

THE CRISIS IN HONDURAS

HEARING
BEFORE THE
SUBCOMMITTEE ON
THE WESTERN HEMISPHERE
OF THE
COMMITTEE ON FOREIGN AFFAIRS
HOUSE OF REPRESENTATIVES
ONE HUNDRED ELEVENTH CONGRESS
FIRST SESSION

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THE CRISIS IN HONDURAS

FRIDAY, JULY 10, 2009

HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE ON THE WESTERN HEMISPHERE,
COMMITTEE ON FOREIGN AFFAIRS,
Washington, DC.

The subcommittee met, pursuant to notice, at 11:10 a.m. in room 2172, Rayburn House Office Building, Hon. Eliot L. Engel (chairman of the subcommittee) presiding.

Mr. ENGEL. A quorum being present, the Subcommittee on the Western Hemisphere will come to order.

I want to thank my colleagues for being here on a Friday. We usually don't have hearings on Fridays, but due to the urgency of the matter and the fact that this is something where we could not look the other way and just push it back for a couple of weeks, I am very glad that we are able to hold this hearing. I want to thank my colleague Mr. Mack for his cooperation in expediting this hearing.

Let me start by saying that I am deeply concerned with the recent events in Honduras and have called today's hearing to focus our attention on the crisis.

I must say that we had asked the State Department to participate in the hearing, and I must express my dismay that they chose not to come. I think that Congress, being a coequal branch of government, has every right to expect the State Department to send a representative when we request it, and I understand that there may be things that they would not want to say or could not say, and we would respect that; but I must say that they need to respect Congress and the wishes of Congress, and this better not be a pattern of any kind. I realize there are delicate negotiations going on, and they don't want to jeopardize those negotiations and neither do we, but frankly I think they could have come and we would have understood that certain things could not be said.

So I just want to make it very clear for the record that if this is some kind of pattern, it will not be tolerated by me as chairman or by anybody else on this subcommittee. We intend to have the State Department respond positively to us when we ask for their appearance, and I want everyone to take note that we expect them to appear when we invite them in the future.

I and many other people are deeply concerned with the recent events in Honduras and we have called today's hearing to focus our attention on the crisis. I issued a statement shortly after the events happened in Honduras; and let me say, before delving into the details, I would like to state very clearly that it is my strong belief

that the military should not have deposed President Zelaya and whisked him out of the country.

We can all discuss the events leading up to the removal of President Zelaya and I intend to do just that. I think there are many good points to make on all sides, and we have excellent panelists who will testify on different aspects of the situation, and we will agree or disagree with each other.

But in the end, our hemisphere cannot tolerate what is essentially a military coup. We don't want to go back to the bad old days when that was commonplace in our hemisphere, and I think that this certainly has the remnants of it and is not something that we should tolerate.

But that being said, as you say on the other side of the coin, President Zelaya's efforts to hold a referendum on whether to create a constituent assembly to change the Honduran Constitution is also very troubling. It is my understanding that the Honduran Constitution contains several clauses which cannot be altered, and among those provisions are those limiting the terms of Presidents. According to one interpretation, even trying to amend these clauses or proposing their reform automatically and immediately ended Manuel Zelaya's Presidency for at least 10 years.

As for me, I am not a scholar of the Honduran Constitution and will not even pretend to be an arbiter of Honduran law or of these clauses. That is for the courts and political institutions of Honduras to decide. But as an observer of the region and having watched the run up to the recent crisis, I think it was clear that virtually all major Honduran political institutions and actors opposed President Zelaya's efforts. Not only were the Supreme Court, Congress, and Zelaya's own Attorney General against him, I am told even members of his own political party and the influential Catholic Church were hostile to Zelaya's efforts to change the Constitution.

I do think this matters. When the entire political establishment speaks and expresses dire concerns, the President needed to listen. From everything I can see he did not.

This is not to say that those who deposed him were angels either. Not only am I deeply troubled by the removal of President Zelaya and the whisking of him out of the country, but I have also heard credible reports of human rights violations in the aftermath. If the de facto government wants to live up to its assertion that it was defending democracy, there is no better way to do so than to respect the views of those with whom you disagree in the clamp-down on fundamental freedoms and to protect all peaceful dissenters.

Moving forward, I would like to now discuss the ongoing diplomatic process. As I mentioned before, there are negotiations going on. President Obama went to the Summit of the Americas in Trinidad and Tobago, and many people from our subcommittee and myself were there, pledging that the United States would be a true partner of countries in the region and would treat our neighbors with respect.

I think the administration has taken a giant step forward in fulfilling that commitment with its excellent diplomacy and mediation efforts on the Honduran crisis. Our administration, the Obama ad-

ministration, condemned the removal of President Zelaya and called it illegal.

They stood with our partners in the hemisphere by supporting a resolution of the Organization of American States, calling for President Zelaya's restoration to office. And as I mentioned, Secretary Clinton has jump-started a mediation effort led by the Nobel Peace Prize winning President of Costa Rica, Oscar Arias. With this very strong U.S. diplomatic effort in the background, President Zelaya and de facto President Micheletti have begun meeting under the auspices of President Arias in Costa Rica.

So I am glad that the Secretary of State and her team are navigating the diplomatic waters at this time, and I hope that a compromise will come about.

However, as much as I defend the OAS—and you all know yesterday on the House floor I strongly opposed removing money from the OAS—I must question the expelling of Honduras from the OAS. I am a strong supporter of the OAS, and as I said, I spoke on the floor of the House of Representatives last night—on the floor—talking about not removing money from the OAS. But I am concerned about their actions to suspend Honduras. I think they have to be consistent in what they do.

And at a time when we drop the suspension of Cuba and we suspend Honduras, I think it sends an inconsistent message to the region and the world. I think consistency is important. With consistency, you have credibility.

I must also say I am increasingly troubled by efforts throughout the hemisphere to change Constitutions so that leaders of certain countries can stay in power after their terms end. We see a pattern here in many countries, and I think it is a dangerous pattern and it is not a pattern that we should support. I think we need to shine a bright light on the dangers of this anti-democratic trend.

And so I say, while the OAS rightly condemned the removal of President Zelaya in Honduras, I believe it should also criticize its drift away from respect for the constitutionalism and the normal transfer of democratic power. If a Constitution in any country says that a President cannot run for a second term, I think that suspending the Constitution, as was done in many different countries, enabling the leader to continue, is a troubling trend.

So I would like to conclude the same way I began. I believe what took place in Honduras was wrong and deserves to be condemned, but the complicated story doesn't begin or end there. It is my hope that this hearing will draw out many of the issues surrounding the removal of President Zelaya which add color and depth to our understanding of the crisis, with the hope that such a series of events will not repeat itself.

[The prepared statement of Mr. Engel follows:]

**Opening Statement
Chairman Eliot L. Engel**

House Foreign Affairs Subcommittee on the Western Hemisphere

The Crisis in Honduras

Friday, July 10, 2009

I am deeply concerned with the recent events in Honduras and have called today's hearing to focus our attention on the crisis. Before delving into the details, I would like to state clearly that the military should not have deposed President Manuel Zelaya and whisked him out of the country. We can all discuss the events leading up to the removal of President Zelaya – and I intend to do just that – but in the end, our hemisphere cannot tolerate what is essentially a military coup.

That being said, President Zelaya's efforts to hold a referendum on whether to create a "constituent assembly" to change the Honduran Constitution troubled me greatly. It is my understanding that the Honduran Constitution contains several clauses which cannot be altered. Among those provisions are those limiting the terms of Presidents. According to one interpretation, even trying to amend these clauses or proposing their reform, automatically and immediately ended Manuel Zelaya's presidency for at least ten years.

As for me, I am not a scholar of the Honduran constitution and will not even pretend to be an arbiter of Honduran law or these clauses. This is for the Courts and political institutions of Honduras.

But, as an observer of the region and having watched the run-up to the recent crisis, I think it was clear that virtually all major Honduran political institutions and actors opposed President Zelaya's efforts. Not only were the Supreme Court, Congress, and Zelaya's own Attorney General against him, even members of his own political party and the influential Catholic Church were hostile to Zelaya's efforts to change the constitution.

I think this matters. When the entire political establishment speaks and expresses dire concerns, the President needed to listen. From everything I can see, he did not.

This is not to say that those who deposed him were angels, either. Not only am I deeply troubled by their by the removal of President Zelaya, but also I have heard credible reports of human rights violations. If the de facto government wants to live up to its assertion that it was defending democracy, there is no better way to do so than to respect the views of those with whom you disagree, end the clamp-down on fundamental freedoms, and protect all peaceful dissenters.

Moving forward, I would now like to discuss the ongoing diplomatic process. President Obama went to the Summit of the Americas in Trinidad and Tobago pledging that the United States would be a true partner of countries in the region and would treat our neighbors with respect. I think the Administration has taken a giant step toward fulfilling that commitment with its excellent diplomacy and mediation efforts on the Honduran crisis.

The Administration condemned the removal of President Zelaya and called it illegal. They stood with our partners in the hemisphere by supporting a resolution at the Organization of American States (OAS) calling for President Zelaya's restoration to office. And, now Secretary Clinton has jump-started a mediation effort led by the Nobel Peace Prize-winning President of Costa Rica Oscar Arias. With this very strong U.S. diplomatic effort in the background, President Zelaya and de facto President Micheletti have begun meeting, under the auspices of President Arias in Costa Rica.

I would like to personally congratulate Secretary Clinton and her excellent team as they navigated the diplomatic waters at this difficult time. However, I must say that I was deeply disappointed that the Administration did not send a witness to today's hearing. The Congress is a co-equal branch of government and when we ask for a witness, I think it is important that one be provided – even if he or she must avoid answering certain questions due to the sensitivity of ongoing negotiations.

However, as much as I praise Secretary Clinton and her staff for adept diplomacy, I must however question the expelling of Honduras from the OAS. I am a strong supporter of the OAS and spoke on the floor of the House of Representatives last night in support of the Inter American body, but I am concerned that suspending Honduras at a time we drop the suspension of Cuba sends an inconsistent message to the region and the world.

Second, I am increasingly troubled by efforts throughout the hemisphere to change constitutions so that leaders of certain countries can stay in power after their terms end, and I believe that we must shine a bright light on the dangers of this anti-democratic trend. While the OAS rightly condemned the removal of President Zelaya in Honduras, I believe it should also criticize this drift away from respect for constitutionalism and the normal transfer of democratic power.

Friends, I would like to conclude the same way I began. I believe what took place in Honduras was wrong and deserves to be condemned. But, the complicated story does not begin or end there. It is my hope that this hearing will draw out many of the issues surrounding the removal of President Zelaya which add color and depth to our understanding of the crisis with the hope that such a series of events will not repeat itself.

With that, I would like to invite my friend, the Ranking Member, to give his opening statement.

Mr. ENGEL. And with that, I would like to invite my friend, the ranking member, Mr. Mack, to give his opening statement.

Mr. MACK. Thank you, Mr. Chairman. I want to thank you for holding this hearing today. It is very timely. I also want to thank the witnesses for making yourselves available and being here, and we are very interested to hear what you have to say and to maybe pick your brain a little bit. So thank you for being here.

Let me just start off by saying this. This was not a military coup, and if somebody—and if there is any fault here it is on Mr. Zelaya. He is the one that at every turn turned his back on the people of Honduras and his own Constitution, which he pledged to uphold.

As we hold this hearing, parties from all sides are meeting in Costa Rica to negotiate a peaceful and democratic resolution but it is important to look at the whole picture. Who are the main players? How did we get here? And who is meddling from the outside?

Now, Mr. Chairman, we have Mr. Zelaya, a man who refused to listen to the Honduran Supreme Court, a man who refused to listen to the Honduran Attorney General, a man who refused to listen to the Honduran Congress. Mr. Chairman, this is a man who tried to undermine the legislature, the judiciary, the Attorney General, the Human Rights Commission, business associations, and four of the five political parties represented in the National Congress, including his own party. I am interested to hear what our panel has to say on this.

Not only that, Mr. Chairman, this is a man that when told no by the courts, took it upon himself to storm a military base and seize and distribute ballots for an illegal referendum, ballots that Hugo Chavez' fingerprints are all over. It seems to me that the more we look at Mr. Zelaya, the more we find a man who believes he is above the law, untouchable, and clearly a man who has no respect for democracy.

I also look forward to hearing from our panel on the links between Hugo Chavez and Mr. Zelaya. Since he was exiled, Mr. Zelaya has been flown around the hemisphere on Venezuelan jets. The ballots that were going to be distributed for illegal referendum were printed and flown from Venezuela. Furthermore, there are further reports that Mr. Zelaya has been involved in drug smuggling from Venezuela and other places in South America. Also, there is little doubt that Mr. Zelaya violated Article 239 of the Honduran Constitution which clearly states that "anyone who violates this provision must immediately cease the discharge of their duties."

As the parties negotiate in Costa Rica, I want to make one last point. I believe the Obama administration should be commended for making a renewed commitment to Latin America, but at the same time, by calling this a coup, and by early statements insisting on the reinstatement of Mr. Zelaya, the administration now stands with the likes of Chavez, Morales, and Ortega and not with the Honduran people.

While we all want a peaceful and democratic resolution, now is not the time to stand—now is the time to stand for freedom and the Honduran people in their fight against the tyranny of the Bolivarian revolution.

Mr. Chairman, thank you again for holding this hearing and I look forward to hearing from our panelists later.

Mr. Chairman, I just want to say that yesterday on the floor you had the opportunity to speak against the motion to recommit, talking about the OAS and Honduras. I have a different opinion. I believe the OAS is a dangerous organization that is not fighting for freedom or democracy but, instead standing in the way and giving an opportunity for people like Hugo Chavez and others to use the OAS to undermine democracy in the Western Hemisphere.

I hope that as we move down the road we can have a hearing that is more focused on the OAS so we can have a lengthy debate on whether or not the OAS is still an organization that should be supported by the United States.

Thank you, Mr. Chairman.

[The prepared statement of Mr. Mack follows:]

Ranking Member Connie Mack
House Subcommittee on the Western Hemisphere
The Crisis in Honduras
Opening Remarks

I want to thank Chairman Engel for holding this hearing today. I also want to thank our witnesses for being here. As we hold this hearing, parties from all sides are meeting in Costa Rica to negotiate a peaceful and democratic resolution.

But it is important to look at the whole picture. Who are the main players? How did we get here? And who is meddling from the outside?

Now Mr. Chairman... we have Mr. Zelaya. A man who refused to listen to the Honduran Supreme Court. A man who refused to listen to the Honduran Attorney General. A man who refused to listen to the Honduran Congress.

Mr. Chairman, this is a man who tried to undermine the legislature, the judiciary, the Attorney General, the Human Rights Commission, the Catholic Church, evangelical groups, business associations, and four of the five political parties represented in the National Congress!

Including his own party!

I am interested to hear what our panel has to say on this. Not only that Mr. Chairman. This is a man that when told "no" by the courts, took it upon himself to storm a military base and seize and distribute ballots for an illegal referendum. Ballots that had Hugo Chavez's fingerprints all over them.

It seems to me that the more we look at Mr. Zelaya, the more we find a man who believes he is above the law, untouchable, and clearly a man who has no respect for democracy.

I also look forward to hearing from our panel on the links between Hugo Chavez and Mr. Zelaya. Since he was exiled, Mr. Zelaya has been flown around the hemisphere on Venezuelan jets. The ballots that were going to be distributed for this illegal referendum were printed and flown from Venezuela. Furthermore, there are reports that Mr. Zelaya has been involved in drug smuggling from Venezuela and other places in South America.

Also, there is little doubt that Mr. Zelaya violated Article 239 of the Honduran Constitution, which clearly states that "anyone who violates this provision must immediately cease the discharge of their duties."

As the parties negotiate in Costa Rica, I want to make one last point.

I believe the Obama Administration should be commended for making a renewed commitment to Latin America.

But at the same time, by calling this a coup and by, early statements, insisting on the reinstatement of Mr. Zelaya, the Administration now stands with the likes of Chavez, Morales, and Ortega -- and not with the Honduran people.

While we all want a peaceful and democratic resolution, now is the time to stand for freedom and with the Honduran people in their fight against the tyranny of the Bolivarian revolution.

Mr. Chairman, thank you again for holding this hearing and I look forward to hearing from our panel today.

Mr. ENGEL. Well, thank you, Mr. Mack, and you know I am always open to having hearings on a myriad of issues. So we can certainly discuss that.

Because we have seven very excellent panelists and I want to hear from them, I am going to restrict opening statements to 2 minutes for each person. We will go down the line. I will start with Mr. Meeks.

Mr. MEEKS. Thank you, Mr. Chairman. I will try to do it in 2 minutes.

First of all, I think that we have come a long way in the United States from where we were in 2002. There was a coup d'état in Venezuela, and within 48 hours we supported the coup d'état government. We have got to make those improvements, and I think we have made that with this administration this time.

We clearly cannot turn back the hands of time. I had the opportunity at the inauguration of President Martinella to talk to several heads of State, including President Arias, who said that we cannot allow coup d'états, and this is the governments of other areas to try to figure out how we make sure that we don't turn back the hands of time.

And that is what this is literally about. I am nervous, as the chairman is, that the hands of time is not turned back; that whether Mr. Zelaya has done whatever he has done, I don't believe that the military has the right to come in and pull him out. It would have been the equivalent, I would think, of at the time that when President Nixon who had violated laws and the Constitution of the United States, had we not conducted a process in which he would have been impeached, of having in the middle of the night the United States Army going into the White House and taking President Nixon out and having him exiled.

Clearly, there is a violation, but there is something that has to be done within the democratic process to make sure that those who have committed that violation of that office is democratically removed, in my estimation.

Also, I think that it is also important that when you talk about the OAS—and in this particular situation, that there are 33 Nations there. And we talk about democracy and talking about—and it took them, I know they took over 24 hours here in Washington, DC, working and trying to come together as an organization in a democratic process to decide what to do with reference to Honduras. And it is not just the United States acting in a unilateral manner, as the President has said, but the United States acting in conjunction with others in the region to make a difference.

We have got serious concerns here. I want to hear the witnesses. I wish I had more time, but I am being gaveled already by my friend, the chair, and I yield back.

Mr. ENGEL. Thank you. Thank you, Mr. Meeks.

Mr. McCaul.

Mr. MCCAUL. Thank you, Mr. Chairman. I will be very brief in my remarks, but I do want to make a few comments. Look forward to the testimony.

I agree with the ranking member that this is not a military coup. This was ordered by the Supreme Court. The President was in violation of his own Constitution. He disregarded his own Attorney

General. And what is most disturbing to me is that these ballots Zelaya ordered printed, at least from the information I have, came from Venezuela. This is the same type of thing that Hugo Chavez pulled off in his country, and it seems to me that that is the same pattern that Mr. Zelaya is emulating.

I would like to know from the panelists, what I am most interested in, and what I think the ranking member indicated, is what is the connection between Mr. Chavez and Venezuela? What is the connection between Venezuela and Honduras?

And with that, I yield back the balance of my time.

Mr. ENGEL. Thank you Mr. McCaul.

Mr. Sires.

Mr. SIRES. Thank you, Mr. Chairman. The still unfolding events in Honduras are both shocking and frustrating. On the one hand, you have a President who overstepped his constitutional bounds; on the other hand, you have a military that exiled a democratically elected President. Now, our Government is condemning the military removal of President Zelaya, but look at the company we keep. We are supporting a man who plotted to hold an illegal vote and circumvent the Constitution.

In the ongoing debate, whether President Zelaya acted undemocratically or if it was the military who acted undemocratically, although it appears they are both at fault, it is important to remember that just a few weeks ago President Zelaya proudly led the movement to readmit Cuba into the Organization of American States. The OAS resolution on Cuba did not mention the Inter-American Democratic Charter, and now he is calling on Honduras and the international community to uphold this charter.

These events make me seriously question the stability of democracy not only in Honduras but in Latin America. Governments throughout the region have made remarkable progress since the days of military coups and the oppressive regimes, but the actions in Honduras severely obstruct this process. Unfortunately, this is not the first time we have witnessed such grasps for unchecked power.

It is clear that democratic principles continue to be at risk in this hemisphere. And I would like to thank the panelists that are here, and I look forward to hearing what you have to say.

Mr. ENGEL. Thank you Mr. Sires.

Mr. Smith.

Mr. SMITH. Thank you. I appreciate the chairman's disappointment that the administration is AWOL today. Congress has a right and an obligation, a duty, to know what the administration is or is not doing during this crisis.

Mr. Chairman, the world is slowly waking to the reality that what at first might have looked like a military usurpation of democracy, courtesy of very sloppy news reporting, was actually the culmination of the democratic process, a process that began months before.

