kidnappings, two rapes, and one raid on a residence in the previous month that targeted members of the resistance) unionists, and journalists, and their families.⁴³

Four months after the election, the IACHR continues to call on Honduras to adopt urgent measures to guarantee the right to life, humane treatment, and personal liberty.

4.1 Gender-Based Violence

A number of Honduran feminist women's organizations played key roles in resisting the coup and calling for a return to constitutional order. Women had a strong presence in the daily demonstrations across the country, and as such also suffered enormous repression, particularly when they were in custody following the routine, unlawful and arbitrary arrests of demonstrators.

Amnesty International documented concerns that female protestors against the coup were particularly vulnerable and that women and girls taking part in demonstrations reportedly suffered gender-based violence and abuse at the hands of police officers.⁴⁴

The IACHR documented the testimony of one woman who, after being detained at a demonstration, had allegedly been raped by four soldiers who had also forced their police batons into her vagina. The commission was also informed that "at least seven other women were raped by security agents in the context of public demonstrations held to protest the coup d'état, however, they had refrained from filling out their forms for fear of reprisals and mistrust of the justice system."⁴⁵

In August 2009, the Mesoamerican women's network Petateras, and the U.S. based network Just Associates, conducted an international observer's mission to Honduras, under the Feminist Transformation Watch (FTW) initiative. The mission subsequently reported that femicide (murder of women for being women) increased following the coup. For the entire year of 2008, there were 312 reported femicides in Honduras, which amounts to nearly one per day. In contrast, during the month of July following the coup, there were 51 femicides reported in the two largest cities of Tegucigalpa and San Pedro Sula, which is a 60% increase.⁴⁶ Their mission also found that in the weeks since the coup, there had been cases where people had been killed in groups, not just as individuals. Women also have been separated from their children when they have had to go into hiding, and many live with constant fear that they could be arrested and detained.⁴⁷

⁴³ Inter-American Commission on Human Rights. (2010, December 8). IACHR Deplores Murders, Kidnappings, and Attacks In Honduras. *IACHR*. Washington, D.C: OAS.

⁴⁴ Amnesty International. (2009). *Honduras: Human Rights Crisis Threatens as Repression Increases*. London, U.K.: Amnesty International Publications.

⁴⁵ Inter-American Commission on Human Rights. (2009). *Honduras: Human Rights and the Coup D'état*. (OEA/Ser.L/V/II. Doc. 55). Washington, D.C: OAS.

⁴⁶ Thompson, M. (2009, August 31). Honduran Military Coup Reverses Women's Gains in Human Rights. *Upside Down World*. Retrieved from <http://upsidedownworld.org/main/content/view/2082/68/>

⁴⁷ See link to Mission's report in Knapke, M. (2009 October 22) Coup's Impact on Honduran Women. *Foreign Policy in Focus*. Retrieved from <http://www.fpif.org/fpifxt/6518>

The Center for Women's Studies – Honduras (CEM-H) – reported that despite the growing number of violations of women's human rights since the coup, women have filed very few formal legal complaints with police about these incidents, which include cases of domestic violence. CEM-H human rights lawyer Sara Rosales noted that women are afraid to report any violence since they would need to do so with the very same police who are in part responsible for the brutal repression. Many women also perceive such efforts as futile, assuming that nothing will come of it.⁴⁸

4.2 Violations Against Other Sections of the Population

As lawlessness deepened in the context of the coup, vulnerable communities were more at risk for attacks. Members of the Honduran LGBT community decried the targeting of transgender and gay activists. On December 14, 2009, after weeks of being followed by state security forces, Walter Orlando Trochez, 27, who had been active both in the LGBT movement and in political activity opposing the coup, was assassinated in a drive by shooting. Human Rights Watch noted that his death was “part of a pattern of violence against LGBT people in Honduras that seems to have accelerated in the turbulent months since the June 28 coup.”⁴⁹

Similarly, many reports point out that Honduran youth have been attacked with particular vengeance. COFADEH has reported that a significant number of those whose rights have been violated by security forces since June 28 have been youth under age 25.⁵⁰

4.3 Labour Rights Violations

Workers' rights groups in Honduras, as well as international rights groups, have documented labour rights violations following the coup. Broadly speaking, these violations have included:

- Forcing workers to join the Marchas de la Paz (Peace Walks) organised by the de facto president, Roberto Micheletti, and financed by the business community with the support of the military.
- Denial by Decree of workers' fundamental right to strike.
- Harassment and intimidation of workers, including striking workers. The latter affected those in the teachers' union in particular, and was well documented in the final report of the IACHR.
- Requiring maquila factory workers to work two additional hours each day without pay in response to a curfew imposed by the de facto authorities.
- Transfer of workers without consultation with their unions.
- Withholding pay.⁵¹

⁴⁸ Thompson, M. (2009, August 31). Honduran Military Coup Reverses Women's Gains in Human Rights. *Upside Down World*. Retrieved from <http://upsidedownworld.org/main/content/view/2082/68/>

⁴⁹ Human Rights Watch (HRW). (2009 December 16). Honduras: Investigate Murders of LGBT People. *HRWnews*. Retrieved from <http://www.hrw.org/en/news/2009/12/16/honduras-investigate-murders-lgbt-people>

⁵⁰ The Committee of the Families of the Detained and Disappeared of Honduras (COFADEH) (2009). *Second Summary Report of Human Rights Violations Since the Coup (In Spanish)*. Tegucigalpa, Honduras: COFADEH.

In addition to specific labour violations, unionists faced threats and harassment, and were often targeted by security forces as a result of their activities protesting the coup. The Honduran labour movement played a critical role in organizing workers and bridging alliances with social movement sectors in opposition to the coup. The IACHR noted that complaints were filed alleging persecution of demonstrators who were asked to name union leaders and to point out certain teachers.

During the coup, the Honduran Women's Collective (CODEMUH), a women-led rights organisation that works to empower women workers in Honduras' Export Processing Zones (EPZs), denounced the Honduran Association of Private Enterprises (COHEP) for using the crisis to try to push through reforms to weaken employment laws in EPZs. Under the changes, factory owners would be allowed to employ workers on a temporary or part-time basis, resulting in the loss of social security benefits, more job insecurity and other long term consequences affecting workers' livelihoods.⁵²

Ironically, this proposed legislation was being developed at the same time that maquila workers in the country were celebrating a major victory. Joined by pressure from international consumers, after years of internal campaigning to unionize maquilas, Russell Athletics finally agreed, in November 2009, to open a unionized facility, rehire hundreds of workers, and respect the freedom of association at all of its facilities in Honduras.

While the Russell Athletics case marks an important victory, the struggle for decent work continues to be a major challenge in Honduras. With Canadian investors becoming increasingly engaged in this market, it is imperative that Canadian public monies support such investments in a manner that is consistent with the principles and rights at work outlined in the Decent Work Agenda of the International Labour Organization (ILO).

4.4 Control of the Media and Limits to Freedom of Expression

Following the coup, the state issued a number of decrees that targeted freedom of expression, and stepped up control over the media, particularly those outlets critical of the coup.⁵³

The de facto authorities' control over information was implemented through the shutdown of media outlets, the militarization of their installations, the removal of their equipment, a ban on the transmission of signals of certain cable television stations, the selective use of power outages to affect transmissions, and attacks, threats and assassinations against journalists from media

⁵¹ Inter-American Commission on Human Rights. (2009). *Honduras: Human Rights and the Coup D'état*. (OEA/Ser.L/V/II. Doc. 55). Washington, D.C: OAS.

⁵² La Colectiva de Mujeres Hondureñas (CODEMUH). (2009). *Empresarios, "Bondades" y maldades.* San Pedro Sula, Honduras.

⁵³ The media in Honduras is largely controlled by a small group of families who also command ownership of a wide range of key businesses (such as banks, business, the agro-industry, assembly plants, etc). This has contributed to a situation where the dominant families' positions of power over the politics and the economy are reinforced and strengthened. <http://www.article19.org/speaking-out/honduras>

outlets with editorial positions opposed to the coup d'état.⁵⁴ COFADEH documented violations of the right to freedom of expression affecting 27 media outlets and 26 journalists in the first 100 days following the coup.⁵⁵

After concerted domestic and international pressure was applied, the de facto regime indicated it would reverse some of the controversial decrees. However, Reporters without Borders found that many media outlets were still unable to operate as they had not yet had their equipment returned or their licenses validated, and that broadcasting signals were not operative, promoting the press freedom organization to ask: "... how can the elections that the de facto government wants to hold at all cost on 29 November be regarded as democratic in the absence of media diversity?"⁵⁶

These violations against freedom of expression did not subside following the elections. On January 7, 2010, after a raid and arson against Faluma Bimetu (Radio Coco Dulce), a community radio station serving the Garifuna-Afro-Caribbean community in the town of Triunfo de la Cruz, Reporters without Borders concluded that "news media that are independent or opposed to the coup are still in danger".⁵⁷

4.5 Land Conflict and Displacement Following the Coup

"With the coup d'état in Honduras, the conflicts have sharpened in the country and especially in Aguán where the agrarian conflicts for land are ongoing. Despite the fact that last year President Zelaya, the peasants, the National Agrarian Institute, and the land owners signed an agreement that said no one could dispute the property of those lands without demonstrating the legality of it, the displacement continues in that zone..."

Francisco Fúnez, Director National Institute for Agrarian Reform in the Government of Zelaya⁵⁸

The struggle for the recognition of collectively-owned lands on peasant as well as Afro-Honduran ancestral territory is historic in Honduras. While agrarian reforms have granted some collective land deeds to indigenous and Afro-Hondurans, successive governments and third parties have subsequently undermined this, re-appropriating these lands for their benefit.

⁵⁴ Reporters without Borders. (2009, September 7) Media in Coup Storm. Retrieved from <http://www.rsf.org/Media-in-coup-storm.html>

⁵⁵ The Committee of the Families of the Detained and Disappeared of Honduras (COFADEH) (2009). *Second Summary Report of Human Rights Violations Since the Coup (In Spanish)*. Tegucigalpa, Honduras: COFADEH.

⁵⁶ Reporters without Borders. (2009, October 7) Lifting of state siege does not guarantee restoration of media diversity. Retrieved from http://www.rsf.org/spip.php?page=article&id_article=34656 See also Reporters without Borders. (2010, January 27) Presidential inauguration must not eclipse coup's impact on press freedom. Retrieved from <http://www.rsf.org/Presidential-inauguration-must-not.html>

⁵⁷ Reporters without Borders. (2010, January 8) Arson attack on community radio station previously targeted by coup supporters. Retrieved from <http://www.rsf.org/Arson-attack-on-community-radio.html>

⁵⁸ Soberano. (2010, January 14). La verdad de lo que ocurre en el Aguan, desde el Movimiento Unificado de Campesinos (MUCA).

Local peasant organizations, organized under the umbrella of The Unified Peasant Movement of Aguán (MUCA), have charged that for years many of their collective lands have been taken illegally by large land owners. They state that Article 106 in the Agrarian Reform Law, which establishes that cooperative land cannot be sold or transferred, in whole or in part, without the previous authorization of the National Agrarian Institute (INA), has been largely ignored. Local community representatives met with government officials on numerous occasions to ask that the conflicts be resolved through legal means. On June 19, 2009, an agreement was signed between President Zelaya and peasant groups, in the Aguán Bajo valley, to form a technical legal team to investigate the legality of ownership of the contested lands.⁵⁹

Since the November 29 elections a number of communities on lands in the Aguán valley have suffered attacks. These lands are also claimed by the Cressida Corporation headed by Miguel Facussé Barjam, a close ally of coup leader Roberto Micheletti. The attacks included the detentions of at least 18 community leaders and joint Honduran military, police and private security militia operations on January 8, January 27, and February 12 and 14, 2010, which resulted in the destruction of homes and the shooting of several community members.⁶⁰

The issue of land and agrarian reform remains critical in Honduras and is key to the eradication of poverty. The use of military and police by the coup actors, and by decision makers in its aftermath, to violently evict local farmers and their families from the lands they live and work on, are reversing important gains made by peasant groups in their struggle to ensure the laws designed to protect their rights are upheld.