The branches of the government of Honduras, the Supreme Court, the Congress, and the military performed just as they were intended to by the wise writers of the Honduras Constitution. Mr. Zelaya was removed from office for his unconstitutional and illegal attempts to alter the Constitution of Honduras for purely selfish

reasons. Latin Americans are rightly sick and tired of Presidents violating the rule of law to ensure their own Presidency in perpetuity.

Article 239 of the Honduran Constitution explicitly says, and I quote: "No citizen who has already served as head of the executive branch can be President or Vice President." Moreover, the Constitution also makes clear that anyone who tries to alter the term limits of the Office of the President is guilty of treason.

The Honduran Supreme Court has stated that the military acted on its orders and the Honduran Congress overwhelmingly passed a decree removing President Zelaya from office and replacing him with the President of the Congress. The military has not retained power. Upcoming Presidential elections continue to move forward on schedule.

Finally, the surface appeal argument is that what happened in Honduras was a coup, but that in my view, in my opinion, melts under any serious scrutiny. Rather, democracy and the rule of law triumphed over Mr. Zelaya's lawlessness.

I congratulate the people of Honduras for their foresight in the writing of a Constitution and for their courage to take action in support of the rule of law. I yield back the balance.

Mr. ENGEL. Thank you Mr. Smith.

Mr. Green.

Mr. GREEN. Thank you, Mr. Chairman, for holding this hearing. Coming from Texas, and our relationship with both Mexico and Central America and Latin America, this is very important because we have a number of Honduran Americans who live in our district.

When President Zelaya announced that he would hold a non-binding referendum asking Honduran voters whether they wanted a constituent assembly to establish or amend their Constitution, the situation in Honduras started to deteriorate. The issue culminated on June 28 when Honduran military surrounded the Presidential residence and arrested President Zelaya and flew him to Costa Rica just hours before the polls were to open.

President Zelaya has since been denied return entry, and the Honduran Congress approved a decree suspending a number of bill-of-rights issues and constitutional rights that I have concerns about. While I don't agree with what President Zelaya has done during his administration, the restoration of democracy in Honduras is critical for its stability. And I applaud organizations like the OAS and CARICOM and UNASUR for quickly and equivocally condemning the Honduran military action, but I also know that we need to have have an impartial negotiation. And I am glad Secretary Clinton announced that former President Arias of Costa Rica will be that mediator to have democracy restored.

And again like my colleagues on both sides, we see that in our administration and our hemisphere a return to a strong man in military government and usurping the constitutional authority, whether it be in Honduras or in other parts of the hemisphere, including Venezuela, and I would hope that we would see our country providing the leadership for democracy and not necessarily just for whoever happens to have the strong power at that time.

And I yield back my time.

Mr. ENGEL. Thank you Mr. Green.

Mr. Burton, our former ranking member and chairman.

Mr. BURTON. Thank you, Mr. Chairman. I will just take a couple seconds here. First of all, I talked to some people at the State Department yesterday and they told me that they wanted to give SICA, the Central American Integration System headed by Mr. Arias, a chance to try to resolve this by getting all the facts. And I think the facts are not clear, of course, but nevertheless they wanted to give him some time and that was the reason they said they didn't want to appear today. I disagree with that. They should be here, but nevertheless that was the reason that they gave.

I would just like to reiterate what the ranking member said, and I thought he said it extremely well, and that is that the arrest warrant was issued by the Supreme Court that ordered the armed services to arrest Mr. Zelaya.

Now in the United States if an arrest warrant is issued, the police go out and arrest him and they put him in handcuffs and they take him to jail. In this particular case, the military was told to do it and they did it, and so when everybody talks about this being a military coup, I just don't get it. There was an arrest warrant issued by the Supreme Court. The President had violated the Constitution and had not paid any attention to anybody that was giving him the proper advice. And so I don't see that this was a military coup.

And, with that, I yield back the balance of my time.

Mr. ENGEL. Thank you Mr. Burton.

Ms. Giffords.

Ms. GIFFORDS. Thank you, Mr. Chairman. I am going to keep it really brief because I know we are going to have votes soon and we have a distinguished panel here that I think it is important to hear from.

Mr. ENGEL. Thank you. Mr. Fortenberry.

Mr. FORTENBERRY. Thank you, Mr. Chairman, for convening this hearing to help us to come to terms with the development in Honduras and understand the dynamics and potential outcomes of this very serious leadership crisis unfolding there. I believe it is vitally important to take a deep breath here and just simply look at the facts, understand the objective truth about Honduras' civil democratic institutions, as well as the scale and the scope of abuses of power attributed to Mr. Zelaya.

I would also implore our panel to assess the policy judgments made by the administration thus far in this crisis, the OAS, as well as other key and regional as well as international players in this situation.

So, with that, Mr. Chairman I yield back.

Mr. ENGEL. Thank you.

Mr. Payne.

Mr. PAYNE. Thank you very much, Mr. Chairman, for calling this hearing. I think that as you have indicated, I think it is a bad trend when we have people try to alter the Constitution of countries. I mean, to extend terms of office. However, by the same token, I can't see where anyone can say that if you take somebody out with an Army and guns, put them on a plane, and, as he tries to come back, you got the military at the airport saying, if you

come any closer we'll shoot you down. That is a military something. I mean, it is like a duck, you know.

So it is a very complicated situation here and, you know, I think that because Venezuela was supportive of the President there, it doesn't mean that we should therefore condemn that country. If we start doing that, we will have to look at every country in the world and who they associate with, and that certainly wouldn't make any sense. So I think it is a very complicated situation. I hope that we can get to the bottom of it.

As a previous member mentioned, we have had Presidents who didn't take the advice of their Attorney General. As a matter of fact, Mr. Peabody, the Attorney General, was fired by the President back in the Nixon days because he wouldn't give him the judgment that he wanted. Not saying that it was right to do it here, nor was it right to do it there.

So this is a really complicated situation and I hope we can come up with a solution. But once again, in the African Union, when a country is taken over by the military, that country is suspended from the African Union. They do not tolerate, because once it happens here, it will happen there, and it will happen at the next place, and you will have that way to take out Presidents.

Mr. ENGEL. Thank you.

Mr. Bilirakis.

Mr. BILIRAKIS. Thank you, Mr. Chairman. This hits home with me because my Honduran American constituents are particularly concerned that President Zelaya was slowly stripping away the rule of law in Honduras. They fear that Honduras is going to turn away from its democratically elected and constitutionally based institutions and evolve into a Hugo Chavez type of State.

I think what is particularly disconcerting for me is the fact that no American official at the U.S. Embassy in Honduras or the State Department has spoken with the current President of Honduras.

The Obama administration has made a feature of their diplomacy efforts to listen to all sides and have even displayed a willingness to talk with avowed enemies of the United States, and yet the administration has refused to speak with the institutions in Honduras like the Supreme Court, the Congress, or even the President, to fully understand what happened and why Mr. Zelaya has been removed.

I look forward to hearing from the witnesses as to why the administration continues to ignore the will of the Honduran people and the rule of law and what can be done to facilitate regular order in Honduras.

Thank you, Mr. Chairman.

Mr. ENGEL. Thank you.

Ms. Lee.

Ms. LEE. Thank you, Mr. Chairman. I want to welcome our witnesses, and just let me say a couple of things very quickly. A coup is a coup is a coup. A military coup is a military coup, and I am really disturbed by us talking about how it is almost beginning to set new standards for what constitutes a military coup.

Just as I was opposed to the coup d'état in Haiti, which the United States enabled and supported under the Bush administration—and that is what happened, you know—I don't see how we

can continue to allow these coup d'états to take place and get away with it.

And so I say to you today, to the committee and to you, our witnesses, that for me and for many of us, a coup is an unacceptable way to resolve any dispute and I am glad that the international community has been swift and been firm in condemning the military's actions. And I too am disappointed that our administration is not here today, but I am pleased that they are moving forward to try to bring parties together to resolve this and hopefully send out a message that military coups are unacceptable, regardless of the circumstances, because I think that we are walking down a slippery slope if we begin to set new standards for what we consider military coups.

Mr. ENGEL. Thank you.

Mr. MCCAUL. Will the gentlewoman yield?

Mr. ENGEL. Let me have everybody make their opening statement and then we will hear the panelists, I think.

Mr. Rohrabacher.

Mr. ROHRABACHER. Yes, a coup is a coup is a coup. And what happened in Honduras is not a coup. Coup is when the military replaces a democratic government with a military leader. What happened in Honduras is a victory for democratic government and the rule of law over Caudioism. It was not a coup d'état but the defeat of a left-wing coup led by a corrupt elitist who has been implicated in the drug trade. This would-be Caudio was engaged in an anti-democratic power grab. His intent was to be a strong man in the mold of either Castro or Chavez or, whatever strong man it was, but he was trying to seize power for himself. It was a power grab. He was leading a street mob to give himself that unlimited power. Stopping someone like that is a victory for democracy.

We don't need Latin America sliding back, whether it is left-wingism or right-wingism in terms of the Caudioism that it reflects. That should have been left behind a long time ago, and his defeat and the defeat of that power grab, as I say, no matter how it was accomplished, is a great victory for democracy in Central America and Latin America in the long run.

We all know that we all know what he was trying to do. We should be happy and applauding that he was stopped from that horrible power grab which would have ended real democracy in his country.

Mr. ENGEL. Thank you.

Mr. Delahunt.

Mr. DELAHUNT. I thank the gentleman, and I don't think you can put a shine on this sneaker. I mean common sense tells you that it is a coup, whether it is a military coup, but it certainly was an unconstitutional removal.

You know, I am just concerned about not what is happening in this room in this hearing, but the message that is being received all over Latin America at this moment in time. What you are hearing, of course, is this is about Hugo Chavez. Well, I want my colleagues, particularly my friends on the other side of the aisle, to stand with Felipe Calderon, to stand with Alvaro Uribe, to stand with the President of Chile, to stand with all of the other democrat-

ically elected Presidents in Latin America who have condemned this, who aren't trying to parse.

I never realized how many experts we have, by the way, on the Honduran Constitution. I mean, it is amazing. There must be a class somewhere. I haven't taken it yet, so I have to acknowledge my own ignorance. Of course, it is coup.

And who are these people? I don't know who they are. I mean, I really don't know. I do know, however, that the current provisional President attempted the same thing that President Zelaya did in 1985, but I bet there wasn't a peep out of this institution at the time. He attempted to extend the term of some President in the mid-1980s by 2 years, according to a report. I find that interesting but that is irrelevant to this.

I am sure some of the people are well-intentioned, but I did note, and I think it is important that—and I haven't heard outrage expressed by anyone, including members on the other side, about the statements of the Provisional Foreign Minister whom they had to dump. But let me tell you what he had to say about the President of the United States: I like the little Black sugar plantation worker.

Mr. ENGEL. The gentleman's time has expired.

Mr. Hinojosa.

Mr. HINOJOSA. Thank you, Mr. Chairman. I appreciate your letting me sit in this hearing. I congratulate you for calling it, and I am going to pass an opportunity to make a statement, a prepared statement, and listen with great interest to what I can learn about this situation in Honduras. Thank you.

Mr. ENGEL. Thank you, Mr. Hinojosa.

Now I am going to introduce our distinguished witnesses. I think the toughest thing about being a witness is you have to listen to all of us before we can listen to you. That is the price you have to pay. I am sorry.

Let me ask our witnesses to please keep their testimony to 5 minutes apiece. You do not have to read your statements if you don't want to. You can ask that they be submitted into the record and they will be as if they had been written—as if they had been repeated, and you can just summarize and that might be better. I will leave it up to the witnesses.

Let me mention all of our witnesses. Michael Shifter is vice president for policy at the Inter-American Dialogue. Welcome.

Guillermo Pérez-Cadalso is a former Honduran Foreign Minister and Supreme Court Justice and currently serves as professor of international law at Honduras National University. Welcome.

Joy Olson is executive director of the Washington Office on Latin America, WOLA. Welcome.

Cynthia Arnson is director of the Latin America Program at the Woodrow Wilson International Center for Scholars. We welcome you.

Lanny Davis is a personal friend of mine, but a partner with Orrick, Herrington and Sutcliffe, and is here today representing the Honduras Chapter of the Latin American Business Council. Welcome.

And Sarah Stephens is the executive director of the Center for Democracy in the Americas. We welcome you.

And last but not least, Otto Reich. He is president of Otto Reich Associates and the former Assistant Secretary of State for Western Hemisphere Affairs. Welcome.

And we will start with Mr. Shifter.

STATEMENT OF MR. MICHAEL SHIFTER, VICE PRESIDENT FOR POLICY, DIRECTOR OF THE ANDEAN PROGRAM, INTER-AMERICAN DIALOGUE

Mr. SHIFTER. Thank you very much, Mr. Chairman. I would like to submit my statement for the record.

I want to commend you for holding this hearing. The Honduras situation poses a real critical test for the U.S. Government and for the hemisphere. What happened on June 28th in Honduras was a rupture in the democratic order, the democratic process, that I think was properly censured by the United States and the hemispheric and international community.

President Zelaya has more than his share of blame for provoking the crisis to begin with by defying the Supreme Court and the Congress. While all the legal procedures there had been followed before his ouster, his forced removal from Honduras was a clear violation of the Constitution and basic democratic norms.

Having rightly condemned what happened, the main task was to calm the tensions and try to work out a solution. I am not sure that opting for a more punishing stance by quickly issuing an ultimatum for the return of President Zelaya and suspending Honduras from the OAS was the wisest course.

The attempted unsuccessful return of President Zelaya last Sunday was particularly counterproductive. As a result, both sides became more entrenched in their positions.

Today this crisis has moved to the phase of negotiation under President Arias. This is an encouraging sign, but caution is in order. The first day showed this is going to be difficult and may take some time to work out. There is tremendous bitterness and distrust between the two parties. Still, one can imagine elements of a formula that will hopefully be agreed to. It is crucial that conditions in Honduras permit fair and credible elections that are now scheduled for the end of November.

It is welcome that the United States is discreetly supporting this initiative announced by Secretary of State Clinton last Tuesday. The Honduras crisis has posed two difficult challenges for the United States. The first concerns how to deal with the interruption of the democratic process in the region, balancing legality and legitimacy against maintaining social peace and governability on the ground in Honduras.

The second challenge involves finding an effective multilateral approach that engages with Latin American partners while also being active in helping to shape a favorable outcome. The idea is to try to resist the temptations to impose a solution or dictate a solution but, alternatively, not to withdraw and be passive either.

In general, I think the Obama administration has struck the right balance on both of these challenges. It was important to bear in mind from the beginning however, that decisions made on principle in response to the coup could nevertheless have unintended consequences. The suspension of Honduras, for example, would ei-

ther exacerbate or diminish the polarization that was, after all, the root cause of the crisis.

This is a case for combining principle with pragmatism. The U.S. is now seen as an important and honest broker in the region. As I said, the OAS took the right stand on the crisis, but might have waited and explored other measures before resorting to such a confrontational response—which did not work and, in fact, seemed to only have hardened positions on all sides.

The OAS might have also tried to anticipate and prevent the heated situation before it reached a boiling point. Alert mechanisms are difficult and there are difficult questions about sovereignty, but this is an essential function appropriate for a regional body like the OAS. The head-on collision in Honduras had been building for some time, and an effort should have been made to defuse the mounting tensions.

Looking ahead, even though President Arias has taken the lead as mediator, the OAS should support the efforts to reach a compromise in Honduras. What this crisis has done is to bring into sharp focus the question of double standards and hypocrisy applied to different situations in Latin America. It is not that the OAS shouldn't have reacted to this situation, but that it should have reacted to others. The OAS has indeed been too passive and silent in dealing with ruptures in the democratic order and other situations.

There needs to be way to focus on improving the Inter-American Democratic Charter and the way it is applied and implemented in Latin America. One idea is to not restrict the use of the charter to the executive branch, but also extend it to other branches of government and to the opposition. This could have worked in the Honduras case to head off the eventual coup. Unfortunately, power grabs in defiance of democratic norms and institutions are too common in Latin America, so the charter and OAS member governments need to take that disturbing tendency into account.

Finally, it would be surprising if the United States did not have to deal with similar situations in Latin America in the future. At least several parts of the region are unsettled. And I hope this case shows the wisdom of working in concert with regional partners to seek solutions that reflect common sense and pragmatism but are anchored in the rule of law.

I look forward to your questions. Thank you.

Mr. ENGEL. The gentleman's time has expired.

[The prepared statement of Mr. Shifter follows.]

**Statement of Michael Shifter
Vice President for Policy, Inter-American Dialogue
Adjunct Professor, Georgetown University**

**Committee on Foreign Affairs
Subcommittee on the Western Hemisphere**

“Crisis in Honduras”

July 10, 2009

I very much appreciate the opportunity to appear before the Subcommittee today to share some thoughts on the current crisis in Honduras, what it tells us about the state of democracy in the hemisphere, the effectiveness and capacity of regional mechanisms to deal with difficult situations that are bound to develop, and the role of the United States in fostering the rule of law, political stability and multilateralism. There is no question that the rapidly evolving situation in Honduras poses a critical test for the US government and the Western Hemisphere.

How has the Hemisphere Responded?

The forcible ouster of President Manuel Zelaya on June 28th bore some of the marks of a classic military coup. That accounts why it produced such a strong regional and international condemnation. The coup particularly touched a nerve in those Latin American countries that have suffered from military rule in the past and struggled to keep the armed forces under civilian control. Censure -- the predominant international reaction -- was natural, understandable, and proper.

In this regard, the Obama administration deserves credit for quickly and firmly condemning the ouster, calling for the reinstatement of President Zelaya, and refusing to recognize the de facto government in Honduras. To have done otherwise would have sent a signal that the United States does not stand on principle and only backs its friends in the region. Weak or approving reactions to past coups have greatly undermined US credibility in the region, especially on the sensitive democracy question. Not only did the Obama administration respond quickly and appropriately, it was reportedly working for weeks before the coup to head off the crisis. The region was closely watching this first test for the Obama administration, and its position drew considerable praise from our Latin American neighbors as evenhanded and forceful.

It is important to recognize that the United States is not the only country with a strong interest in the Honduras situation. Under President Zelaya, Honduras joined ALBA (the Bolivarian Alternative for the Americas), a regional alliance launched by Venezuelan president Hugo Chávez to help curtail US influence, particularly to counter the stalled Free Trade Area of the Americas (FTAA). Zelaya has become one of Chávez's closest allies in the region. Employing the mantle of democratic legitimacy, Chávez has taken advantage of the crisis for his own political agenda. In his rush to defend an ally, Chávez

escalated the tension in Honduras by reportedly putting his armed forces on alert and bringing up the possibility of a military response to the coup.

As is appropriate, the various reactions from the region to the Honduran coup have been channeled through the hemisphere's chief political organization, the Organization of American States (OAS). Secretary General José Miguel Insulza has played an active and highly visible role in trying to represent the views of OAS member governments. Having condemned the coup in the strongest terms, the OAS then gave the de facto government 72 hours to reinstate Zelaya. The Secretary General's brief mission to Honduras to negotiate this reinstatement proved fruitless. On July 4th, the OAS invoked the Inter-American Democratic Charter to suspend Honduras from participating in the organization -- only the second time, after Cuba in 1962, that a country has been suspended. That tough decision was followed by an attempt by President Zelaya, accompanied by the president of the United Nations General Assembly, to return to Honduras. That, too, proved fruitless, as the Honduran armed forces and interim government blocked them from landing. Zelaya then went to neighboring El Salvador, where he was joined by several other Latin American heads of state and Secretary General Insulza.

Having exhausted the course of forcing the return of Zelaya to Honduras without a political agreement or necessary conditions on the ground, the crisis has moved to a more encouraging phase of negotiation. The aim is to try and reconcile the need for democratic legitimacy with the reality of an entrenched de facto government that is apparently supported by most Hondurans.

The designation of Óscar Arias, president of Costa Rica and recipient of the Nobel Peace Prize, as the international mediator in this crisis is a promising development. Arias is the right person for this challenging assignment, and is currently in discussions with the relevant parties in an effort to broker a reasonable compromise. Secretary of State Clinton announced the Arias appointment on Tuesday, and should be commended for shifting the focus from forcing a solution to working one out in concert with Latin American partners. To be sure, negotiations do not ensure a satisfactory resolution. In statements released since discussions began, both sides have reinforced their positions. The results of the first day of talks can hardly be called auspicious. Nevertheless, at least the process is on a more productive track. Today the prospects for reaching a mutually agreeable formula -- perhaps including such possible conditions as early elections, amnesty, or limited powers -- seem better than they did a week ago.

What Caused the Crisis?