5.0 THE INTERNATIONAL RESPONSE AND THE ROLE OF THE CANADIAN GOVERNMENT

President Zelaya's removal from office was immediately condemned as a coup d'état by governments throughout the region and in international fora including the General Assembly of the United Nations, the IACHR and the General Assembly of the OAS.⁶¹ Invoking the Inter-American Democratic Charter, the OAS General Assembly termed the coup an "unconstitutional alteration of the democratic order" and subsequently suspended Honduras from participation in the OAS.

⁵⁹ Ibid.

⁶⁰ Trucchi, G. (2010, February 17) MUCA denuncia nuevos desalojos y un macabro plan contra los campesinos: Asesinatos, secuestros, torturas y desalojos en la nueva era de "Pepe" Lobo. *Rel-UITA*. Retrieved from http://www.rel-uita.org/agricultura/muca_denuncia_nuevos_desalojos.htm

Cuffe, S. (2009, December 17) Honduras: Two Detained and Fear of Evictions by Coup Security Forces in Land Recuperations in Colón. *Dominion*. Retrieved from <http://www.dominionpaper.ca/weblogs/sandra/3074>

⁶¹ United Nations General Assembly. (2009, July 1) Resolution 63/301 adopted by the General Assembly. *Situation in Honduras: democracy breakdown*; Inter-American Commission on Human Rights. (2009, June 28). IACHR Strongly Condemns Coup in Honduras. Press release *IACHR*; Organization of American States. (July 1, 2009), *Resolution on the Political Crisis in Honduras* (AG/RES. 1) (XXXVII-E/09) 37th Session. OEA/Ser.P/XXXVII-E/09, Washington, D.C.: OAS.

Throughout the crisis, Canadian diplomats played an active role in multilateral fora. The APG supported Canada's condemnation of the coup, as expressed initially in a communiqué by Minister Kent, and, subsequently through Canada's participation in various international fora, including the ones noted above and the G-16 Group of Donors.⁶² However, the APG was deeply alarmed that numerous public statements by Canadian representatives led to ambiguity with respect to Canada's official position and weakened the international consensus and impact that the international community might have had in pressing the coup regime to return power to the democratically-elected President.

Canadian officials never called for the immediate re-instatement of President Zelaya, and accompanied mild condemnations of the coup with insinuations that President Zelaya held some responsibility for having been ousted illegally. A Canadian official backgrounder on the crisis stated that:

“President Zelaya was removed from power and expelled from Honduras on June 28, the same day he had planned to hold a referendum. Both the Congress and the Supreme Court had earlier declared that the referendum violated the Honduran Constitution.”⁶³

Throughout the first months of the crisis, and in the midst of obvious delay tactics by the coup regime, Minister Kent made numerous statements calling on President Zelaya not to return to the country, despite this being his constitutional right, until a negotiated settlement had been reached.⁶⁴

Statements by other Canadian officials have sought to impose a false symmetry on the situation, blaming “both sides” (i.e. the democratically elected government versus what Canada itself has acknowledged to be an illegal regime) for provoking the violence and rights violations committed by the de facto authorities' security forces.⁶⁵

The APG regrets these statements and notes that the clashes were between heavily armed members of the state security forces and unarmed civilians exercising their right as enshrined in Article 3 of the Constitution to protest the coup.

⁶² Government of Canada. (2009, June 28) Statement by Minister of State Kent on the Situation in Honduras. *Canada News Centre*. Retrieved from <http://www.peterkent.ca/EN/8128/92441>

Diario El Heraldo. (2009, June 29) G 16 pide que crisis se resuelva en Honduras. *El Heraldo*. Retrieved from <http://www.elheraldo.hn/Ediciones/2009/06/29/Noticias/G-16-pide-que-crisis-se-resuelva-en-Honduras>

⁶³ Government of Canada. (2009, July 19). Backgrounder on the Honduras crisis. *Canada News Centre*. Retrieved from <http://news.gc.ca/web/article-eng.do?m=/index&nid=468239>

⁶⁴ Articles 102 and 81 of the Honduran constitution stipulate that no Honduran citizen can be expatriated and that every citizen has the right to remain in his or her country. Foreign Affairs and International Trade Canada. (2009, July 19) Statement by Minister of State Kent on the Situation in Honduras. (DFAIT News Release N° 200) Retrieved from <http://www.international.gc.ca/media/state-etat/news-communiqués/2009/387405.aspx>

⁶⁵ Foreign Affairs and International Trade Canada. (2009, September 22) Canada Calls for Restraint and a Negotiated Solution in Honduras. (DFAIT News Release N° 268) Retrieved from <http://international.gc.ca/media/aff/news-communiqués/2009/387596.aspx>

Engler, Y. (2009, July 6). Harper government isolated as opposition to coup in Honduras grows. *Rabble.ca* Retrieved from <http://www.rabble.ca/news/2009/07/harper-government-isolated-opposition-coup-honduras-grows>

On the day that Honduras was suspended from the OAS, the OAS had been close to passing a resolution calling on member countries to impose sanctions against Honduras. In the end, under pressure from Canada and the U.S., a watered down OAS resolution only encouraged countries to "review their relations" with Honduras while diplomatic efforts were continuing.⁶⁶ Canada's position in this regard is regrettable, as a united and stronger international response might have forced the de facto authorities to negotiate earlier, and to call on the security forces to comply with international human rights laws.

Canada's position towards Honduras has also been fraught with serious omissions, all of which have served to bolster the military-backed regime. In contrast to other governments, including the United States and the European Union, which suspended most bilateral aid and military assistance to the de facto authorities, Canada failed to take even largely symbolic measures including suspending cooperation programs offered by DFAIT and the Department of National Defence in support of the Honduran police and military.

In contrast, the World Bank, Inter-American Development Bank and the International Monetary Fund suspended credits destined for Honduras estimated at some USD \$500 million. The U.S. also suspended diplomatic relations and travel visas for key people involved in the coup.

Canada also ignored a request from President Zelaya's Foreign Affairs Minister Patricia Rodas, asking that Canada formally recognize Mr. Alfredo Crespo, the Consul General for Honduras in Montreal, as the legal representative of Honduras in Canada.⁶⁷ Again this omission stood out in sharp contrast to the responses of other countries including the United States of America, which recognized as Honduran Ambassador to the U.S. the diplomat legally sanctioned by President Zelaya.

As the negotiations to bring both parties to sign onto the San Jose Accords proceeded with great difficulty, the media reported that the "OAS consensus on how to handle the Honduran crisis faltered when the United States, Canada, Costa Rica, Bahamas and Peru proposed dropping Zelaya's return to power as a precondition for legitimate elections."⁶⁸

This interjection was disturbing and likely cost Canada some credibility as a democracy broker in the region.

The question of the reinstatement of President Zelaya was a fundamental one. Promoting the San Jose Accords, without the reinstatement of the democratically-elected Head of State, sent a message to other countries that coups do not have to be reversed, that Presidents can be removed from power by force and replaced.

⁶⁶ Thompson, G. & Lacey, M. (2009, July 4) O.A.S. Votes to Suspend Honduras Over Coup. *New York Times*. Retrieved from <http://www.nytimes.com/2009/07/05/world/americas/05honduras.html>

⁶⁷ Letter sent to Prime Minister Harper following the coup, and hand delivered to Minister Cannon as well by a Member of Parliament.

⁶⁸ Reuters. (2009, September 30) Honduran police crackdown, but pressure mounts. *Reuters*. Retrieved from <http://www.alertnet.org/thenews/newsdesk/N3095905.htm>

5.1 Canada and the November 2009 Elections

“The preparations for the electoral process took place in a context of limitations to and suspension of guarantees such as freedom of expression and the right to peaceful assembly.”

Office of the United Nations High Commissioner for Human Rights ⁶⁹

Days after the November 29 elections, which were organized under an illegal coup regime, and held in absence of electoral observation support from key credible international organizations such as the UN and the OAS, Ambassador Graeme Clark, Canada’s Permanent Representative to the OAS, stated:

“Canada’s assessment is that the November 29 elections were conducted in a relatively peaceful and orderly manner. We believe that despite less than ideal circumstances, the voter turnout was significant and the margin of victory unambiguous. Canada is particularly pleased that no major incidences of violence have been reported. That is our reading of the situation; that is our assessment of the reality.”⁷⁰

Canada was amongst the few countries to state, within days of their occurrence, that the Honduran elections “appear to have been run freely and fairly.”⁷¹

The Inter-American Commission on Human Rights has stated that “Political rights...are closely related to other fundamental rights such as freedom of expression and freedom of association and assembly; together, they make democracy possible.”⁷²

It is important to highlight that what Canada referred to as “free and fair” elections with an “unambiguous” margin of victory, took place in the context of a coup, in an environment replete with serious human rights violations, where dissident voices were curtailed, and where dozens of registered candidates, ranging from presidential candidates to local mayors, had withdrawn in protest.