The de facto government in Honduras and many of its supporters have been quick to point out that President Zelaya bears a good deal of the responsibility for bringing on the severe institutional crisis that eventually led to his ouster. Their argument has merit. Zelaya defied the Supreme Court and the Congress by attempting to hold a vote to gauge support for reforming the constitution. His goal was presumably to permit presidential reelection, but even proposing an extension of presidential term limits is explicitly barred in the Honduran constitution. It is hard to argue with the claim that Zelaya was eroding

democratic institutions. Such characteristics are important and sharply set this case apart from well-known military junta governments of the past. But even the ruling the Supreme Court issued against Zelaya does not justify calling in the armed forces to remove him from the country. That decision violated a basic principle of the democratic process.

While the institutional crisis was the immediate cause of the coup, a full explanation of what happened would have to refer to the underlying conditions of political polarization, widespread insecurity, and persistent poverty in Honduras. Though the country has had a string of civilian, elected governments, its institutions are notably fragile and poorly equipped to cope with formidable political and economic pressures. Beyond the urgent task of calming the waters in Honduras and seeking a political accord, therefore, it is crucial to focus in the long term on how best to construct viable democratic institutions, defuse polarization, and promote more effective leadership. Such functions should be integral to US policy, though they should particularly be assumed by the OAS and other regional mechanisms.

What are the Challenges Facing the OAS?

The challenges of political polarization and persistent poverty are hardly peculiar to Honduras. They are unfortunately common in Latin America, particularly Central America. Comparable institutional crises have taken place in recent years in the region (in Ecuador, for example), and others are likely to emerge. In this regard, it is valuable to examine how the OAS responded to the crisis and to explore how it might have acted to avert it.

The organization's mandate for defending democracy and conflict resolution implies a preventative function, to address heated situations before they reach a boiling point. It is admittedly very difficult to develop effective mechanisms to alert regional leaders when a situation risks getting out of control. Sensitivities about sovereignty should not be underestimated. But this is an essential function that is appropriate for the OAS. The head-on collision in Honduras was anticipated by many analysts and actors, and yet there was no response – a mission to the country, for example -- from regional institutions to try and defuse mounting tensions.

Once the crisis appeared, the OAS acted expeditiously and took a principled stand condemning the coup. The reaction was unanimous and much commentary focused on how all member governments, as well as European countries, were united on this issue. It is useful to raise the question, however, of whether suspending Honduras from the OAS and issuing an ultimatum for the return of Zelaya was the wisest course. Though defensible in principle, the move seems to have hardened positions on all sides. Having rightly condemned the coup, the OAS might have sought to calm the tensions and begin a dialogue instead of rushing to take a confrontational stance.

The attempted return of Zelaya on July 5th, when he sought to land in Tegucigalpa, was particularly wrong-headed and counterproductive. It may have provided good theater, but it was not at all constructive. The trip was not officially endorsed by all OAS

members – just a few governments pushed the trip, in fact – but the association of the Secretary General with the overall mission contributed to this perception.

While President Arias is now playing the key role as mediator, the OAS remains a relevant actor and should support the efforts to reach a compromise in Honduras. It is important for the legitimacy of the negotiations that OAS member governments be engaged in the process and back efforts to broker an agreement.

What are the Challenges Facing the US?

The Honduras crisis poses two fundamental, delicate challenges for US policy towards Latin America. The first concerns how to deal with the interruption of the democratic process in the region, balancing legality and legitimacy against social peace and governability. The second challenge involves finding an effective multilateral approach that engages with Latin American partners while helping shape favorable outcomes. Both of these challenges are tricky and call for striking the right balance.

To date, the Obama administration deserves generally high marks on both of these fronts. From the outset, it took a principled position on the Honduras coup. At the same time, State Department declarations left some margin for diplomatic maneuver. While it was proper not to recognize the de facto government, it was also important to acknowledge it and keep lines of communication open to explore a resolution. The US needed to bear in mind how decisions that followed its principled stand on the coup – the suspension of Honduras from the OAS, for example – would exacerbate or diminish the polarization that was the root cause of the crisis. From the outset, principle had to be combined with pragmatism.

The Arias mediation role in the current crisis is a welcome initiative. It recognizes that this situation has entered into a phase of negotiation, which is essential to ease tensions and reach a compromise solution that is consistent with the rule of law. The approach also highlights the proper role for the United States in this effort. Sensibly, the Obama administration has resisted past temptations to either dictate its own terms or withdraw entirely from the debate. The United States in this case is strongly yet discreetly supporting an effort by regional leaders and the relevant parties in Honduras. In this sense, the administration is acting in accord with its stated commitment to genuine multilateralism in the hemisphere.

What Can We Learn from the Crisis So Far?

The Honduras crisis has had the beneficial effect of bringing into sharp focus the question of double standards applied to different situations in Latin America. The response to Honduras inevitably raises the question of why there haven't been comparable – or even more forceful – reactions to other serious transgression of democratic norms. Many have recently pointed to the weak regional response to Zelaya's clear power grab prior to the coup. This is an entirely legitimate and valid question, one that merits serious attention and analysis.

Until now, there has been too much silence and passivity in the face of actions a number of countries in the Americas of dubious legality and democratic legitimacy, including recent electoral fraud in Nicaragua, for example. The Honduras case, which in some ways is reminiscent of classic military coups, may be a turning point in this respect. It would be most productive to take advantage of this crisis to shine a light on comparable situations that have not received the scrutiny they deserve. Greater attention at the early stages of democratic breakdown would enhance regional cooperation and the quality of democracy throughout the Americas.

Particular attention should be given to ways of improving the Inter-American Democratic Charter, adopted by all OAS participating members in September 2001. The Charter codifies many of the pertinent instruments related to the promotion and collective defense of democracy in the Americas. The framework is useful, but it can be improved and applied in a more rigorous and consistent manner than it has been to date. It is naïve to pretend that politics and national interests do not influence decisions about whether and how to respond, but so far there has been too little effort to make these decisions in a more systematic and credible way.

A possible reform in the Charter suggested by the Honduras crisis is not to restrict its use to the executive branch, but make it available as well to other branches of government and opposition forces. This change would address one of the principal challenges to effective democratic governance, which is the defiance of democratic institutions to enhance and concentrate executive power. In the case of Honduras under such a reform, other institutions would have been able to invoke the Charter in the midst of Zelaya's power grab and have received a hearing before the OAS. The situation, in other words, might have been dealt with more effectively before it reached such an extreme point. There are a number of other current situations of comparable concern in the region, including the persecution of the opposition and media intimidation in Venezuela. On re-election, the issue is not so much the idea itself, but the way it is carried out and whether the executive is attempting to ride roughshod over other government powers to attain it.

The Honduras crisis helps call attention to the huge democratic deficits present in much of Latin America. The Central American region is troubled in many respects, and the economic downturn has only exacerbated its problems. While it is important recognize the progress that has been made in some spheres in Central America and elsewhere, the Honduras case shows that it would be folly to overlook the profound challenges still facing the region.

For the United States, it is crucial to work multilaterally to address both the immediate, short-term challenges exemplified by the current Honduras crisis, and also the long-term, underlying problems that helped give rise to the crisis. The Honduras situation has given the Obama administration a sense of the kind of challenges that are bound to appear elsewhere in a sometimes unsettled region. In the end, this case will hopefully demonstrate the wisdom of working in concert with regional partners to seek solutions that reflect common sense and pragmatism, but are also anchored in core principles of the rule of law and democratic legitimacy.

Mr. ENGEL. Mr. Pérez-Cadalso.

STATEMENT OF HIS EXCELLENCY GUILLERMO PÉREZ-CADALSO, FORMER FOREIGN MINISTER AND SUPREME COURT JUSTICE, REPUBLIC OF HONDURAS

Mr. PÉREZ-CADALSO. Chairman Engel, Ranking Member Mack, and the other distinguished members of the subcommittee, thank you for inviting me today.

I will now provide a summary of my prepared statement which I request to be included in its entirety in the record.

My name is Guillermo Pérez-Cadalso. In the past I have served my country as the Minister of Foreign Affairs, as a Supreme Court Justice, and as the President of the National University of Honduras. Today, however, I come before you with the title of concerned Honduran citizen and not as a government representative.

I have spent this week as part of an ad hoc diverse delegation of other concerned Honduran citizens visiting with many Members of Congress. While we have made some progress in creating greater understanding of the history and context of what has happened in my country, I want to share with you some facts and observations that have been lost or confused in the intense media coverage.

One, the military is not in charge of Honduras. The constitutional order of Honduras remains intact. Our Government continues to be led by a civilian executive branch, a duly elected Congress, and our judicial branch, guided by our 1982 Constitution and the rule of law. Indeed, it was the proper application of our Constitution, the rule of law and Presidential succession that initiated the recent events in Honduras.

Two, many have confused the timing of key events. For example, Mr. Zelaya was charged with crimes against the form of government, treason, abuse of authority, and usurpation of power, and the Supreme Court ordered his arrest before he was taken out of the country.

Three, there has been a failure to separate the issue of Mr. Zelaya's removal from the country versus his proper removal from the President's Office, according to our Constitution, and a result of very serious criminal charges against him. I only speculate as to what the military did and why. Taking Mr. Zelaya out of the country could have been the result of a terrible dilemma. It is possible that the military, which was properly ordered to arrest Mr. Zelaya by the Honduran Supreme Court, to uphold the Constitution, thought it would be more prudent to take him out of the country rather than hold him in custody in Honduras and risk greater civil unrest and violence. After all, the military faced the person who had already abused his stature, inciting a mob, and using the threat of violence to storm an Air Force base.

Four, there has been a great misunderstanding about the extent of support for Mr. Zelaya. There is a broad consensus in Honduras that Mr. Zelaya violated the law and our Constitution. The Honduran Supreme Court voted 15-0 that he broke the law. The national Congress voted 124 out of 128 that he broke the law, including every Member of Congress from his own party.

He Attorney General, the Supreme Electoral Council, and the Human Rights Commissioner all agree that Mr. Zelaya broke the

law. Others who agree include four out of five of the political parties representing more than 90 percent of the Congress, including Mr. Zelaya's own party. Many labor unions, the private sector, and the Catholic and Evangelical and other Protestant churches.

Meanwhile tens of thousands of Hondurans have marched for peace and democracy and to express support for the constitutional succession, including more than 50,000 people on July 3rd alone in Tegucigalpa.

Before concluding, here are several thoughts and hopes for the future. First, the facilitation of the mediation by President Oscar Arias is welcome, and we praise Secretary of State Hillary Clinton's endorsement of the dialogue process which should work toward a phased solution that includes fact finding. We also appreciate that the U.S. Government joined last week with other governments in the Organization of American States in advising Mr. Zelaya that it was not the right time to travel back to Honduras.

Second, I believe that the OAS did not live up to the letter and spirit of its charter in this instance. It was too quick to accuse, too soon to judge, and too eager to condemn. The OAS could have acted to prevent the situation, but, sadly, stood silent in the face of months of misconduct by Mr. Zelaya. After the constitutional succession occurred, the OAS did not engage in collaborative fact finding; and if they had done so, the burden to host the dialogue would not have fallen on President Arias.

Third, we hope that the interim government's earnest efforts to engage in the dialogue are proof enough that the restrictions on credit flows from international financial institutions should be lifted and that bilateral and multilateral cooperation in eight programs should be continued. These restrictions only exacerbate the effect of the international economic crisis on Honduras and the Honduran poor and shortchange United States-Honduran efforts to combat drug trafficking and organized crime.

Finally, the dialogue can succeed if both sides refrain from personal, emotional reactions and stick to constructive discussions about the issue. Each side can find common ground and solutions if there is a willingness to act in good faith in the higher interest of our country.

Thank you, and I will gladly take your questions.

Mr. ENGEL. Thank you.

[The prepared statement of Mr. Pérez-Cadalso follows:]

**Prepared Statement of the Hon. Guillermo Perez-Cadalso
Before the U.S. House Committee on International Affairs,
Subcommittee on the Western Hemisphere
Chairman, Eliot L. Engel
Ranking Member, Connie Mack**

July 10, 2009

Good morning, Chairman Engel, Ranking Member Mack, and the other distinguished Members of the Subcommittee. Thank you for inviting me today. I am honored to appear before this distinguished Subcommittee on such an important topic and request that this statement be submitted for the record, along with the attached excerpts of the Honduran Constitution.

My name is Guillermo Perez-Cadalso. I have spent my life in public service in one form or another, trying to help improve my country both at home and abroad. In Honduras, I have served as the Minister of Foreign Affairs, a Supreme Court Justice, a Law Professor, and the President of our National University.

Today, however, I come before you with the title of "Concerned Honduran Citizen" and not as a government representative. I have spent this week as part of an ad hoc, diverse, and united delegation that has been visiting with many Members of Congress. All together, our group includes Honduran congressmen from three of the five parties, a labor leader of the Christian-Democratic Party who is running for President of Honduras, a former Attorney General, former Ministers of Foreign Affairs, former Ambassadors from Honduras to the United States, and business leaders. In addition, former President Maduro also came and met with Members of Congress and the Administration. However, we have come to your offices not as officials but as simply concerned Honduran citizens.

It is rare when such a group can find common ground on an issue. Recent events in Honduras have made this happen. We stand united in support of a democratic, peaceful, and secure Honduras. We stand united against those forces that seek to undermine our rule of law and our civil institutions.

After our week in Washington, we believe that the facts and history about what has happened in Honduras are finally being heard. Members of both the Democratic and Republican parties have received us respectfully and have demonstrated impartiality. It is clear to us that everyone wants to see a peaceful and reasonable solution for this situation.

It has not been an easy two weeks for my country. Tragically, we feel the international community rushed to judgment before assessing all the facts and history. That is a primary reason why I am pleased to be here today -- to tell you those facts and to answer your questions.

Allow me to begin with a report of basic but critical facts and observations that have been lost or confused in the intense media coverage:

1. The military is not in charge of Honduras; the constitutional order of Honduras remains intact. Our government continues to be led by a civilian Executive Branch and a duly

elected Congress, guided by our 1982 Constitution and the rule of law. Indeed, it was the proper application of our Constitution and the rule of law that initiated the recent events in Honduras.

2. Many have confused the timing of key events. For example, Mr. Zelaya was charged with Crimes Against the Form of Government, Treason, Abuse of Authority, and Usurpation of Power, and the Supreme Court ordered him to be arrested before he was taken out of the country. Below are the key events that have brought us to today:

MR. ZELAYA ISSUES ILLEGAL EXECUTIVE ORDER

- **March 23, 2009** – Three months before Mr. Zelaya’s constitutional succession, in an effort to revoke a prohibition on the re-election of any President, Mr. Zelaya orders a referendum in support of a new Constitution.
- The Constitution states that a President’s term limit may never be amended and that any government officer supporting re-election of the President is *immediately* stripped from office by operation of law.

ATTORNEY GENERAL AND PUBLIC PROSECUTOR LAUNCH INVESTIGATION

- **March 25, 2009** – The **Attorney General** begins investigating Mr. Zelaya. The investigation focuses on the referendum’s legality.
- **May 8, 2009** – The **Attorney General** determines the referendum is illegal and petitions the **Administrative Law Tribunal** to annul Mr. Zelaya’s referendum order.
- **May 11, 2009** – The **Attorney General** publicly states that the referendum *violates the Constitution*.

ADMINISTRATIVE LAW TRIBUNAL DECLARES THREE TIMES THAT MR. ZELAYA’S ACTIONS VIOLATE THE CONSTITUTION

- **May 12, 2009** – The **Administrative Law Tribunal** issues a temporary injunction prohibiting the June 28, 2009 referendum from taking place.
- **May 27, 2009** – The **Administrative Law Tribunal** rules that the referendum *violates the Constitution* and orders suspension of all acts in its support.
- **May 28, 2009** – Mr. Zelaya continues to run television commercials advocating the June 28 referendum. In response, the **Attorney General** requests a clarification of the May 27 order.
- **May 29, 2009** – The **Administrative Law Tribunal** clarifies its May 27 ruling, explaining *any and all* acts that would lead to *any vote or poll* similar to the referendum *violate the Constitution* and orders Mr. Zelaya to obey its decision.

- **June 9, 2009** – The **Appellate Court of the Administrative Law Tribunal** unanimously rules that Mr. Zelaya’s actions *violate the Constitution*.

MR. ZELAYA FIRES MILITARY CHIEF WHO REFUSES TO VIOLATE THE CONSTITUTION

- **June 24, 2009** – Mr. Zelaya orders the Chairman of the Joint Chiefs of Staff to coordinate and carry out the logistics and security for the referendum, which was deemed to *violate the Constitution*.
- When he refuses, Mr. Zelaya announces on live television that he has fired the Chairman and accepted the Defense Secretary’s resignation.

SUPREME COURT DECLARES MR. ZELAYA’S ACTIONS VIOLATE THE CONSTITUTION

- **June 25, 2009** – The **Attorney General** files a motion with the Honduran **Supreme Court of Justice** to re-instate General Vásquez Velasquez.
- **June 25, 2009** – The **Honduran Supreme Court of Justice** unanimously rules that Mr. Zelaya’s dismissal of General Vásquez Velasquez violates the Constitution.

SUPREME ELECTION TRIBUNAL DECLARES MR. ZELAYA’S ACTIONS VIOLATE THE CONSTITUTION

- **June 25, 2009** – Three days before the presidential constitutional succession, the Honduran **Supreme Electoral Tribunal** declares the referendum *violates the Constitution* and orders the Armed Forces to take custody of the election ballots that were flown in from Venezuela.

CRIMINAL CHARGES FILED AGAINST MR. ZELAYA

- **June 25, 2009** – The **Attorney General** files a criminal complaint against Mr. Zelaya for Crimes Against the Form of Government, Treason, Abuse of Authority, and Usurpation of Power.

MR. ZELAYA DEFIES COURT ORDER, USES SECRET EXECUTIVE ORDER AND MOB RULE TO FORCE ILLEGAL REFERENDUM

- **June 26, 2009** – Mr. Zelaya makes public a *secret* executive order rescinding his original order and ordering a “national poll” on the same issue. Although this order was dated May 26, *it was not published until June 26*.
- **June 26, 2009** – Mr. Zelaya leads a mob of supporters to use force to enter a Honduran Air Force Base and seize the ballots.

SUPREME COURT ORDERS MILITARY TO ARREST MR. ZELAYA

- **June 26, 2009** – The Honduran **Supreme Court of Justice** issues an arrest warrant for Mr. Zelaya and orders the Armed Forces to arrest him, which is the proper authority vested to enforce the Constitution under the Constitution. Attached please find a copy of pertinent excerpts of the Honduran Constitution.

LEGISLATURE VOTES OVERWHELMINGLY TO REMOVE MR. ZELAYA

- **June 28, 2009** – A **Special Congressional Commission** issues a report on Mr. Zelaya's actions based on an extensive investigation. Based on this report, the Congress votes 124 out of 128 members to replace Mr. Zelaya with President Micheletti, who is the constitutionally-ordained successor to Mr. Zelaya. (Note that the Vice President had resigned six months earlier to run in the next presidential election, and thus the Speaker of the House was next in line for the presidency). Mr. Zelaya is arrested by the military, pursuant to a Supreme Court order, and then the military flies him to Costa Rica.

3. There has been a failure by many to separate the issue of Mr. Zelaya's removal from the country versus his proper removal from the President's Office in accordance with our Constitution and as a result of the very serious criminal charges against him. As just explained through the timeline, Mr. Zelaya was legally and constitutionally removed from office.

As for what the military did and why, I can only speculate. It is a fact that the military took Mr. Zelaya out of the country. This action could have been the result of a terrible dilemma. On the one hand, the military was properly ordered to arrest Mr. Zelaya by the Honduran Supreme Court to uphold the Constitution. On the other hand, the military also has the responsibility of maintaining the peace and security of the Honduran people. It is possible that they thought it would be more prudent to take him out of the country rather than hold him in custody in Honduras and risk greater civil unrest and violence. The military faced a person who had already used violence to storm an Air Force base. The only thing about which I am certain is that this is an episode that will be debated for years to come.

4. There has been a grave misunderstanding as to the extent of support for Mr. Zelaya.

There is broad institutional consensus in Honduras that Mr. Zelaya violated the law and our Constitution. The Honduran Supreme Court voted 15-0 that he broke the law. The National Congress voted 124 out of 128 that he broke the law, including every Member of Congress from his own party. The Attorney General, the Supreme Electoral Council, and the Human Rights Commissioner all agree that Mr. Zelaya broke the law.

Four out of five of the political parties—representing more than 90% of the Congress—also agree on this point, including Mr. Zelaya's own party, the Liberal Party—and so do many labor unions.