Canada’s statement stood in stark contrast to the one issued by the Mercosur bloc of nations a week after the election, when the presidents stated:

“In light of the failure to restore President Jose Manuel Zelaya to the position for which he was democratically elected by the Honduran people, we want to express our total lack of recognition for the November 29, 2009, elections held by the de facto government, which were undertaken in an unconstitutional, illegitimate and illegal atmosphere.”⁷³

⁶⁹ Office of the United Nations High Commissioner for Human Rights. (OHCHR) (2010) *Report of the United Nations High Commissioner for Human Rights on the violations of human rights in Honduras since the coup d’état on 28 June 2009*. Geneva, Switzerland: OHCHR media unit.

⁷⁰ Freeston, J. (Producer). (2009). *Video Exclusive: Honduran Elections Exposed*. [Video] Washington and Toronto: The Real News Network.

⁷¹ Department of Foreign Affairs and International Trade. (2009). *Canada Congratulates Honduran People on Elections*. (News Release N° 364 , December 1, 2009).

⁷² Inter-American Commission on Human Rights. (2009). *Honduras: Human Rights and the Coup D’état*. (OEA/Ser.L/V/II. Doc. 55). Washington, D.C: OAS.

⁷³ MercoPress. (2009, December 9). Mercosur presidents strongly reject Honduras November elections. Retrieved from <http://en.mercopress.com/2009/12/09/mercosur-presidents-strongly-reject-honduras-november-elections>

The final report of the IACHR on the coup d'état in Honduras adds another dimension to the outcry against the illegitimacy of the elections by underscoring serious violations and restrictions to both political rights and democratic processes.

The IACHR reported that since the coup, restrictions on the exercise of public office remained in place in the three branches of government, affecting both public officials elected directly by voters at the ballot box and public officials in non-elected positions. Among the key findings affecting political rights, the Commission found:

- There was a systemic pattern of removing from public office officials not deemed to be favourable to the coup.
- Investigations were launched, and arrest warrants were issued for congress members opposed to the coup.
- Members of the national Congress were threatened and physically assaulted.
- Public officials not in favour of the coup were not notified of Congressional sessions, violating their right to vote and to political participation.
- Political leaders were subject to arbitrary arrest, intimidation, threats and physical assaults.
- Some mayors' offices were taken over by military troops.
- Budgets were cut to some municipalities in reprisal.⁷⁴

Human rights observers on the ground reporting on the human rights situation at the time of the elections emphasized how the overall context of repression could not be ignored. For example, in the days prior to the election, mayors across the country had been served notice by the army that they were to produce lists of people in their jurisdictions who were active in the resistance to the coup.⁷⁵

While the day of the election was not as peaceful as claimed, the critical issue for Canada to assess was whether conditions existed in Honduras to hold legitimate democratic and fair elections. This clearly was not the case.

Canada's statement at the OAS isolated the country. This stance, coupled with the troubling ambiguity about Canada's views regarding the rights of President Zelaya and the culpability of coup actors, has undermined Canada's own stated vision, laid out in the Americas Strategy, which highlighted the need to advance democratic governance and committed "to strengthen democratic institutions, practices and principles that deliver freedom, human rights and the rule of law".⁷⁶

⁷⁴ Inter-American Commission on Human Rights. (2009). *Honduras: Human Rights and the Coup D'état*. (OEA/Ser.L/V/II. Doc. 55). Washington, D.C: OAS.

⁷⁵ Ibid.

⁷⁶ Government of Canada. (2009). *Canada and the Americas*. (Catalogue Number FR5-41/1-2009, ISBN 978-0-662-06708-5). Ottawa, Ontario: Government of Canada.

5.2 2010 Challenges with the New Honduran Authorities

Despite attempts by the new authorities to present Honduras as getting back to “normal” following the transfer of power, the country remains deeply divided.