Our civil society institutions also agree that Mr. Zelaya cannot return under current conditions. The Catholic and evangelical and other protestant churches agree on this issue. The private sector also agrees, and we are mindful that the current situation is jeopardizing our trading relationships and the future of many of our strongest industries.

I would also add that there have been broad and extensive expressions of support for the new government. For example, tens of thousands of Hondurans have marched for peace and democracy and to express support for the new government. On July 3, for example, more than 50,000 people assembled in Tegucigalpa for this purpose.

Most important to all of us at this time is the path forward. Here are some thoughts on what many of us Hondurans hope for the future:

First, we welcome the facilitation of the mediation by President Oscar Arias, and we praise Secretary of State Hillary Rodham Clinton's endorsement of the dialogue process. This dialogue must be allowed to be carried out to its completion. We also appreciate that the U.S. Government joined last week with other governments in the Organization of American States in advising Mr. Zelaya that it was not the right time to travel back to Honduras.

Second, there must be two primary goals for this dialogue: (1) We want to hold our next presidential, congressional, and municipal elections, which could be moved up; and (2) We want to see the next president inaugurated according to the Constitution on January 27, 2010. To achieve these objectives, there must be a phased solution that includes fact-finding.

Third, the OAS did not live up to the letter and spirit of its charter in this instance. It was too quick to accuse, too soon to judge, and too eager to condemn. The OAS could have acted to prevent this situation, but sadly stood silent in the face of months of misconduct by Mr. Zelaya. After the constitutional succession occurred, the OAS did not engage in collaborative fact-finding, and the burden to host the dialogue need not have fallen on President Arias.

Fourth, we hope that the interim government's willingness and earnest efforts to engage in the dialogue are proof enough that the restrictions on credit flows from international financial institutions should be lifted and that bilateral and multilateral cooperation in aid programs should continue. These credit and aid restrictions only exacerbate the effect of the international economic crisis on Honduras and the Honduran poor, and short-change U.S.-Honduran efforts to combat drug trafficking and organized crime.

Finally, I am optimistic that this situation can be resolved through the dialogue. This process will be successful if both sides refrain from emotional personal reactions and stick to constructive discussions about the issues. Each side can find common ground and solutions if there is a willingness to act in good faith in the higher interest of our country. I will gladly take your questions.

THE CONSTITUTION OF THE REPUBLIC OF HONDURAS

What everyone should know...

On the Organization of the State

ARTICULO 2.- *La soberanía corresponde al pueblo del cual emanan todos los poderes del Estado que se ejercen por representación. La suplantación de la soberanía popular y la usurpación de los poderes constituidos se tipifican como delitos de traición a la Patria. La responsabilidad en estos casos es imprescriptible y podrá ser deducida de oficio o a petición de cualquier ciudadano.*

Article 2 – Sovereignty rests with the people, from who emanate all the powers of the State, and is exercised through representative [electoral] mechanisms. Supplanting the popular sovereignty and the usurping of constitutional powers are defined as crimes of *treason* against the homeland.

ARTICULO 4.- *La forma de gobierno es republicana, democrática y representativa. Se ejerce por tres poderes: Legislativo, Ejecutivo y Judicial, complementarios e independientes y sin relaciones de subordinación. La alternabilidad en el ejercicio de la Presidencia de la República es obligatoria. La infracción de esta norma constituye delito de traición a la Patria.*

Article 4 – The form of government is republican, democratic, and representative. It comprises three branches: Legislative, Executive, and Judicial, which are complementary and independent and not subordinate to one another. *Alternation of the presidency is required.* Any violation of this rule constitutes the crime of *treason* against the homeland.

ARTICULO 5.- *El gobierno debe sustentarse en el principio de la democracia participativa del cual se deriva la integración nacional, que implica participación de todos los sectores políticos en la administración pública a fin de asegurar y fortalecer el progreso de Honduras basado en la estabilidad política y en la conciliación nacional.*

Article 5 - The government must be based on the principle of participatory democracy, which is at the core of national integration and involves

participation of all political sectors in government to ensure and enhance the progress of Honduras based on political stability and national reconciliation.

On Executive Power

ARTICULO 239.- *El ciudadano que haya desempeñado la titularidad del Poder Ejecutivo no podrá ser Presidente o Designado. El que quebrante esta disposición o proponga su reforma, así como aquellos que lo apoyen directa o indirectamente, cesarán de inmediato en el desempeño de sus respectivos cargos, y quedarán inhabilitados por diez años para el ejercicio de toda función pública.*

Article 239 – The citizen who has already held Executive Power may not be President or Designee. Anyone who violates this provision or proposes its reform, and supports those who do directly or indirectly, must immediately cease the discharge of their duties, and shall be disqualified for ten years from the exercise of any public function.

On the Reform and Inviolability of the Constitution

ARTICULO 373.- *La reforma de esta Constitución podrá decretarse por el Congreso Nacional, en sesiones ordinarias, con dos tercios de votos de la totalidad de sus miembros. El decreto señalará al efecto el artículo o artículos que hayan de reformarse, debiendo ratificarse por la subsiguiente legislatura ordinaria, por igual número de votos, para que entre en vigencia.*

Article 373 – The reform of this Constitution may be ordered by Congress, in ordinary session, with two-thirds vote of all members.

ARTICULO 374.- *No podrán reformarse, en ningún caso, el artículo anterior, el presente artículo, los artículos constitucionales que se refieren a la forma de gobierno, al territorio nacional, al período presidencial, a la prohibición para ser nuevamente Presidente de la República, el ciudadano que lo haya desempeñado bajo cualquier título y el referente a quienes no pueden ser Presidentes de la República por el período subsiguiente.*

Article 374 – Neither Article 373 nor Article 374 can be changed in any case, nor may any constitutional article be changed that refers to the form of government, the national territory, the presidential term, the prohibition to

serve again as President for those citizens who have exercised that power under any title, or the prohibition against being president for subsequent periods.

ARTICULO 375.- Esta Constitución no pierde su vigencia ni deja de cumplirse por acto de fuerza o cuando fuere supuestamente derogada o modificada por cualquier otro medio y procedimiento distintos del que ella mismo dispone. En estos casos, todo ciudadano investido o no de autoridad, tiene el deber de colaborar en el mantenimiento o restablecimiento de su afectiva vigencia. Serán juzgados, según esta misma constitución y las leyes expedidas en conformidad con ella, los responsables de los hechos señalados en la primera parte del párrafo anterior, lo mismo que los principales funcionarios de los gobiernos que se organicen subsecuentemente, si no han contribuido a restablecer inmediatamente el imperio de esta Constitución y a las autoridades constituidas conforme a ella. El Congreso puede decretar con el voto de la mayoría absoluta de sus miembros, la incautación de todo o parte de los bienes de esas mismas personas y de quienes se hayan enriquecido al amparo de la suplantación de la soberanía popular o de la usurpación de los poderes públicos, para resarcir a la República de los perjuicios que se le hayan causado.

Article 375 – This Constitution shall not lose its validity or no longer be honored by an act of force or where supposedly repealed or amended by any other means other than the procedures that are proposed here. In these cases, every citizen has the duty to collaborate in the maintenance or restoration of its validity. Those will be judged, according to this constitution and the laws issued in accordance with it, who are responsible for the acts reported in the first part of the preceding paragraph, as well as leading officials of governments to organize subsequently, if they have not helped to restore immediately rule of this Constitution and the authorities constituted under it.

On the Armed Forces

ARTICULO 272.- Las Fuerzas Armadas de Honduras, son una Institución Nacional de carácter permanente, esencialmente profesional, apolítica, obediente y no deliberante. Se constituyen para defender la integridad territorial y la soberanía de la República, mantener la paz, el orden público y el imperio de la Constitución, los principios de libre sufragio y la alternabilidad en el ejercicio de la Presidencia de la República.

Article 272 – The Armed Forces of Honduras are a National Institution that is permanent, professional, apolitical, respectful of the political authorities , and non-deliberative. They exist to defend the territorial integrity and the sovereignty of the Republic, maintain the peace and public order, and the primacy of the Constitution, the principles of the universal suffrage, and alternation in the exercise of the Presidency of the Republic.

ARTICULO 277.- Las Fuerzas Armadas estarán bajo el mando directo del Jefe de la Fuerzas Armadas; por u intermedio ejercerá el Presidente de la República la función constitucional que le corresponde respecto a las mismas de acuerdo con la Ley Constitutiva de las Fuerzas Armadas.

Article 277 – The Armed Forces shall be under the direct command of the Chief of the Armed Forces in accordance with the Constitution, the Constitutive Law of the Armed Forces, and all other applicable laws.

ARTICULO 278.- Las órdenes que imparta el Presidente de la República a las Fuerzas Armadas, por intermedio del Jefe de las mismas, deberán ser acatadas y ejecutadas.

Article 278 – The orders given by the President to the Armed Forces, through the Head of same, must be respected and implemented.

On the Judiciary

ARTICULO 306.- Los órganos jurisdiccionales requerirán en caso necesario el auxilio de la Fuerza Pública para el cumplimiento de sus resoluciones; si les fuere negado o no lo hubiere disponible, lo exigirán de los ciudadanos. Quien injustificadamente se negare a dar auxilio incurrirá en responsabilidad.

Article 306 – In necessary cases, the courts may require the help of the security forces to enforce their resolutions; if they refuse or are unavailable, the courts may require the help of the citizens. Anyone who unreasonably refuses to give aid shall incur liability.

Mr. ENGEL. Ms. Olson.

**STATEMENT OF MS. JOY OLSON, EXECUTIVE DIRECTOR,
WASHINGTON OFFICE ON LATIN AMERICA**

Ms. OLSON. Thank you, Mr. Chairman, for the invitation to speak today, and I would request that my written statement be submitted for the record.

Mr. ENGEL. Without objection, so ordered.

Ms. OLSON. Thank you. I must say it has been painful to watch the conflict playing out in Honduras in the past few weeks. It is a country I love and where I spent the formative years of my professional life. I am not going to spend much time talking about the facts of what happened, as there will be a lot of that. I would like to make a couple of observations. One, it is not only the U.S. who identified this as a coup. Every country in the hemisphere has identified this as a coup. It is not something that we are standing alone on.

Second, it seems like there was plenty of violating of the law going around on all sides, and those are important issues; but, again, I think there was plenty of it happening.

Also, back to the coup issue for a second. When the military takes the President by force in his jammies to the airport and puts him on a flight out of the country, that is a coup. You know, if it walks like a duck and talks like a duck, it is a duck.

Let me also say a few things about what this situation is not. It is not about Venezuela. No matter how much President Chavez might want it to be or his opponents might want it be, it is not about Venezuela. It is also not about liking Zelaya or how popular he is. If that were the standard, former President Toledo of Peru never would have made it to the end of his term after his approval rating bottomed out at 7 percent.

While the immediate crisis is around Zelaya's return, there is more ongoing political crisis in Honduras. It is a crisis in the party system. Many poor people don't bother to vote, viewing the choice between parties as meaningless. The last 20 years of democratic transitions have done little to address the political and economic marginalization experienced by the majority of Hondurans.

I would like to say a few things about the administration's handling of this situation. I think that it was good. It was swift to condemn the coup. The decision to use the OAS in its diplomatic efforts to address the conflict was a welcome change from our historic interventions in Latin America which are well remembered in the region. The administration had talked about changing the U.S. Government's modus operandi and working through multilateral institutions, and in this case I think they walked the walk.

That said, the days following the coup were riddled with mixed messages from the State Department about whether a coup had actually occurred. I am not sure that the State Department lawyers have yet made this determination.

The issue seems to have been that the administration wanted to use aid as a leverage to get the two sides to the table, a noble goal; but the law is clear that U.S. aid to a government must be suspended if there is a coup. If the military sending a President into exile in his pajamas doesn't qualify as a coup then what does?

I want to just leave you with one quote from the State Department press briefing. I was following them the past 2 weeks and their responses about this issue and section 7008, the coup language in the Foreign Operations Appropriations Act, their statements were incredibly convoluted.

On the 6th of this month the press spokesman at the State Department had this to say: "We are suspending, as a policy matter, assistance programs we would be legally required to terminate if the events in Honduras are found to have triggered section 7008."

As Congress moves forward to rewrite the Foreign Assistance Act, I would suggest that you consider further clarifying section 7008, the coup clause, defining what should be suspended, and the process by which the suspension is determined. I would also suggest making it clear that military assistance provided through the Defense Department and not only through the Foreign Assistance Act should be suspended as well. Being wishy-washy about applying 7008 for well over a week after the coup I think sets a bad precedent.

On the role of the OAS, generally throwing stones at the OAS is fairly easy sport, but this is the kind of situation that makes clear the need for the OAS. In the immediate aftermath of the coup, no other body could have dealt with this crisis. A unilateral intervention on the part of the United States or, say, Venezuela, would have been disastrous. The fact that governments of all political stripes were unified in their condemnation of the coup and the suspension of Honduras from the OAS did two things. It made clear that no matter how many people dislike the President, coups are no longer accepted in the region. And it also helped push this crisis toward mediation.

Another critical role the OAS played in the last week was in monitoring human rights. The Inter-American Commission on Human Rights followed up on reports of violence, compiled detailed lists of individuals at risk or missing, and monitored restrictions on freedom of the press and association. In conclusion, there is a mediation process now in place. And I think we should all be supportive of President Arias as this process moves forward. There can be opportunity in crisis. The question is will the end result of the mediation be a limping along of democracy until the next election or some real introspection on both sides about the more fundamental crisis of Honduran democracy and the existing political parties. Thank you.

[The prepared statement of Ms. Olson follows:]

Testimony of Joy Olson
Executive Director
Washington Office on Latin America (WOLA)

July 10, 2009

before the
House Committee on Foreign Affairs,
Subcommittee on the Western Hemisphere

My name is Joy Olson. I'm the Executive Director of the Washington Office on Latin America (WOLA). WOLA has a long history of working with civil society partners in Honduras, and I spent two formative years early in my career living there and working in community development. You have asked me to comment on the recent coup in Honduras, the U.S. response, the mediation efforts now underway, and the role of the Organization of American States (OAS).

What Happened?

On June 28th there was a coup. The Honduran military forcibly removed democratically-elected President José Manuel "Mel" Zelaya, by gunpoint from the presidential palace, and put him on a plane to Costa Rica.

The immediate cause of the coup has to do with the ousted president's efforts to advance a process to create a new constitution. Several months ago, President Zelaya began to talk about a "consultation" or non-binding referendum on installing an additional ballot box in this November's federal elections where the population would vote on whether or not to establish a National Constituent Assembly to reform the constitution. This "consultation" was to take place on June 28.

Opponents of President Zelaya, however, argued that he wanted a constituent assembly to rewrite the electoral laws, allowing him to run for another term in office. It is important to point out that there is no concrete proof that this was his intent, much less any guarantee that an assembly, if called, would include a clause on presidential re-election in a new constitution. Even if the non-binding referendum had been approved, and a second vote in November called for a constituent assembly, any potential reform of the constitution would have happened well after President Zelaya had already left office.

Despite, or because of, the president's silence about the content of the constitutional reform he was seeking, political positions began to polarize. President Zelaya's own political party allied with its traditional opponents in the

Congress to oppose the initiative. They alleged that President Zelaya's goal for the referendum was to permit him to return to power. The coup itself in part reflects the weakness of Honduran democracy and the inability of the state to manage political disagreements between the three branches of government.

As the date for the "consultation" approached, political leaders in the Congress grew increasingly nervous about the upcoming vote. In the days before the coup, the Congress sought to halt the "consultation" and the Supreme Court ruled it unconstitutional. President Zelaya did not back down, and ordered the military to organize and conduct the vote. When military leaders refused, citing the Supreme Court decision, President Zelaya fired the senior commander and the Defense Minister in accordance with the powers granted to the president in the constitution. The Honduran Attorney General granted an appeal to reinstate the Minister; tensions continued to rise and coup rumors to circulate.

Accompanied by some popular movement leaders, President Zelaya personally seized the ballot boxes that were stored at a military base, and announced plans to move ahead with the vote. On the evening of June 27, rumors circulated claiming President Zelaya planned to consider the vote binding and use it as a mandate for calling a constituent assembly.

While there is no clear impeachment process in Honduras, there are legal mechanisms in place to remove a public official from power. It is indisputable that due process was not followed in Zelaya's case. Any legal accusations against President Zelaya should have been heard in Honduran courts. There was no reason to remove him from the country instead of presenting President Zelaya before judicial authorities.

When all was said and done, many of the actors in the play seem to have overstepped their legal authorities. In this story, there are no heroes of democracy.

The Coup in the Broader Context

The coup must be understood in the context of a broader political crisis in Honduras. Historically and even since the transition to formal democracy in the 1980s, the political and economic systems of Honduras have been profoundly unresponsive to the needs and aspirations of the poor.

Honduras is one of the poorest countries in the Western Hemisphere, along with Bolivia, Nicaragua, and Haiti. According to the 2007/2008 UNDP Human Development Report, 50.7 percent of Hondurans live below the poverty line. As with many of its neighbors, Honduras also has high levels of economic inequality, with the poorest 10 percent of the population accounting for only 1.2

percent of the country's income, while the richest 10 percent accounting for 42.4 percent.¹

Along with its extreme poverty, Honduras is characterized as a country where the political parties are not known for their policy differences and for rampant government corruption. Nearly 60 percent of the electorate does not vote in elections because they view the choices between the political parties as meaningless. And, as recently as 2008, Honduras failed the corruption indicator of the Millennium Challenge Corporation, a requirement for continued funding. Simply put, over 20 years of "democratic" transitions in the country have done little to address the political and economic marginalization experienced by the majority of the population.

While President Zelaya did not originally distinguish himself as an economic or political radical, he did become more populist towards the end of his term. He developed modest but real new domestic initiatives, including dramatically raising the minimum wage which infuriated the business community. And he began to collaborate with the foreign policy initiatives of the Bolivarian Alternative for the Americas (ALBA), the Venezuelan-led political alliance. In March 2008, the Honduran Congress approved a contract signed by President Zelaya and Petrocaribe to receive discounted oil, similar to communities in the United States. Consequently, his populist rhetoric and programs won him a degree of domestic political support from typically excluded sectors, peasant organizations and some trade unions.

President Zelaya also gained support of marginalized sectors and popular organizations for the "consultation" scheduled to take place on June 28, the day the coup was carried out. Indeed, some social leaders and members of civil society didn't necessarily support Zelaya, but supported the idea of implementing significant reforms to the Honduran political system in order to make it more open and participatory. The possibility of a constitutional reform offered the possibility of real change in a country marred by longstanding poverty and inequality.

While President Zelaya's populist rhetoric and programs won him some popular support, it infuriated others, especially the dominant economic and political forces. The political class turned away from President Zelaya and he lost the support of his own political party in the Congress. The stage was set for a clash between the branches of government, a clash that escalated with mistakes and overreaching on all sides, little appetite for compromise, and weak and contradictory institutional mechanisms for arbitrating the conflict.

¹ *UNDP Human Development Report 2007/2008*, "Fighting Climate Change: Human Solidarity in a Divided World," http://hdr.undp.org/en/media/HDR_20072008_EN_Complete.pdf

Regional Trends of Constitutional Change

The committee asked that I address the crisis in Honduras within the context of broader regional trends in constitutional change.

Part of the Honduran crisis is based on the fear that President Zelaya would open the constitution to modification allowing his re-election. Some justified the coup as preventing the subversion of democracy under the guise of constitutional reform. It is important to remember that Honduras was three steps away from making any changes to its constitution and President Zelaya would have been out of office by the time they got around to it.

Other South American countries have had referendums and constituent assemblies to reform their constitutions, namely Venezuela (1998-1999), Bolivia (2007-2008) and Ecuador (2007-2008). Critics have considered these to be essentially anti-democratic power grabs. However, the depiction of these processes as anti-democratic is just wrong. In each case, the reforms came about as the result of broad-based social demands. The constitutional reform processes and outcomes in these countries, whether we like them or not, were expressions of democratic self-determination, not the subversion of democracy.

This is not to say that the new constitutions are flawless, or that their governments are paragons of accountable, democratic governance. But equating constitutional reform with the undermining of democracy is nonsense. In fact, results of the respected *Latinobarómetro* annual surveys suggest that among Venezuelans, Bolivians and Ecuadorians, "satisfaction with democracy" in their own countries increased after reform processes were launched.²

The Obama Administration's Response

The Good: The Obama Administration was swift to condemn the coup in Honduras and to call for President Zelaya's return to power. The U.S. government's decision to use the OAS in its diplomatic attempts to resolve the conflict in Honduras was also a welcome change from the history of U.S. interventions in Central America. In the days following the coup, President Obama spoke against "outside interference" and for the respect of national sovereignty.

The Administration has also talked about changing the U.S. government's modus operandi by working through multilateral institutions. The region was

² In each country, the survey shows that satisfaction with democracy was typically lower than the Latin America-wide average in the several years prior to constitutional reforms, after which satisfaction with democracy rose significantly and has typically been higher than or on par with the regional average.

watching to see how the Obama Administration would handle this crisis. In this case, they walked the walk - both in the days after the coup and by backing Costa Rican President Oscar Arias in the role of mediator. We applaud the Administration in this regard. The situation has de-escalated and the two sides are talking.

The Bad: Nonetheless, the days following the coup were riddled with mixed messages from the Administration about whether a "coup" really occurred. The execution of a coup in any country triggers a suspension of U.S. assistance under Section 7008 of PL 111-8, the Omnibus Appropriations Act of 2009, which states:

"None of the funds appropriated or otherwise made available pursuant to titles III through VI of this Act shall be obligated or expended to finance directly any assistance to the government of any country whose duly elected head of government is deposed by military coup or decree:..."

It seems that the Administration wanted to use aid as leverage to push the two sides to the table – a noble goal, but the law is clear. Aid to a government must be suspended if there is a coup. If the military sending a President into exile in his pajamas doesn't qualify as a coup, what does?

Here are a few quotes about aid and the coup from recent State Department press conferences.

6/29 Sec. Clinton, "... we do think that this has evolved into a coup....., we are withholding any formal legal determination."

6/30 Mr. Kelley, "We need to have our legal experts look at the law, look at the facts on the ground and make a determination."

7/2 Mr. Kelley, "We are trying to determine if Section 7008 of the Foreign Assistance Act must be applied. In the meantime, we've taken actions to hit the pause button, let's say, on assistance programs that we would be legally required to terminate if it is determined...."

7/6 "We are suspending, as a policy matter, assistance programs we would be legally required to terminate if the events in Honduras are found to have triggered section 7008."

The Administration was sending very mixed messages about whether or not they thought this was a coup. These messages could be interpreted as tolerance of the coup.

As Congress moves to rewrite the Foreign Assistance Act, I would suggest that you consider further clarifying Section 7008, what should be

suspended and the process by which the suspension is determined. I would also suggest making it clear that military assistance provided through the Department of Defense should be suspended by law as well.

Being wishy-washy about applying 7008 for well over a week after the coup sets a bad precedent for others.

The Role of the Organization of American States

This is the kind of situation that makes clear the need for the OAS. No other country or regional group is equipped to deal with this kind of crisis. A unilateral intervention on the part of the United States or countries such as Venezuela would have dramatically heightened tensions. It cannot be stressed enough how important it is that the U.S. government worked within the OAS. The fact that governments of all political stripes were unified in their condemnation of the coup and the suspension of Honduras from the OAS did two things. It made clear that no matter how many people dislike a president, coups are no longer accepted in this region. Furthermore, it helped push this crisis toward mediation.

Another critical role the OAS played in the last week was to monitor the situation of human rights in the country. The Inter-American Commission on Human Rights, the body within the OAS mandated to protect human rights in the hemisphere, was one of few actors diligently following the aftermath of the coup. The IACHR followed up on reports of violence against Zelaya supporters, compiled detailed lists of individuals at risk or missing, monitored restrictions on freedom of speech and association and consistently pressed the de facto Honduran regime to respect civil and human rights.

It is fairly easy to find fault and wish for more from multilateral institutions such as the OAS. That is certainly the case in this crisis as well, and there are no doubt lessons to be learned to improve the efficacy of the institution. But we should also remember that, as unsatisfying and messy as such multilateral diplomacy can be, it is still better than the alternatives. Some have asked why the OAS, with its Democratic Charter, didn't get involved in the situation well before coup when there were clear violations of the separation of powers. But the rules of the OAS only allow it to become involved once requested to do so by the member government affected. For good reasons, participating countries are reticent to intervene in disputes over constitutional interpretations and the separation of powers in another country. This is a real challenge for the international community, with no neat solutions: how to mediate so as to prevent conflicts from flaring into full-blown crises, yet avoid taking sides and infringing on local democratic self-determination in situations that arouse intense political passions.

Conclusion

There is now a mediation process in place to seek a resolution in the dispute between President Zelaya and the de facto government in Honduras. All should be supportive of President Arias as this process moves forward.

There can be opportunity in crisis. The question is, Will the end result of the mediation be a limping along of democracy until the next election, or some real introspection on both sides about the more fundamental crisis of Honduran democracy and existing political parties?

Mr. ENGEL. Thank you.
Dr. Arnson.

**STATEMENT OF CYNTHIA ARNSON, PH.D., DIRECTOR OF THE
LATIN AMERICA PROGRAM, WOODROW WILSON INTER-
NATIONAL CENTER FOR SCHOLARS**

Ms. ARNSON. Thank you very much, Mr. Chairman, for this invitation. I would also like to ask that my remarks be submitted for the record. I would like to say—

Mr. ENGEL. Without objection, so ordered.

Ms. ARNSON. Thank you—that I welcome the subcommittee's focus on Central America, a continuation of the historic role that this subcommittee played during the Central American wars in the 1980s and their subsequent resolution in the 1990s.

As the opening statements demonstrated, mostly by the members of the subcommittee as well as by members of this panel, every crisis and every conflict reflects deeply contrasting narratives regarding relevant facts. What I will attempt to do in the short time that I have is not so much to rehash those facts, but perhaps to provide a broader context for understanding these disparate realities.

The crisis of governance reflected in the coup against President Zelaya has both proximate and deeper antecedents. The proximate cause, as we have heard several times this morning, was Zelaya's insistence on a national referendum that the Honduran Congress as well as the Supreme Court considered illegal and unconstitutional. The end game of that referendum would have been to permit changing the Constitution for Zelaya to extend his term and eventually, one supposes, to convene a constituent assembly to draft a new Constitution.

Should these changes have taken place, Honduras would indeed have embarked on a path similar to those taken in Venezuela, Bolivia, Ecuador, and to a lesser extent, or earlier, in Nicaragua, where elected Presidents have spearheaded processes of constitutional reform that erode checks and balances, strengthen the power of the executive branch, and create alternative participatory mechanisms for the exercise of so-called popular democracy.

Quite apart from the immediate sequence of events, the Honduran crisis has deeper roots. They can be found precisely in the weaknesses and limitations that make the populist temptation in Latin America not only attractive but also feasible. The weakness of the Honduran democratic institutions; the inadequacy of mechanisms of representation, and the failure of Honduras's economic growth and international insertion in the last several years to overcome the country's endemic poverty and inequality.

The coup and the military's role in throwing Zelaya out of the country reflect the Honduran political system's inherent weakness and the absence of mechanisms and a legal framework to resolve political conflict through political means. Overcoming this basic crisis of governance must be an essential feature of any long-term and enduring solution to the current and highly unstable impasse.

The acceptance of President Oscar Arias as a mediator in the crisis is extremely positive, even though the events of the last few days have shown that this will not be an easy mediation. President Arias has broad credibility in the region as well as world-recog-

nized experience in brokering peace. It is worth mentioning and underscoring that the Central American Peace Plan that he devised in the 1980s linked the end of civil war to internal democratic reforms as an essential ingredient of peace.

The Obama administration, I believe, has acted appropriately and even admirably in response to the crisis. They have honored their commitments at the Summit of the Americas to work in partnership and seek multilateral solutions to regional problems. The support for the efforts of the OAS and now for President Arias reflect an understanding of the value of partnership over unilateralism.

I also believe that the Obama administration has been appropriately restrained and prudent with respect to the elimination of U.S. economic aid in response to the coup. The example of Haiti should stand as a sober reminder of the consequences that harsh economic sanctions against a desperately poor country can have.

I would like to conclude by saying that the Honduran crisis should serve as a wake-up call, to the extent that it might still be needed, that despite huge advances in electoral democracy in Latin America over the last two decades, the quality of democracy and the scope of social inclusion remain deeply flawed and at times fundamentally compromised.

Supporting the capacity of democratic institutions and fostering strategies for inclusionary growth remain the central challenges, even more urgent at a time of economic hardship and reversal. Thank you.

[The prepared statement of Ms. Arnson follows:]

**Statement of Cynthia J. Arnson
Director, Latin American Program
Woodrow Wilson International Center for Scholars
before the
House Committee on Foreign Affairs
Subcommittee on the Western Hemisphere**

**The Crisis in Honduras
July 10, 2009**

Mr. Chairman and Members of the Subcommittee:

I am pleased to provide this statement concerning the current political crisis in Honduras, the international response thus far, and the appropriate U.S. policy response. I welcome the Subcommittee's focus on Central America, a continuation of the historic role it played during the Central American wars of the 1980s in El Salvador, Nicaragua, and Guatemala, and their subsequent resolution in the 1990s. Honduras was a sideshow during those earlier decades, understood primarily as a staging ground for the Contra war against Nicaragua, rather than in terms of its own politics, economics, or the aspirations of its people.

Quite apart from the immediate crisis in Honduras, the Central American region as a whole faces numerous and daunting challenges. Countries of the region have made significant advances in political democratization, including respect for human rights and fundamental liberties, since the end of insurgency/counterinsurgency wars. But current trends threaten to undermine that progress. The global economic recession has reduced demand for the region's exports. The close ties to the U.S. economy as a result of the Central American Free Trade Agreement have brought many benefits, but have also heightened the region's vulnerability to recession in the United States. Remittances, a key source of foreign exchange and an economic lifeline for hundreds of thousands of poor families, have also declined sharply. The global increase in food and energy prices in 2007-08 took an especially heavy toll on the poor. In El Salvador, Guatemala, and Honduras in particular, transnational gangs threaten citizen security, and government measures to address gang violence have not served to enhance the rule of law. Transnational organized crime linked to drug trafficking is a growing threat, and the Central American dimension of Mexico's exploding drug violence has received insufficient attention in the United States and elsewhere. Organized crime has a vast capacity to penetrate and corrupt democratic institutions that have had little time to consolidate in the aftermath of civil war.

Against this complex and disheartening regional backdrop, the crisis of governance reflected in the coup against elected President Manuel Zelaya and his replacement by a de facto government headed by Robert Micheletti has both proximate and deeper antecedents. The proximate cause was Zelaya's insistence on a national referendum that the Honduran Congress as well as Supreme Court considered unconstitutional. The end game of that referendum would have been to permit changing the constitution to allow

Zelaya to run for a second term, and, apparently, to eventually convene a Constituent Assembly to draft a new constitution. Should these changes have taken place, Honduras would, indeed, have embarked on a path similar to that in Venezuela, Bolivia, Ecuador, and, to a lesser extent in Nicaragua, where elected presidents have spearheaded processes of constitutional reform that erode checks and balances, strengthen the power of the executive branch, and create alternative participatory mechanisms for the exercise of so-called “popular” democracy.

Quite apart from the immediate sequence of events that triggered the Honduran crisis, its deeper roots can be found precisely in the weaknesses and limitations that make the populist temptation in Latin America not only attractive but feasible: the weakness of Honduran democratic institutions, including its political party and judicial systems, the inadequacy of mechanisms of representation, and the failure of Honduras’ economic growth and greater insertion into the international economy to overcome the country’s endemic poverty and inequality. In Honduras as well as in other Latin American countries, weak institutions combined with various forms of political, economic, and social exclusion have provided the backdrop for the rise of new forms of populist leadership and governance. The growing friendship between President Zelaya and Venezuelan President Hugo Chávez—cemented by if not based on generous oil subsidies—and the Zelaya government’s decision to join the Chávez-sponsored Bolivarian Alternative for the Americas (ALBA) were certainly factors contributing to greater polarization in Honduras. As political elites expressed fears about the country’s direction, Zelaya himself reached out to popular sectors to consolidate his support base. The coup and the military’s role in throwing Zelaya out of the country reflect the Honduran political system’s inherent weakness and the absence of mechanisms and a legal framework to resolve political conflict through political means. Overcoming this basic crisis of governance must be an essential feature of any long-term, enduring solution to the current and highly unstable impasse.

International organizations—led by the Organization of American States—as well as numerous governments, including the United States, have rightly condemned the military’s removal of an elected president from office and called for Zelaya’s reinstatement. Latin American nations which have been timid in condemning democratic reversals short out outright coups have been unanimous in invoking the Inter-American Democratic Charter and other basic documents of the inter-American system as the basis for demanding Zelaya’s return to power. Despite intense diplomatic efforts, the Organization of American States, under the leadership of Secretary-General José Miguel Insulza, has not been able thus far to broker a political compromise that would permit Zelaya’s return to office. The acceptance of President Óscar Arias of Costa Rica as a mediator in the crisis is extremely positive, even though the first efforts to get the two sides together have been frustrated. President Arias has broad credibility in the region as well as world-recognized experience in brokering peace. It is notable that the Central American peace plan he devised in the 1980s linked the end of civil war to internal democratic reforms as an essential ingredient of peace.

The Obama administration has thus far handled the crisis in admirable fashion. U.S. officials have honored the commitment made to Latin American governments at the Fifth Summit of the Americas last April, to work collaboratively with regional leaders in the search for multilateral solutions to regional problems. President Obama joined other Latin American countries in condemning Zelaya's ouster (stopping short of calling it a coup) and has suspended U.S. military aid to the Honduran armed forces. The support for the efforts of the OAS, and now for President Arias, reflect an understanding of the value of partnership over unilateralism. I also believe that the Obama administration has been appropriately restrained and prudent with respect to the elimination of U.S. economic aid in response to the coup. The example of Haiti should stand as a sober reminder that harsh economic sanctions against a desperately poor country can be counter-productive and have disastrous effects over the medium- and long-term.

Harder questions for U.S. policy will inevitably arise should violence in Honduras increase and the mediation undertaken by President Arias reach an impasse or break down altogether. The United States, in partnership with countries throughout Latin America, should urge restraint and compromise on the part of all parties to the conflict and avoid taking actions that inflame passions on either side. Just as it is difficult to envision a solution that does not entail President Zelaya's return to power, it is hard to imagine his return in circumstances that will simply revert to the status quo ante. Should a compromise be reached—and especially if the date for Honduran elections now scheduled for late November of this year be advanced—the United States and other members of the international community should provide all necessary resources before, during, and after the elections to guarantee that they take place in an atmosphere free of threat to the peaceful exercise of democratic rights. Long-term accompaniment, similar to the UN and OAS missions that accompanied peace processes in El Salvador, Guatemala, and Nicaragua, should not be ruled out.

Ultimately, the Honduran crisis should serve as a wake-up call—to the extent that it is still needed—that despite huge advances in electoral democracy throughout Latin America over the last two decades, the quality of democracy and the scope of social inclusion remain deeply flawed and at times, fundamentally compromised. Supporting the capacity of democratic institutions and fostering strategies for inclusionary growth remain the central challenges, even more urgent in a time of economic hardship and reversal.

Mr. ENGEL. Thank you.
Mr. Davis.

**STATEMENT OF MR. LANNY J. DAVIS, PARTNER, ORRICK,
HERRINGTON & SUTCLIFFE LLP (REPRESENTS THE HON-
DURAS CHAPTER OF THE LATIN AMERICAN BUSINESS
COUNCIL)**

Mr. DAVIS. Thank you, Mr. Chairman and Ranking Member Mack.

I would like to first say that it is a pleasure to be here in the presence of friends on both sides of the aisle.

I see Congressman Delahunt, who I knew before his hair was gray, and is a great public servant.

And I see Congressman Dan Burton, who at some point in my past career, I was at times an adversary, but always friendly, always civil.

And of course, my friend Chris Smith, who I consider a very close personal friend.

And Chairman Engel and I happen to also be close personal friends.

And the reason I wanted to start out that way is that this issue calls for bipartisanship, calls for civility, and calls for dialogue. And I represent a client, so I am not speaking for myself. There were days when Dan Burton and I debated on television where I was speaking for myself. But I am speaking on behalf of the Honduran chapter of the Business Council of Latin America, called CEAL, C-E-A-L.

And like Justice Pérez, I am here to talk about solutions, as our great President reminds us, looking forward rather than looking backward. And I believe Chairman Engel and Ranking Member Mack have essential agreement on two things. One is Mr. Zelaya violated the law. There is no doubt. Facts are facts. With all due respect to my co-panelist, Ms. Olson, no, there wasn't a lot of law-breaking going on. The Supreme Court voted 15 to zero that Mr. Zelaya broke the law. That included eight members of his political party elected justices. The Congress 124 to 4, including all the members of his political party, voted that he violated the law. His own attorney general, the human rights commissioner, that is as independent of the government as the GAO is, has supported the finding that he had to be removed from office because he violated the Constitution with a self-executing clause that says, if you try to extend your term, you are automatically removed from the presidency.

Now, having said that, my clients believe that looking back with the wisdom of hindsight, it could have been done differently that night that the army decided to whisk him out of the country. And I am not afraid to say that, with the wisdom of hindsight, it probably should have been done differently. As long as those of you, and I know Congressman Delahunt shares that view, are also willing to share the distaste for a President that regarded himself as above the law and every institution in Honduran society, from the church to civil organizations, to business organizations, to the liberal party, to the national party, to the Supreme Court and the

Congress, every institution found this President as putting himself above the law.

If both facts are stated by my friends on the Democratic side, where I am affiliated, and my friends on the Republican side, we can then look forward, as President Obama and Secretary Clinton want us to do, and not argue about past history. So now let's look forward together.

Secretary of State Clinton did a great service in turning to President Arias, a Nobel Prize winner, and saying, "Let's have dialogue and let's find a solution, one that is going to take time," that doesn't involve immediately parachuting Mr. Zelaya back into Honduras; one that recognizes that there is a compromise necessary on all sides. And my client favors such a compromise. And that is about dialogue.

And finally, whatever the solution, it cannot be imposed by the OAS, the United States, by my friends who are Democrats or my friends who are Republicans. It has to be a Honduran solution. Right now every institution in Honduras and every public opinion poll taken supports this civilian government—there is no military running this government—supports this civilian government, but also wants a peaceful solution. But it has got to be a Honduran solution between the leaders of Honduras as well as Mr. Zelaya. And under the auspices of President Arias and Secretary of State Clinton, I can see no better way than dialogue and ultimately a peaceful solution.

Thank you, Mr. Chairman.

[The prepared statement of Mr. Davis follows:]

Testimony of Lanny J. Davis

Attorney for Consejo Empresarial de America Latina, Capitulo Honduras

July 10, 2009

House Committee on Foreign Affairs, Subcommittee on the Western Hemisphere

Thank you Chairman Engel, Ranking Member Mack, and members of the Committee. I am here today speaking on behalf of my clients, the members of the Honduran Chapter of the Business Council of Latin America (CEAL), to provide you with their perspective on the situation in Honduras. Like former justice Perez, my clients came here this week to talk about Honduran democracy, not about Venezuela or Nicaragua.

The Honduran business community has three messages that they wish to communicate to the members of this Committee and the United States government as a whole:

- First, my clients are businessmen and do not have expertise on legal and constitutional issues, which the courts and the duly elected representatives of the people of Honduras must ultimately decide. However, the members of CEAL strongly believe that any analysis of the events of the past weeks must be viewed through the prism of the rule of law and the facts of Mr. Zelaya's actions. Honduras has made steady progress in strengthening its democracy over the past 27 years, and in order to continue this progress the rule of law must be followed. They believe that no one is above the law – including the President – under the Honduran Constitution, just as no one is above the law under the U. S. Constitution.

- Second, CEAL believes that the most productive thing Honduras and the international community can do at this point is to stop looking backwards to the question of Mr. Zelaya's removal, but instead to look forward to a solution that protects Honduran democracy. My clients believe the best chance for a solution is the dialog between Mr. Zelaya and President Micheletti, mediated by President Arias, that is now ongoing in Costa Rica. As you know, Secretary Clinton has endorsed this dialog. My clients thank Secretary Clinton for her support and believe that the best thing that Congress can do for the Honduran people is to provide its full support for this dialog.
- Finally, CEAL would like to emphasize that it does not have a position on what the outcome of the dialog between Mr. Zelaya and President Michelletti should be, so long as the outcome is a Honduran solution to the current situation that safeguards Honduras's constitutional democracy, Honduran sovereignty, and the safety of the Honduran people. No one wants bloodshed and nobody should be inciting violence. The talks with President Arias are the best hope for a Honduran solution and that is why my clients support these talks and hope Congress will do the same. In the long term, the ultimate solution, which my clients wholeheartedly support, are free, fair, and democratic elections leading to the inauguration of a new President in January in accordance with the Constitution. There has been some discussion in Honduras that the elections may be moved up to an earlier date than the date in November that they are scheduled for, and

CEAL would welcome such a move. The sooner Honduras is able to show the world that their democracy is alive, and indeed thriving, the better.