The January 26 Amnesty Decree, adopted by the National Congress of Honduras immediately prior to the inauguration of Porfirio Lobo Sosa, has raised serious concerns at the international level. The IACHR urged Honduran authorities to review the decree, taking into account the State’s obligations to investigate and punish serious human rights violations, and noting that in practice the application of amnesty laws has obstructed the clarification of grave human rights violations and the prosecution and punishment of those responsible, leading to impunity.⁷⁷

The idea to set up a Honduran Truth Commission came out of the Guaymuras dialogue and formed part of the Tegucigalpa / San José Accord. The initial goal was to clarify the deeds that occurred before and after June 28 2009, and to identify the acts that led to the coup, in order to prevent repetitions. However, the Truth Commission has already come under fire for having been set up without consultation and input from civil society and for not being oriented to ensure that those responsible for carrying out the coup d’état and violating human rights will be held to account. The Truth Commission is being set up at a time when serious human rights violations are continuing with widespread impunity, raising questions about both the political will to establish a credible process for truth and reconciliation, and the safety of witnesses who would come forward at this time.

Another serious concern is the projected four months allocated for the commission’s work, which is inadequate for the scope of abuses that took place.

Looking ahead, it is clear Honduras remains a country in a democratic crisis. Honduran CSOs are seriously concerned about the potential for deepening violence and widening conflict. In this context, it is crucial that Canada act decisively with other members of the international community to protect democracy, human rights and the rule of law. Effective pressure needs to be applied on the Honduran authorities to end ongoing human rights violations, bring the perpetrators to justice, and extend political participation to diverse sectors.

⁷⁷ Inter-American Commission on Human Rights. (2010, February 3) IACHR expresses concern about Amnesty Decree in Honduras. Press release *IACHR*. Retrieved from <http://www.cidh.org/Comunicados/English/2010/14-10eng.htm>

ANNEX I

Constitutional Flash Point: The June 28, 2009 Opinion Poll was:

“Do you agree that in the General elections of 2009, a fourth ballot is installed in which people can decide on the convocation of a National Constituent Assembly?”

The current Honduran constitution, the sixteenth since independence from Spain, was developed by a Constituent Assembly that had been created under the military junta of General Policarpo Paz García.⁷⁸ It entered into force on January 20, 1982 just a week after Honduras ended ten years of military rule. While the constitution does outline specific circumstances and procedures for the holding of public consultations or referendums – the results of which are considered binding – it explicitly prohibits the reform or modification of certain key clauses, including one that limits presidents from serving more than one 4-year term.

Critics of President Zelaya’s proposed opinion poll – among them the National Congress and Supreme Court – claimed that the poll was unconstitutional as it did not follow the procedures outlined in the constitution. However, many analysts concur with President Zelaya’s position that due to its non-binding character, the opinion poll was a different instrument from the formal public consultation mechanism contemplated in the constitution and, therefore, did not require congressional approval.⁷⁹

The critics maintained – and the Supreme Court ruled – that since a future Constituent Assembly could conceivably propose amendments that might challenge some of the clauses deemed “unchangeable”, the June 28 poll was illegal. In particular, opponents alleged that President Zelaya was using the opinion poll in an attempt to remain in power beyond his mandate – an allegation that continues to be advanced today.

Apart from speaking in general terms of the need for constitutional reform, President Zelaya never proposed specific amendments that would be considered by a future Constituent Assembly. A second consecutive term for President Zelaya would not have been possible in any case. President Zelaya was never a candidate in the November 2009 elections. Even if there was to have been a fourth ballot in the November elections and the majority of Hondurans voted in favour of a process to reform the constitution, the steps to make this happen would have been decided by a newly-elected Honduran government, only after President Zelaya was out of office.

⁷⁸ Merrill, T. (Ed.) (1995) *Honduras: A Country Study*. Washington, D.C.: Library of Congress.

⁷⁹ See, for example, analysis of Dr. Francisco Palacios Romeo, Professor of Constitutional Law, University of Zaragoza, Spain cited in <http://hondurascoup2009.blogspot.com/2009/07/as-we-watch-and-wait-revisiting.html>.