Thank you again Chairman Engel, Ranking Member Mack, and members of the Committee, I hope I can help answer any questions you might have.

Mr. ENGEL. Thank you very much.
Ms. Stephens.

**STATEMENT OF MS. SARAH STEPHENS, EXECUTIVE
DIRECTOR, CENTER FOR DEMOCRACY IN THE AMERICAS**

Ms. STEPHENS. Does that work okay?

Mr. ENGEL. Yes. You can pull it closer, if that might be easier for you. Whatever is easier for you.

Ms. STEPHENS. Thank you, Chairman Engel, Ranking Member Mack, and members of the subcommittee for holding this hearing on the crisis in Honduras today.

I would like to begin by simply expressing my sympathies to the people of Honduras for the violence and political turmoil they have experienced since June 28th. It is understandable and perhaps inevitable that their crisis has triggered a larger debate about policy and politics, democracy and diplomacy.

But neither their humanity nor their dignity should be forgotten as we discuss the implications of the coup for all of us inside and outside of Honduras. In fact, their interests and ours are in alignment. In that context, let me make three basic points.

First, I believe that the goal of our policy and our diplomacy should be resolving this crisis in a manner that restores the constitutional order to Honduras and returns President Zelaya to office.

Second, we need to stand with the region in saying loudly and clearly that military coups cannot be regarded ever again as acceptable alternatives to democracy.

Third, we need to understand that there is a principled debate occurring in the Americas about democratic institutions and the Constitutions which protect them. At times, some nations will make choices through democratic means that may disturb and discomfort us deeply. But our long-term interests in democracy and stability in the Western Hemisphere can only be vindicated if by our words and actions we are seen as respecting, rather than undermining, their sovereignty and their decisions.

While we may disagree about some of these issues, I would hope that we could speak with one voice on whether it was appropriate for military force to be used against the presidency of Mel Zelaya. After all, the top legal adviser for the Honduran armed forces told the Miami Herald, "we know there was a crime there." And I would say, "so do we."

Similarly, Edmundo Orellana, a congressman who served as Mr. Zelaya's defense minister and resigned from his position just days before the coup because he believed Mr. Zelaya was breaking the law, wrote Congress this week that President Zelaya's ouster was illegal, and that he would refuse to take his legislative seat until Mr. Zelaya was reinstated.

This drives home the most important theme of the recent events in Honduras. Regardless of ideology or one's opinion of President Zelaya's behavior prior to the coup, can't we say this with clarity? Coups are wrong. They are undemocratic, and they taint the hands of everyone who touches them. When violence becomes a substitute for politics, everything falls apart.

That has been the sad story in many places across Latin America, and that is why so many people in the region are as proud as they are today for having tried to put that history behind them. As President Lula said recently, what we have achieved in these years was in truth the result of the deaths of many people, many young people who decided to take up arms to bring down authoritarian regimes in Chile, Argentina, Uruguay, Brazil, and almost all countries. They died, and we are doing what they dreamed of doing, and we have won this by democratic means.

None of us want to see that progress rolled back, which is why being clear about why this coup is unacceptable is so important to the region and to our national interest. Against this backdrop, it is extremely important that President Obama has taken the position from the inception of this crisis that reversing the coup and returning President Zelaya to his nation and to his office were political and diplomatic priorities for the United States.

As he said just 3 days ago during his trip to Russia, America cannot and should not seek to impose any system of government on any other country. Even as we meet here today, America supports now the restoration of the Democratically-elected President of Honduras, even though he has strongly opposed American policies.

Against the expectations of some in the region, the United States has reacted with prudence to these events, and that strengthens us and our long-term interests in the Western Hemisphere. The crisis in Honduras came at a particularly crucial moment. There are debates taking place in Latin America about the role of the state and what democracy should do when their institutions fail to deliver what their people need and want.

This is hardly a new phenomenon. Governments of all ideological stripes have rewritten their Constitutions in Latin America for decades, for centuries. This is not a question, as some would have it, simply of left versus right. Colombia is discussing right now whether President Uribe will have the chance to run for a third term. Nor is it only a debate about centralizing power in the executive. Nations do this to improve governance, to end exclusion, and to open opportunity.

As Jennifer McCoy of the Carter Center pondered recently, does democracy allow for its own renewal living within the rules of the game? There are real and legitimate questions about when that does get out of hand, but we have to be very careful, in light of the region's history and ours, about how and when we ask those questions. These are serious issues, and we place a lot at risk if we treat them lightly.

We should support democracy in places like Honduras, not only when we like the choices the people are making but also when they use elections rather than violence to make those choices for themselves, even when we disagree with the outcome. We share a common border with this region and confront a common set of problems. Diseases, criminality and security, environmental challenges and proliferation, none can be solved without us being good partners, not by imposing, but by listening and operating multilaterally.

If we identify with their democratic aspirations, our country will be much more successful in the region moving forward. It is that

interest and those concerns which I believe are at stake for us in the crisis in Honduras today.

Thank you.

[The prepared statement of Ms. Stephens was not received until after the hearing. It appears in the Appendix.]

Mr. ENGEL. Thank you very much.

Mr. Reich.

**STATEMENT OF THE HONORABLE OTTO J. REICH, PRESIDENT,
OTTO REICH ASSOCIATES, LLC (FORMER ASSISTANT SEC-
RETARY OF STATE FOR WESTERN HEMISPHERE AFFAIRS)**

Mr. REICH. Thank you, Mr. Chairman, and members of the committee. I appreciate again this opportunity to speak with you, and I would like to submit my complete remarks for the record.

Mr. ENGEL. Without objection, so ordered.

Mr. REICH. The current battle for political control of Honduras is not only about that small nation. What happens in Honduras may one day be seen as either the high water mark of Hugo Chavez's attempt to undermine democracy in this hemisphere, or as a green light to the continued spread of Chavista authoritarianism under the guise of democracy.

The removal of President Zelaya from office 2 weeks ago referred to, mainly outside of Honduras, as an attack on democracy. In contrast, prominent Honduran journalists and scholars, who are not members of the government, describe it in the exact opposite fashion, as the legal and defensible measures of two co-equal branches of the Honduran Government against the autocratic intent of the executive.

Many Hondurans insist that these actions saved democracy by preventing Zelaya from establishing the kind of 21st century socialism that is being established in countries of Latin America under something called the ALBA, an alliance invented by Castro and financed by Chavez. We must find a bipartisan way to defend the true democrats in Honduras. I respectfully suggest to this Congress that one way to do so may be to ask the elected representatives of the people of Honduras, their Congress, why they voted, I had 125 to 3, but it turns out that I hear now it is 124 to possibly 4, for the removal of Zelaya.

Either way, the equivalent of that vote in this House of Representatives would have been about 415 to 11, with a few abstentions. You, our Representatives in Congress, more than anyone know that when nearly all freely elected members of a nation's Congress give such bipartisan support to such a momentous measure, there must be an unusual reason. In Honduras, the reason was genuine fear for the future of the country.

I freely admit that I am not an expert on Honduran law and therefore not qualified to judge the legality of this action. I would also point out, however, that most in this country and other countries who have rushed to condemn the Zelaya removal are at least equally unqualified to judge it. How can the so-called democratic community allow Cuba, Venezuela, Bolivia, and other countries that have either destroyed self-rule or are in the process of doing so to determine the standards of democracy in the region?

ALBA has a consistent modus operandi, subvert the foundations of self-rule, such as free elections and referenda, gain power, concentrate it in the hands of the executive, steadily diminish civil liberties, and then change the rules and even the definitions of democracy to remain in power indefinitely through any means necessary, including force. In my opinion, what took place in Honduras on June 28th, when the military removed Zelaya on an order of the Supreme Court, should have been handled differently.

As an American, I would have liked to have seen Zelaya's charges better publicized in advance of the arrest, to have seen civilian authorities, not military forces, arrest Zelaya. I would not have expelled him from the country, but would have detained him and given him the opportunity to defend his actions like any other accused felon.

But I am not a Honduran. I did not feel threatened by Zelaya's increasing authoritarianism, as did the Honduran Congress, for example. I did not fear the undermining of my country's democratic institutions by Zelaya, as did the Honduran Supreme Court. I did not know the extent of interference by Venezuelan, Cuban, and other foreigners in the internal affairs of my country, as did the Honduran armed forces.

Had I been a Honduran, not living peacefully in the United States as most of us in this room do, I would have heard the exceptional denunciations of the Catholic Church and the protestant churches protesting Zelaya's abuses of power. At the same time, however, one does not have to be a Honduran to understand the anger of the average citizen at the documented and repeated instances of gross dishonesty by Mel Zelaya, his family, and members of his cabinet.

I cannot excuse the zeal with which the military broke into Zelaya's house, but it may be explained by Zelaya's illegal misuse of the police and military to take over private properties, deny access to rightful owners, and thus benefit his extended family. To use the forces of the law to commit unlawful acts is immoral. That may also explain the church's condemnation of Zelaya.

Commendably, the legal adviser of the Honduran armed forces, as has been mentioned here, admitted the law was broken in expelling Zelaya, an action they, the armed forces, justified as taken to prevent violence. When was the last time the legal adviser of Chavez or Castro's armed forces, assuming they even have such a position, admitted a criminal error in handling a case?

I will submit the balance of my remarks for the record, Mr. Chairman. But in conclusion, let me say that it is always an honor for me to be asked to testify before the U.S. Congress, because I have never taken the freedoms this country has afforded me for granted. I am an immigrant, a Cuban American who lived under two dictatorships in his native country, then saw it enslaved by communism.

I have been privileged to serve our Government in and out of uniform for over 15 years. I fervently exercise my civil rights because I once lost those rights and know how precious they are. I urge this Congress not to condemn Hondurans for defending theirs, even if we may not approve of the one mistake to which the military have already confessed.

Thank you very much.
[The prepared statement of Mr. Reich follows:]

**Testimony of The Honorable Otto J. Reich
President, Otto Reich Associates, LLC
Committee on Foreign Affairs
Subcommittee on the Western Hemisphere
US House of Representatives
Hearing on "The Crisis in Honduras"
July 10, 2009**

Mr. Chairman and Members of the Committee. Thank you for this opportunity to speak before you.

The current battle for political control of Honduras is not only about that small nation. What happens in Honduras may one day be seen as either the high-water mark of Hugo Chavez's attempt to undermine democracy in this hemisphere or as a green light to the continued spread of Chavista authoritarianism under the guise of democracy.

The removal of President Zelaya from office two weeks ago has been referred to, mainly outside of Honduras, as an attack on democracy. In contrast, prominent Honduran jurists and scholars, who are not members of the government, describe it in the exact opposite fashion: as the legal and defensible measures of two co-equal branches of the Honduran government against the autocratic intent of the Executive. Many Honduran insist that those actions saved democracy by preventing Zelaya from establishing the kind of "21st Century Socialism" regime that is being established in countries of Latin America under something called the ALBA, an alliance invented by Castro and financed by Chavez.

We must find a bipartisan way to defend the true democrats in Honduras. I respectfully suggest to this Congress that one way to do so may be to ask the elected representatives of the people of Honduras, their Congress, why they voted 125 to 3 for the removal of Zelaya. The equivalent of that vote in this House would have been about 415 to 11, with a few abstentions.

You, our representatives in Congress, more than anyone, know that when nearly all freely elected members of a nation's Congress give such bipartisan support to such a momentous measure, there must be an

unusual reason. In Honduras, that reason was genuine fear for the future of the country.

I freely admit that I am not an expert on Honduran law and therefore not qualified to judge the legality of this action. I would also point out, however, that most in this country - and other countries - who have rushed to condemn the Zelaya removal are at least equally unqualified to judge it.

How can the so-called democratic community allow Cuba, Venezuela, Bolivia and other countries that have either destroyed self-rule, or are in the process of doing so, to determine the standards of democracy in the region? ALBA has a consistent *modus operandi*: subvert the foundations of self-rule, such as free elections and referenda, to gain power, concentrate it in the hands of the Executive, steadily diminish civil liberties and then change the rules and even the definitions of democracy to remain in power indefinitely through any means necessary, including force.

In my opinion, what took place in Honduras on June 28, when the military removed Zelaya on an order of the Supreme Court, should have been handled differently. As an American, I would have liked to have seen Zelaya's charges better publicized in advance of the arrest, to have seen civilian authorities and not military forces arrest Zelaya. I would not have expelled him from the country but would have detained him and given him the opportunity to defend his actions like any other accused felon.

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have to be a Honduran to understand the anger of the average citizen at the documented and repeated instances of gross dishonesty by Mel Zelaya, his family and members of his cabinet.

I cannot excuse the zeal with which the military broke into Zelaya's house, but it may be explained by Zelaya's misuse of the police military to take over private properties, deny access to rightful owners and thus benefit his extended family. To use the forces of the law to commit unlawful acts is immoral. That may also explain the churches' condemnations of Zelaya.

I am told by a number of Honduran experts, including Dra. Vilma Morales, former President of Supreme Court, who authorized me to quote her, that the Supreme Court action ordering the arrest of Zelaya was legal. The fact that the State Department's Legal Advisor's office has not declared the events in Honduras to have been a coup, in spite of enormous political pressure to do so, speaks well of the independence and professionalism of our lawyers.

If, according to Honduran experts, by the time Zelaya was removed from his home and expelled that Sunday morning, he had ceased to be President of Honduras, was this a coup? Honduras' Constitution does not define a step-by-step impeachment process. It does, however, have a provision in Article 239 that defines the automatic loss of public office in the case of the commitment of certain high crimes and misdemeanors. This mechanism is quite different than the impeachment process that some other countries, such as the US, use.

Commendably, the Legal Advisor of the Honduran Armed Forces admitted the law was broken in expelling Zelaya, an action he justified as taken to prevent violence. When was the last time the Legal Advisor of Chavez's or Castro's Armed Forces (assuming they even have such a position) admitted a criminal error in handling a civil case?

The crude threats and bluster with which those autocratic governments greeted the removal of Mel Zelaya is indicative of their anger at losing a member of their "21st Century Socialist" alliance, as Chavez calls it. They know full well what the stratagem was: that Zelaya's "non-binding referendum" was a necessary step to achieving the limitless power that

ALBA's leaders, Castro, Chavez, Morales and Ecuador's Correa, have codified into law.

ALBA has a proven design: to manipulate the institutions of democracy, such as free elections and referenda, to gain power, concentrate it in the hands of the Executive, weaken civil liberties and then to change the rules and even the definitions of democracy to remain in power indefinitely through any means necessary.

The sight of Raul Castro and Hugo Chavez next to Daniel Ortega in Managua, Nicaragua, screaming for the restoration of their ally in Honduras should have served to demonstrate the true allegiances of Mel Zelaya. Chavez does know quite a bit about coups, having planned and executed one in 1992 that was designed to kill President Carlos Andres Perez, and replace him with himself. Perez survived, but three hundred other Venezuelans did not.

Having been originally elected under a constitution that limited presidents to wait out one five-year term before running again, Chavez has now stayed in office over 10 consecutive years by changing the Constitution, packing the Supreme Court, manipulating the electoral rules and intimidating the media. Moreover, he has stated repeatedly he will stay in office for decades more. The Castro brothers have ruled over a one-party state for half a century but, like the Soviet leaders they emulated, have "won" every vote held in Cuba by near unanimity.

This pattern, adapted to each country's peculiarities, has been repeated in Bolivia and Ecuador and was in the process of modification for Honduras but the nation's institutions resisted. They unanimously refused to participate in the caudillo's power-grab: the Supreme Court, the Legislature, all political parties, including Zelaya's own party, the electoral tribunal, the churches, civil institutions, all of which stood to be decimated if Zelaya had succeeded.

Those recent examples of the tragic history of this hemisphere are apparently what motivated the Honduran institutions to support the actions, which we discuss here today. We can disagree about their legality but we should not question the sincerity of the actors.

It is always an honor for me to be asked to testify before the US Congress because I have never taken the freedoms this country has afforded me for granted. I am an immigrant, a Cuban-American who lived under two dictatorships in his native country and then saw it enslaved by communism. I have been privileged to serve our government in and out of uniform for over 15 years. I fervently exercise my civil rights because I once lost those rights and know how precious they are. I urge this Congress to not condemn Hondurans for defending theirs, even if we may not approve of the one mistake to which the military have already confessed.

Thank you.

Mr. ENGEL. Thank you very much. Let me say that we can see that our very distinguished panelists and excellent testimony represents a wide range of views on the subject, and I think we have heard a lot of good points from a lot of different people.

For me, I think the question that I would like to concentrate on is, where do we go from here? Obviously, there are negotiations going on with Mr. Arias. And the United States, as has been mentioned, has been instrumental in putting together those discussions.

Secretary Clinton has been very helpful in doing this. If I could close my eyes and say, well, what kind of possible solution or a compromise can come out of these negotiations, I would bet that the most probable thing to come out would be a return to power of Mr. Zelaya to finish out his term, which I believe is 4 more months, and then have a new election, as was scheduled in Honduras in November, an election where Mr. Zelaya would be barred from running for a second term, as was mentioned, and as has been stated by the Honduran Constitution. I would bet the house that that would be the solution that would come out. I would like anyone's comments on that.

Would that be a viable compromise, and is it something that you think would be likely to come out of these discussions? Anybody want to try it?

Mr. Davis?

Mr. DAVIS. Mr. Chairman, the first thing I would like to say is, I would rather not offer advice to the parties as to how to solve this. But I can offer some principles that are in alignment with what you just said and what my clients believe. The one principle most important is the rule of law needs to be upheld. So any solution that involves a return of Mr. Zelaya, if that is the choice—

Mr. ENGEL. Mr. Davis, would you just hold for a minute?

I notice in the audience there are some signs. And I would please ask the people to put those signs down, because I think it is inappropriate.

Thank you very much.

Mr. Davis.

Mr. DAVIS. So, in alignment with really most of the remarks heard on both sides of the aisle, and certainly with yours, Mr. Chairman, there are two principles that I certainly believe that Mr. Zelaya, Mr. Micheletti, and President Arias are aimed at discussing.

One is that the rule of law is very important. Mr. Zelaya needs to acknowledge that, and certainly needs to acknowledge that the Supreme Court, his own party in the Congress, and all the other institutions have found him to have violated the law, and he has to be held accountable, as do the people who may have violated the law by sending him out of the country in the middle of the night.

So there may be a solution that is equal-handed about forgiving both of those violations in return for certain commitments. But the principle is the rule of law.

And the second principle is democracy and security that goes with the democracy. And the elections, as you mentioned, must take place. And there must be a new President. Someone from his party is running. And someone from the opposition party, national party, and three other parties, are running.

So those two principles, the rule of law and some agreement on how the rule of law is to be applied equally, and democracy and security. I believe that President Arias can bring the parties together to achieve those two principles.

Mr. ENGEL. Thank you.

Dr. Arnson, I noticed you had your hand up.

Ms. ARNISON. Once again, I think the interpretation of what constitutes the legal solution in Honduras is a contested issue. As a United States citizen I would share Mr. Davis's reluctance to define how Honduran politicians and how the Honduran public should resolve this crisis.

But I, frankly, find it improbable that a resolution to the crisis could be found that does not include President Zelaya's return to Honduras. At the same time, what he attempted to do that the Supreme Court and the Congress have found in violation of the Constitution should not be allowed to take place.

I think it might be entirely reasonable, to prevent deepening polarization between now and the month of November, to attempt to move up those elections, make sure that they are fully observed, monitored, not only at the time of the balloting but before and in the period afterwards, to guarantee that the political process goes forward in an open and democratic fashion without intimidation, without violence.

I would think that there may be some role for an international observer mission under the auspices of the OAS or the United Nations to establish itself in Honduras as an international mechanism to help Hondurans overcome polarization. I believe that the country is deeply divided, probably equally in favor and against President Zelaya.

I think, and I disagree with what was said earlier, I think that a majority of Hondurans—not a majority, but a plurality—oppose the way in which he was removed. And I hope that what Mr. Davis has described as the need to look forward and not to become entrenched in the positions and principles that have been articulated up until now will be possible, because adherence to those deeply

entrenched positions will lead to a continued stalemate. And I think what is needed is a way for both sides to be flexible in order to break this impasse.

Mr. ENGEL. I think that one of the things that I hear again, you know, people are arguing that President Zelaya's removal from power was constitutionally appropriate.

The troubling thing, and even people who, in the panel, who are saying that President Zelaya violated the law, I mean can anybody tell me where in the Honduran Constitution it gives the military the right to remove a President from power at gunpoint and whisk him out of the country? I don't think that anyone differs with me on that. I don't think that there is anything in the Honduran Constitution that would give the military that power.

I see people shaking their—nodding their heads. So I think that is something that is troubling. But I do think that the United States can play and should play a very positive role in trying to mediate these results.

Mr. Mack.

Mr. MACK. Thank you, Mr. Chairman.

You know, first of all, I appreciate the testimony from everyone. And you know, it is such an important hearing because what we are trying to get our arms around is democracy in Latin America. And not all Constitutions are written the same.

But it is clear, and you don't have to be an expert, as someone mentioned, on the—one of my colleagues mentioned earlier, to understand the Honduran Constitution, you just have to read it. And it is clear in Article 239 of the Constitution of Honduras that by the order of the Supreme Court, which we have, which we can read, which says to arrest the President, that the military was just acting out the constitutional responsibility passed to them by the Supreme Court. It is not that hard to figure out. You don't have to be a scholar. You just have to read it.

This idea that this is a coup is so disturbing to me, that you could say with a straight face, after hearing the testimony from the panelists and the members that sit up here. The military is not in charge of Honduras. Therefore, you cannot have, it cannot be a military coup. The military acted on the rule, on the order of the Supreme Court. So I think we need to—someone needs a paradigm shift.

People need to understand and stop calling this a coup. The negotiations that are going on right now, if at the base of that is that this is a coup, it is going to be very difficult to get to a solution that follows the Constitution of Honduras. And anything other than something that follows the rule of law and the Constitution of Honduras sets a horrible precedent.

Mr. Davis, I was very interested in your testimony. And I understand it is on behalf of your client. So I want to ask you this: Does your client believe that this was a military coup?

Mr. DAVIS. My client wants me to answer that question based on the facts. And the facts are, there is no military person in charge of this government. The government is now de facto being run by the successor under the Constitution, the President of the Congress. So the word military would be inappropriate as far as my clients are concerned.

On the other hand, I think my clients would agree with the chairman that there is nothing in the Constitution that allows somebody to be shipped out of the country in the way that it was done. So the wisdom of hindsight is not about his removal as President. That, under Article 239, as you said, is expressly stated; it is an automatic—he automatically loses office under the wording of that Constitution.

And my colleagues here who talk about democracy seem to want to ignore a Constitution adopted after military governments in Honduras ruled in 1982. And that Constitution is as sacrosanct to Hondurans as ours is.

So the Constitution said he had to be removed. The Supreme Court 15 to zero agreed, and so did all the members of his party. But the issue of whether he should have been whisked away in the dead of night by the army is what is troubling. And it is not an easy issue to dismiss. And from my clients' standpoint, they are troubled about that. And I can only say that what I am authorized is the wisdom of hindsight statement that I made.

It should have been done differently. But just remember the context, the President of Honduras led a mob, the President himself, you can see it on YouTube, led the mob that overtook the army guards into the barracks to seize ballots that had been shipped in by Mr. Chavez. Now that is just a fact. And the atmosphere was fearful of physical safety. And it was that context that I believe, with the wisdom of hindsight, something was done that should have been done differently.

Mr. MACK. Thank you, Mr. Davis.

And I agree with that. I agree with your statements. I would say this, that if the Supreme Court, the Congress, the business groups, the churches, if all of these groups came together to say that the removal of the President was the right thing to do, certainly they could also come together to say, we don't think he should have been flown out of the country, and Hondurans could have figured out the right course to go to make sure that that didn't happen again, that their Constitution was followed, that the rule of law was followed, but to also make the statement that, in the future, they won't be flown out of the country.

Mr. ENGEL. Thank you, Mr. Mack.

The time has expired.

Mr. Meeks.

Mr. MEEKS. Thank you, Mr. Chairman.

I want to thank all of the witnesses for being here at what is a very important hearing. And I think that it gives us a lot of food for thought. And I don't want to jump ahead of ourselves, because I do believe that what President Arias is doing and, you know, sometimes I am trying to look at the prism whether the glass is half full or half empty.

Some people are saying that democracy throughout South and Central America is being threatened. Well, democracy in Honduras may be, but the reaction of the countries in Central and South America, who are upset about what has taken place, which has caused them to sit down and try to work together to resolve this so that we do not turn back the hands of time, shows that we still have come a long way. It shows that folks even in the region want

to work together to make sure that democracies reign and hopefully will also show that those democracies will soon mean that those who have not had for such a long period of time. Because the bottom line here are still those poor people in the Honduras, one of the poorest nations on the hemisphere, who, no matter what the system of government, has never received anything.

So the hope is that we learn something and that we move forward. And I think that also what is different here, and one of the things that the prior administration had been criticized and looked about all over the world in the wrong way, is acting unilaterally. I think the fact that this current administration, acting in a multilateral situation, with other nations that are concerned in the region, is a positive step forward to try to make sure that democracy does remain and prevails throughout this hemisphere especially, but throughout the world.

Now, I do have, and I would just like to ask some questions, you know, that I don't know, just to get your opinion in this scenario. Because I am concerned about those poor people, and I am also concerned because you see some human rights group talk about the individuals who were out there demonstrating with the interim government who is there, that there has been some things going on with them.

But we have decided, as far as the United States is concerned, to suspend all foreign aid to Honduras, including the Millennium Challenge account and other things. I am concerned about the poor getting hurt more. I would like to hear your opinion whether or not we should continue that suspension or whether we should do something differently so that we could make sure that those who are caught in the middle here, the poorest of the poor, are not hurt. What do you think that we should do as the United States in that regard? I would like to hear that.

Ms. Olson.

Ms. OLSON. Just to clarify, because I looked into this matter, in 2002, the coup language, the 7008 clause I was referring to, was changed so that the suspension is not to the country, but it is to the government. So all aid is not suspended to Honduras right now. The only aid that is suspended is the portion of the aid that is given directly to the government.

And because of the way the U.S. gives foreign assistance, with much of it being executed by nongovernmental agencies, actually the total amount is not that large. I think that is a very legitimate and important concern.

Could I address one previous issue just very briefly?

Mr. MEEKS. Go right ahead.

Ms. OLSON. I think that if the scenario had played out in that the Supreme Court ordered the arrest of President Zelaya, the President was arrested by legitimate authorities tasked with arresting people, and that he was put in jail, and that proceedings were taken against him, that would have been completely legitimate.

Mr. MEEKS. I agree. Absolutely.

Ms. OLSON. And for me, the issue is not right now, does the military run the country? The question of a coup is not, who is running

the country entirely at this moment? The question is, was the President illegally deposed?

And actually, the 7008 language talks about a military coup or decree. So it sees the coup concept beyond just the military taking over.

Another thing, if you are going to talk legality and illegality, if you illegally remove the President from the country, then aren't the people taking over violating the law as well? That was my point. It seems like there were a lot of things that could have been questionable legal activity.

Mr. MEEKS. I agree. That is why I used the hypothetical earlier in my opening statement that had we not had the process taking place—I have got 30 seconds; I see the gavel—you know, that we could have taken—someone could have said President Nixon was violating the law and just taken him out of the country. But generally, if you violate the law and you have the rules, you do come in, you arrest someone, you place them under arrest, and therefore there is a proceeding that takes place so that one can be found guilty or innocent, not just summarily. That seems to me to be more of a democratic and fair way to go. That did not take place here. So in my estimation, by any stretch of the imagination, a coup did take place.

Mr. ENGEL. The gentleman's time has expired.

Mr. McCaul.

Mr. MCCAUL. I thank the chairman.

I think we have reached some consensus, but not entirely. Clearly, the President violated the Constitution. The Supreme Court held so, held that he was acting against the established form of government. We have an order here to the military to arrest him. He was ordered—he was found to be in treason against his own country, abused his authority and usurped his power.

As Mr. Davis pointed out very eloquently, when article 239 self-executes, once that is violated, which it was in this case, he is out of power. He is no longer the President of Honduras.

I think the real dilemma here is, how was this order implemented, and how did the military respond to this order to arrest him? And does the definition of arrest include deporting him to another country? I know there were some concerns, certainly when we have the intervention of Hugo Chavez into the process and the intervention of these ballots from Venezuela, tremendous concern of the safety and the danger that is posed by keeping him in Honduras. We have been throwing around the word military coup pretty loosely.

But as Mr. Meeks points out, it is actually very important, because under the omnibus appropriations act that we passed, if it is defined as military coup, then the funding is cut off to Honduras by the United States Congress. So I think that definition, and I think again this has been thrown around very loosely, but the idea, you know, that there was a violation of the Constitution, the Supreme Court held so, called for the arrest, Article 239 self-executes, he is now a private citizen in my view. The real issue with him lies with what is the remedy that we can provide to him in terms of from this point going forward? But he is no longer the President under the rule of law in Honduras and under their Constitution.

And former Supreme Court Justice Pérez-Cadalso, I wanted to call upon you, and perhaps Mr. Davis as well, to help us and the administration in terms of whether you define this as a military coup.

Mr. PÉREZ-CADALSO. Thank you, Congressman.

Back in the 1960s and 1970s, Latin America was full of coup d'états. I myself lived through many of them.

But reading any text of political science, one finds that the coup d'états have some characteristics. One, the military seizes power, and they take power, or they do a civic military junta.

Second, they abolish the other powers or the branches of government, certainly Congress and sometimes even the judiciary.

Third, the Constitution is abolished or is subject to whatever the military regime wants.

Fourth, usually there is a bloodbath that occurs with the takeover of the military.

In this case, we have a very atypical situation. One, the military is not in power. There is a civilian ruling the country. The military has returned to the barracks.

Second, the three branches of government are functioning: The Congress that was elected 4 years ago with President Zelaya; the judiciary, with its 15 members; and the branch of government, the executive branch of government, that was elected by Congress, in this case, 124 votes out of 128.

The Constitution is fully in charge. Nobody has questioned the Constitution.

And fortunately for us Hondurans, there was no bloodshed in the moment that Mr. Zelaya was arrested.

Mr. ENGEL. The gentleman's time has expired. And as you have heard, we have just been called for a vote. So I am going to try to see if we can finish before the actual vote takes place. I am going to ask my colleagues if they could limit themselves with their questions to maybe one quick question for about 2 minutes.

Mr. MCCAUL. Let me just say thank you for that testimony as well.

Mr. ENGEL. And Mr. Green.

Mr. GREEN. I am going to try to squeeze two questions in 2 minutes. First of all, on July the 3rd, the Inter-American Commission on Human Rights issued a statement about deep concerns over Executive Decree 011-2009 from the authorities in Honduras restricting personal liberty and allowing incommunicado detention for 24 hours, freedom of association and right of assembly, as well as freedom of movement to enter and leave and remain on the territory of Honduras. Is that still in effect, or does that have any concern like it does I think with a lot of members that in a national emergency that was created and continuing?

Ms. Olson?

Ms. OLSON. My understanding is that the suspension of liberties during certain hours of the day, which was put forward, has been—is being reduced over the past couple days. I haven't checked. I didn't check yesterday, so I am not sure.

We have been concerned about it, yes. And one of the big things we have been concerned about, and that I think has affected things a lot, has been the restriction of the media. Pretty much all of the

opposition media were taken off the air, and they weren't showing up in print either. So you ended up with a real one-sided view of what was going on.

Mr. DAVIS. Actually, Congressman, that is not a correct statement. It happened very briefly. All the media is operating as we speak. There are vociferous protests on both sides. Democracy is flourishing. I do agree that the curfews are the only thing in place that are nighttime curfews. But as far as any civil liberties, as far as I know from the distance, the answer is democracy and civil liberties are still flourishing.

Mr. GREEN. Let me get my other question in quickly. The change in Constitutions and power in Western Hemisphere, and I know there are other countries, Colombia, Venezuela, Bolivia, Ecuador, Honduras, is that fairly common? It seems like, though, except for Colombia, we hear it from people who are mostly aligned with President Chavez in Venezuela. Is that a general correct statement? Extending the terms of office by public referendum?

Mr. Reich?

Mr. REICH. Mr. Green, as I commented in my testimony, that pattern of certain elected leaders coming in through an election, as Chavez did 10 years ago, as Zelaya did 4 years ago, as Correa of Ecuador, as Morales of Bolivia—

Mr. GREEN. Frankly, I think President Uribe did the same thing, I believe, in Colombia, extended the term.

Mr. REICH. No, Uribe has not done that. He has presented that. He hasn't decided yet whether he is going to run. The Constitution was changed in Colombia, that is correct, to allow a second term.

I personally, in my personal opinion—I am not a Colombian, so I didn't vote on that one—I don't think that that is good. I don't think it is good for Colombia any more than I think it was good for Honduras or that it has been good for Venezuela or Bolivia or Ecuador or the others. But that is just my personal opinion and based on 40-some years of working in Latin America, where some countries, for example, like Mexico, have made it part of their Constitution, there is no reelection because they know that, unfortunately, I don't know, for some reason, cultural reasons or political or whatever, once people get into power they don't want to give it up.

Mr. ENGEL. I am going to let that be the final word for this question.

Mr. Smith, 2 minutes.

Mr. SMITH. Mr. Chairman, thank you.

As the crisis in Honduras was heating up, I was actually in Minsk, Belarus, meeting with President Lukashenko, the last dictator in Europe. He is the man who was elected, dissolved his parliament, rewrote the Constitution to allow him to be President for life, and I remember thinking, not again, not again, not again. Now, it almost happened in Honduras.

Mr. Zelaya has been accused of several very serious crimes, including treason, abuse of authority, and usurpation of power. The Supreme Court has voted unanimously, as everyone has said here. All of the democratically-elected institutions of that government are trying to uphold the rule of law.

Now, as Dr. Arias grapples with this whole issue of what to do, it seems to me that one of the top questions has to be, should Mr. Zelaya be prosecuted? I don't know how those kinds of charges just get swept under the table. People in Honduras, in the United States, and every other country want the rule of law to be upheld. Serious charges have been leveled. I believe he should be prosecuted. I would like to know, starting with you, Justice Pérez, what do you think?

Mr. PÉREZ-CADALSO. Thank you, Congressman.

Before the question had been posed about the return of Mr. Zelaya to the country, that of course will be put forth in the mediation table. But the problem will be too, I am almost sure that that is going to be put forward and for him to return as President.

The thing that would worry any Honduran that respects the rule of law would be that, if he returns, if things follow the legal trend, he will be arrested when he gets to Honduran soil. He has to be arrested if we respect the rule of law. There is a warrant for his arrest. So that poses a problem in the mediation.

And the other problem would be his governability. How would he be able to govern in a country that has a majority of the institutionality that is opposing him? Everybody on this panel has talked about not only the judiciary, Congress, but the human rights commissioner, the attorney general, the Catholic Church. Everybody has expressed that he was in contempt of law, that he was besides the law, and that he should be prosecuted, especially because he was rebellious with all the orders that were issued by other instances of the judiciary power.

Mr. ENGEL. Thank you.

I think we are going to have let that be the last word on this question.

Mr. Payne.

Mr. PAYNE. Let me ask very quickly. I hear the business people, the Catholic Church, everybody else have condemned this. I understand that the minimum wage was raised, that a lot of indigenous people were supportive, that the Afro-Hondurans, can anybody speak about that group? I haven't heard them mentioned. They were in support of this coup? They wanted him out? A person who raised the minimum wage, a person who came to New York to swear in an organization called the Central American Black Organizations, made up of people of African descent throughout Central America to show their respect to that organization. Anybody have any of the indigenous or the minority people's position? Quickly?

Mr. DAVIS. Well, four out of the five political parties, including the party who was representing many of the unions, many of the poor people, simply upheld the law, Congressman, and found that he violated the law.

But if I may say, I would hope you would not support a cut off of aid, which will hurt the poorest people in Honduras, and to have the United States Government cut off aid where the people who will suffer are the people who are least able to cope with the cut off of that aid. I hope that both Democrats and Republicans would not support a cut off of aid at this very important time.

Mr. PAYNE. One thing, we do have to discourage military coups. And much of the aid goes around the government. And so I cer-

tainly couldn't see us continuing giving support to someone who was taken out of office by the army. And I just want to conclude, because my time is about up, that I am just certainly—I am outraged by the representation of the new government with their foreign minister.

Mr. DAVIS. He has been forced out, Congressman. He is no longer—

Mr. PAYNE. Okay. But it must have some kind of reflection of the group. Because when he says three times about this new little Black man who is the President of the United States, and then talked about, as Mr. Delahunt, I negotiated with queers and prostitutes, leftists, Blacks and Whites, that is my job, however, I like this little Black sugar plantation worker who is President of the United States. I don't want to sound like I am prejudiced, but a statement like that certainly offends me.

Mr. DAVIS. Congressman, he is not a reflection of anybody. He was sacked. He is a far-out extremist bigot, and there is nobody in the Honduran Government that didn't support him being sacked.

Mr. PAYNE. Who appointed him? The same guys that took out the former President? They must have put him in.

Mr. DAVIS. Well, he got sacked.

Mr. PAYNE. Well, he got in.

Mr. REICH. May I add, Mr. Payne, that Hugo Chavez used exactly the same term to describe President Obama?

Mr. PAYNE. I am talking about, you know, this country. I should have raised it then. I didn't hear it from Chavez.

Mr. REICH. It is reprehensible no matter who says it—

Mr. PAYNE. Right. I agree.

Mr. REICH [continuing]. Whether it is left or right. At least in the case of Honduras, the foreign minister was fired.

Mr. PAYNE. Ms. Lee is not going to have any time, so I am going to yield.

Mr. ENGEL. Thank you.

Mr. Rohrabacher.

Mr. ROHRABACHER. Yes, I think that was a very good point that Ambassador Reich was about to make.

Yeah, let's have one standard. And one standard is when Hugo Chavez says something, that you condemn him as much as you are condemning some guy that this group sacked because they didn't want to have anything to do with that type of language.

Mr. Reich, or Mr. Ambassador Reich, I should say, didn't Mr. Chavez himself lead a coup d'état in 1992?

Mr. REICH. Yes, sir. That was a coup d'état.

Mr. ROHRABACHER. And was his plan to put in power himself, who was a military man, or was his idea was to put another democratically-elected person into power?

Mr. REICH. It was to put the military in power, to replace an elected President, who had not broken the law, President Carlos Andres Perez.

Mr. ROHRABACHER. And so Mr. Chavez, the greatest ally of this would be caudillo in Honduras, himself conducted a military coup against a democratically-elected government.

Mr. REICH. Well, there is no question there is a double standard.

I am glad, for example, Mr. Shifter referred to the double standard the OAS has been carrying out for the last several years, of overlooking the violations of civil rights by governments of the left. The very weekend that we were discussing here in this city what to do with the Government of Honduras, which has been described here as having trampled on civil rights, Hugo Chavez announced he was closing down 240 radio stations in Venezuela. I didn't even see that reported in the United States.

Mr. ROHRABACHER. Right. With this going on in Honduras, that is exactly what we could have expected from this would be caudillo, who is also implicated in the drug trade, in corruption. That is what we could expect from him.

That is why his people, who understood him and his fellow political people on all sides of the spectrum down there in Honduras, think that it was the right thing to remove him from power because he had violated the Constitution.

Mr. ENGEL. The gentleman's time has expired.

Dr. Arnson, 30 seconds.

Ms. ARNISON. Briefly, I welcome the reference to the coup attempted by President Chavez. He was jailed for that attempt. And then subsequently, you know, was elected. This is not a defense of the Venezuelan Government. But I think all of the people that have so passionately spoken on behalf of the rule of law have not mentioned the fundamental role of due process as a key aspect of the rule of law.

And I think that if we can agree that it is not right to arrest someone in the middle of the night in his pajamas and put him on a plane, that there would have been, that there would have been legal remedies for the resolution of this crisis.

Mr. SMITH. The next step in rule of law—

Mr. ENGEL. Mr. Smith, no, I want to give Ms. Lee a chance.

Mr. SMITH [continuing]. Is to prosecute.

Mr. ENGEL. Ms. Lee.

Ms. LEE. Let me just associate myself with the remarks of Congressman Payne. And now I am learning also that—well, it is clear that the Honduran business community supported the coup. I am learning that President Zelaya had, you know, raised the minimum wage. Because it has been said here how the business community has supported the coup and the church has supported the coup.

Now I am learning that the church didn't, of course, like his veto in the legislation to ban the morning-after pill. And so the more and more you dig into this, you can understand why some of what has been said is the case.

I wanted to ask you about the Inter-American Commission report on human rights on July 3rd. They issued actually a statement expressing deep concern over the human rights violations. And the Commission said fundamental rights have been restricted, such as personal liberty, allowing incommunicado detention for more than 24 hours, freedom of association, the right of assembly, as well as freedom of movement to leave and enter and remain in the territory of Honduras.

So given the reports about human rights abuses coming from this puppet or de facto government, what is an appropriate response to

that from those who support this whatever it is that has been placed into power?

Mr. Reich, maybe you can answer that for me.

Mr. REICH. I am not sure I understand the question, but I think

Ms. LEE. The Human Rights Commission report that I just read in terms of the fundamental rights being restricted as a result of the coup, what is your position on, how do we address it?

Mr. REICH. I will not justify the restriction of civil rights by any government, period.

However, we need to also look at what led to the events of June 28 in Honduras. There had been violations of the Honduran people's civil rights by the Zelaya government. This didn't just happen. The Honduras Supreme Court didn't wake up that Friday morning and decide, why don't we write an opinion unanimously to get rid of the President. It was a succession of violations of their own law.

Ms. LEE. Well, let me just say, we have had Presidents who many of us believe have violated our own law and the Constitution and none of us have suggested any coup d'états. We have also suggested moving forward with a democratic process to make sure democracy prevails.

Mr. REICH. Right, because our system works, and the institutions work, and what I think we are failing to see here is that the institutions of Honduras also work, and you know, I think this is a dialogue to the death, frankly, on the question of the coup.

You heard former members of the Honduras Supreme Court tell you that, by their law, the actions of the President constituted a self-activating rule by which he ceased to be the President of Honduras. I am not a lawyer, as I said in my testimony, I am not qualified to judge. But I think Mr. Pérez-Cadalso certainly is, and he is saying to us as a President of the Supreme Court, who I quote in my testimony, who said that that action was legal, Congresswoman Lee.

I don't think that the Congress of the United States should sit in judgment of the Supreme Court of another country.

Ms. LEE. Well, let me tell you, Cuba has its Constitution, and there are those who are saying, talking out of both sides of their mouth.

Mr. REICH. Well, and there were also Nuremberg laws in Germany if you want to defend those kinds of laws.

Mr. ENGEL. Let me move on. We have a member of the committee with us, although not a member of the subcommittee. And she has been very patient, and I would like to give her an opportunity to ask a quick question.

That is Ms. Sheila Jackson Lee.

Ms. JACKSON LEE. Mr. Chairman, you are very kind, and I will be very, very brief.

This is a crucial and important hearing. I probably beg to differ with my dear friend Mr. Reich. I think it is important for constitutional governments to comment on the process of government.

I would offer this. I think it is good news that the President of Costa Rica and Secretary Clinton are in the engagement process, Mr. Davis, and I thank you for that.

Here is my offer and suggestion. One, I would like to ask Ms. Olson very quickly, do you think the pause we have on aid is positive?

Secondarily, I would like to hear from anyone who would like to answer whether or not there would be an acceptance of the return of this President to finish out his stated constitutional term. Because that is the crunch of what I believe is the fault. This was a coup. This was a disruption of government. This was using tools that I don't believe are written in the Honduran Constitution. Is a coup written in the Constitution? If you can point to me, then I will say that this meeting should end.

I will end on that note and ask Ms. Olson about the pause of aid. It is not a complete elimination and anyone else that wants to answer whether they would accept the negotiations of Secretary Clinton and the President of Costa Rica.

And I thank you very much, Mr. Chairman. I yield back and let me say the name right, the President of Costa Rica thank you.

Ms. OLSON. Just to respond to the question, I don't have the number right in front of me, but it is not a huge percentage being suspended right now because so much of U.S. aid now doesn't go directly to the government. It goes through nongovernmental organizations.

Do I think it is appropriate to suspend aid after coups? Yes, I do, because there have to be some kinds of mechanisms that countries can use to show their disagreement with something that has happened.

So, yes, I do think it is appropriate, and no, we haven't cut off all aid to Honduras.

Ms. JACKSON LEE. So it is not an indictment of what we are trying to do. Thank you.

Anyone want to answer about these negotiations.

Mr. DAVIS. Congresswoman Lee, first of all, it is nice to see you.

And secondly, I did want to correct the record by Congresswoman Lee. The business community did not support violating any constitutional or legal procedures regarding shipping Mr. Zelaya out of the country. I said, when you weren't here, Congresswoman Lee, that with the wisdom of hindsight, it could have been done differently, but understanding the context of the fear at the time that he needed to be arrested, and he needed to be prosecuted, and that is the rule of law, and I will let the parties themselves, if and when he returns, how the rule of the law is going to be upheld.

And still, as President Obama always tells us and Secretary Clinton always tells us, let's come together in dialogue and find a solution where there is no bloodshed, where we can restore the rule of law.

That is why Secretary Clinton has done such a great job in letting President Arias try to mediate.

Ms. JACKSON LEE. Well, I agree, I just yield back and repeat, that coup is not in the Constitution. We all adhere to the rule of law, and I do believe there should be a return.

I yield back to the chairman.

Mr. ENGEL. Unless there is anyone who would like to add anything, Mr. Mack and I have agreed to stay, but I think we have

covered it pretty thoroughly, and we have had all different points of view both from my colleagues here and also from the panelists.

So unless anyone else anything they really must say, I want to thank each and every one of you for very, very important testimony for what I consider this very, very important hearing.

This subcommittee will continue to monitor the events in Honduras, and we will continue to act accordingly, so I thank the panelists. I thank my colleagues, and the subcommittee hearing is now adjourned.

[Whereupon, at 1:18 p.m., the subcommittee was adjourned.]

A P P E N D I X



MATERIAL SUBMITTED FOR THE HEARING RECORD

SUBCOMMITTEE HEARING NOTICE
COMMITTEE ON FOREIGN AFFAIRS
U.S. HOUSE OF REPRESENTATIVES
WASHINGTON, D.C. 20515

SUBCOMMITTEE ON THE WESTERN HEMISPHERE
Eliot L. Engel (D-NY), Chairman

July 9, 2009

TO: MEMBERS OF THE COMMITTEE ON FOREIGN AFFAIRS

You are respectfully requested to attend the following OPEN hearing of the Subcommittee on the Western Hemisphere to be held in Room 2172 of the Rayburn House Office Building:

DATE: Friday, July 10, 2009

TIME: 11:00 a.m.

SUBJECT: The Crisis in Honduras

WITNESSES: Mr. Michael Shifter
Vice President for Policy
Director of the Andean Program
Inter-American Dialogue

His Excellency Guillermo Pérez-Cadalso
Former Foreign Minister and Supreme Court Justice
Republic of Honduras

Ms. Joy Olson
Executive Director
Washington Office on Latin America

Cynthia Arnson, Ph.D.
Director of the Latin America Program
Woodrow Wilson International Center for Scholars

Mr. Lanny J. Davis
Partner
Orrick, Herrington & Sutcliffe LLP
(Represents the Honduras Chapter of the Latin American Business Council)

Ms. Sarah Stephens
Executive Director
Center for Democracy in the Americas

The Honorable Otto J. Reich
President
Otto Reich Associates, LLC
*(Former Assistant Secretary of State for Western
Hemisphere Affairs)*

By Direction of the Chairman

The Committee on Foreign Affairs seeks to make its facilities accessible to persons with disabilities. If you are in need of special accommodations, please call 202/225-5021 at least four business days in advance of the event, whenever practicable. Questions with regard to special accommodations in general (including availability of Committee materials in alternative formats and assistive listening devices) may be directed to the Committee as noted above.

COMMITTEE ON FOREIGN AFFAIRS

MINUTES OF SUBCOMMITTEE ON WHEM MEETING

Day Friday Date 7/10/09 Room 2172

Starting Time 11:10 a.m. Ending Time 1:18 p.m.

Recesses (_____ to _____)

Presiding Member(s) Eliot L. Engel

CHECK ALL OF THE FOLLOWING THAT APPLY:

Open Session Electronically Recorded (taped)
Executive (closed) Session Stenographic Record
Televised

TITLE OF HEARING or BILLS FOR MARKUP: (Include bill number(s) and title(s) of legislation.)

"The Crisis in Honduras"

SUBCOMMITTEE MEMBERS PRESENT:

Eliot Engel, Connie Mack, Michael McCaul, Albio Sires, Christopher Smith, Gene Green, Dan Burton, Gabrielle Giffords, Jeff Fortenberry, Donald Payne, Gus Bilirakis, Barbara Lee

NON-SUBCOMMITTEE MEMBERS PRESENT: (Mark with an * if they are not Members of HIRC.)

Bill Delahunt, Dana Rohrabacher, Sheila Jackson-Lee, Ruben Hinojosa*

HEARING WITNESSES: Same as meeting notice attached? Yes No
(If "no", please list below and include title, agency, department, or organization.)

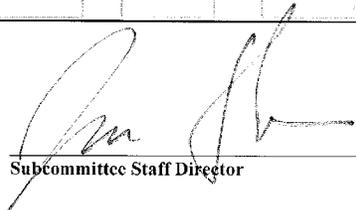
STATEMENTS FOR THE RECORD: (List any statements submitted for the record.)

ACTIONS TAKEN DURING THE MARKUP: (Attach copies of legislation and amendments.)

RECORDED VOTES TAKEN (FOR MARKUP): (Attach final vote tally sheet listing each member.)

Subject	Yeas	Nays	Present	Not Voting

TIME SCHEDULED TO RECONVENE _____
or
TIME ADJOURNED 1:18 p.m.


Subcommittee Staff Director

Prepared Statement of Sarah Stephens
Center for Democracy in the Americas
Before the Subcommittee on the Western Hemisphere
"The Crisis in Honduras"
July 10, 2009

Thank you, Chairman Engel, Ranking Member Mack, and members of the Subcommittee, for holding this hearing on the crisis in Honduras.

I'd like to begin by simply expressing my sympathies to the people of Honduras for the violence and political turmoil they have experienced since June 28. It is understandable, and perhaps inevitable, that their crisis has triggered a larger debate about policy and politics, democracy and diplomacy. But, neither their humanity nor their dignity should be forgotten as we discuss the implications of the coup for all of us, inside and outside Honduras.

In fact, their interests and ours are in alignment. In that context, let me make three basic points.

First, I believe that the goal of our policy and our diplomacy should be resolving this crisis in a manner that restores the constitutional order to Honduras and returns President Zelaya to office.

Second, we need to stand with the region in saying, loudly and clearly, that military coups cannot be regarded ever again as acceptable alternatives to democracy.

Third, we need to understand that there is a principled debate occurring in the Americas about democratic institutions and the constitutions which protect them.

At times, some nations will make choices through democratic means that may disturb and discomfort us. But our long-term interests in democracy and stability in the Western Hemisphere can only be vindicated if by our words and actions we are seen as respecting rather than undermining their sovereignty and their decisions.

While we may disagree about some of these issues, I would hope that we could speak with one voice on whether it was appropriate for military force to be used against the presidency of Mel Zelaya. After all, the top legal advisor for the Honduran armed forces told the *Miami Herald*, "We know there was a crime there," and I would say, so do we.

Similarly, Edmundo Orellana, a congressman who served as Mr. Zelaya's defense minister and resigned from his position just days before the coup because he believed Mr. Zelaya was breaking the law, wrote Congress this week that President Zelaya's ouster was "illegal" and that he would refuse to take his legislative seat until Mr. Zelaya was reinstated.

This drives home the most important theme of the recent events in Honduras.

Regardless of ideology or one's opinion of President Zelaya's behavior prior to the coup, can't we say this with clarity? Military coups are wrong, they are undemocratic, and they taint the hands of everyone who touches them.

When violence becomes a substitute for politics, everything falls apart. That has been the sad history in many places across Latin America, and that is why so many people in the region are as proud as they are for having tried to put that history behind them.

As President Lula said recently "What we have achieved in these years was, in truth, the result of the deaths of many people, many young people, who decided to take up arms to bring down authoritarian regimes in Chile, in Argentina, in Uruguay, in Brazil, in almost all countries. They died and we are doing what they dreamed of doing – and we have won this by democratic means."

None of us want to see that progress rolled back, which is why being clear about why this coup is unacceptable is so important to the region and to our national interest.

Against this backdrop, it is extremely important that President Obama has taken the position – from the inception of this crisis – that reversing the coup and returning President Zelaya to his nation and to his office were political and diplomatic priorities for the United States.

As he said just three days ago during his trip to Russia:

"America cannot and should not seek to impose any system of government on any other country ... Even as we meet here today, America supports now the restoration of the democratically elected president of Honduras, even though he has strongly opposed American policies."

Against the expectations of some in the region, the United States has reacted with prudence to these events, and that strengthens us and our long-term interests in the Western Hemisphere.

The crisis in Honduras came at a particularly crucial moment. There are debates taking place in Latin America about the role of the state, and what democracies should do when their institutions fail to deliver what their people need and want.

This is hardly a new phenomenon. Governments of all ideological stripes have rewritten their constitutions in Latin America for decades, centuries.

This is not a question, as some would have it, simply of left versus right. Colombia is discussing right now whether President Uribe will have the chance to run for a third term.

Nor is it only a debate about centralizing power in the executive.

Nations do this to improve governance, to end exclusion, and to open opportunity. As Jennifer McCoy of the Carter Center pondered recently, does democracy allow for its own renewal living within the rules of the game?

There are real and legitimate questions about when that does get out of hand, but we have to be very careful in light of the region's history – and ours – about how and when we ask those questions. These are serious issues and we place a lot at risk if we treat them lightly. We should support democracy in places like Honduras not only when we like the choices that people are making, but also when they use elections rather than violence to make those choices for themselves, even when we disagree with the outcome.

We share a common border with this region and confront a common set of problems. Diseases, criminality and security, environmental challenges and proliferation; none can be solved without us being good partners, not by imposing but by listening and operating multilaterally.

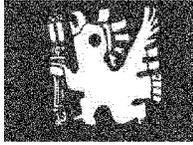
If we identify with their democratic aspirations, our country will be much more successful in the region moving forward. It is that interest, and those concerns, which I believe are at stake for us in the crisis in Honduras today.

Thank you.

COMMITTEE ON FOREIGN AFFAIRS
SUBCOMMITTEE ON THE WESTERN HEMISPHERE
THE CRISIS IN HONDURAS
JULY 10, 2009

QUESTIONS FOR THE RECORD
POSED BY CONGRESSMAN GUS BILIRAKIS (R-FL)

1. How can the Obama Administration refuse to speak with the Honduran government? Wouldn't it behoove us to get a fuller understanding of why Zelaya had to be ousted? What is the Administration afraid to find out? Why is the Administration willing to speak and negotiate with avowed enemies of the U.S. but refuses to meet with the Honduran government in order to ensure the well-being of the Honduran people?
 2. Ambassador Reich, in your statement you mention Vilma Morales, former President of Supreme Court, and how she says that the Supreme Court action ordering the arrest of Zelaya was legal. Could you elaborate more on how nearly every sector of the Honduran government has said that everything that occurred was legal?
 3. While Mr. Zelaya was elected democratically, did he govern democratically? And could the panel elaborate on how Mr. Zelaya trampled on Honduran democratic institutions?
 4. Ambassador Reich, you touched on some of the everyday fears Hondurans had to live under with Mr. Zelaya in power. Could you elaborate on some of the illegal and corrupt practices of the government of Mr. Zelaya?
 5. Could anyone in the panel address recent accusations against Mr. Zelaya and how he was involved in the smuggling of drugs from Venezuela to the US?
 6. Could the current situation in Honduras have been avoided if Mr. Zelaya had not ignored a lawful supreme court order to desist from his efforts to change the presidential term limits?
 7. What is the status of United States Aid money to Honduras?
 8. After all Mr. Zelaya has done; and after all his illegal actions; how could the United States support his return if the courts, the Congress, the Attorney General and every political organ in Honduras declared what he has done as both unconstitutional and illegal?
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COMMITTEE ON FOREIGN AFFAIRS
 SUBCOMMITTEE ON THE WESTERN HEMISPHERE
 THE CRISIS IN HONDURAS
 FRIDAY, JUNE 10, 2009

Question Posed by Congressman Gus Bilirakis (R-FL)

Response by Ms. Joy Olson, Executive Director, Washington Office on Latin America

2. Ambassador Reich, in your statement you mention Vilma Morales, former President of Supreme Court, and how she says that the Supreme Court action ordering the arrest of Zelaya was legal. Could you elaborate more on how nearly every sector of the Honduran government has said that everything that occurred was legal?

Olson: While the de facto government of Honduras and some sectors of civil society have claimed that the removal of President Manuel Zelaya on June 28 was a lawful succession of order, it was not. Instead, analyses of the events the day of and after the coup d'état reveal illegal actions by branches of the de facto government. Not surprisingly, every government in the world, including all 33 members of the Organization of American States, has called his ouster an illegal coup. Even the Honduran military, who forcibly removed the president by gun point on a judicial warrant and then exceeded that warrant by forcing the President out of the country, has admitted that their actions were illegal.

Defenders of the coup insist that it was a lawful, constitutional act taken to defend Honduran democracy and the rule of law because President Zelaya defied both the courts and constitution and allegedly was attempting to amend the Constitution in order to allow for his reelection. They later justified their actions by citing Article 239, which reads "The citizen who has held executive power cannot be President or Vice President of the Republic. Anyone who breaks this clause or proposed its reform, or supports it directly or indirectly, ceases immediately to exercise their respective positions, and will remain unable to hold public office for 10 years¹." However, this justification was given *post facto* and is not even mentioned once in the legislative decree issued after his unlawful expatriation.

Secondly, the Honduran Congress has no legal power to depose a sitting president. As Cassel points out in his article, none of the constitutional articles cited by the congressional decree after Zelaya's ouster, grants Congress the power to remove or replace a president. Per the Honduran Constitution, only the Supreme Court can determine whether or not a president has committed treason and should be removed.

The Honduras Coup 2009 blog, equally points out that the Congress can only determine whether there are grounds to accuse the president of a crime and it is up the Supreme Court to proceed with adjudication. Significantly, no court found President Zelaya guilty of any action prior to June 28.

¹ <http://www.asil.org/insights090729.cfm>

Rather than defending democracy and the rule of law, the coup government and its supporters have subverted democracy and broke numerous laws, as succinctly described by the Honduras Coup 2009:

The removal and deportation of the president alone violated the following Honduran laws: Article 323 of the Penal Code, Article 328, numbers 1, 2, 3 and 4, for violating the bodily integrity and liberty of the President and forcibly changing the form of government; article 335 number 5, for acts of terror against the security of the state; Article 336 for rebellion against the chain of command and the leadership of the president by the armed forces; Article 333 number 1 for illegal detention of those specified; Article 349 number 2 for abuse of authority in the declaration by Congress of a substitution for the democratically-elected President; which is an act absolutely contrary to the Constitution of the Republic; in virtue of the fact that power that the Constitution of the Republic grants to the National Congress to disapprove the official conduct of a public functionary, does not imply a right or power to remove him or to fire him. And, under Article 2 of the Constitution, treason by supplanting popular sovereignty and the usurpation of the duly constituted powers, as is also stated in the Penal Code, article 302²...

Further, regarding the detention of President Zelaya:

The detention of the executive should have followed the well-defined process in the Penal Code article 417 by the delivering of the person arrested to the competent judicial authorities, which did not happen in this case. Additionally, since the passage of Decree 175-2003 in 2003, high government officials have been subject to prosecution before a special panel of the Supreme Court, not the Congress³. President Zelaya should have been submitted to this procedure, but was illegally deported to Costa Rica.

As Cassel's states in his article, the removal of a president with no prior hearing or procedure, and no specification of who decides on the removal, or on what evidentiary basis, would offend elemental concepts of due process of law. The results since have dealt a serious blow to democracy and the rule of law in Honduras and throughout the hemisphere.

² <http://hondurascoup2009.blogspot.com/2009/06/case-against-coup-being-legal-under.html>

³ <http://hondurascoup2009.blogspot.com/2009/08/immunity-impunity-impeachment-some.html>

COMMITTEE ON FOREIGN AFFAIRS
SUBCOMMITTEE ON THE WESTERN HEMISPHERE
THE CRISIS IN HONDURAS
FRIDAY, JULY 10, 2009

QUESTIONS FOR THE RECORD
POSED BY CONGRESSMAN GUS BILIKRAKIS (R-FL)

Response from Mr. Lanny Davis, Partner, Orrick, Herrington & Sutcliffe LLP

3. While Mr. Zelaya was elected democratically, did he govern democratically? And could the panel elaborate on how Mr. Zelaya trampled on Honduran democratic institutions?

Davis: This is an important question because many people are not aware that Mr. Zelaya's removal came after months of Mr. Zelaya's failure to respect other co-equal branches of the government, court decisions and opinions, and attempts to violate the Honduran Constitution and the law. For example, according to an Aug. 6, 2009 Associated Press article, Mr. Zelaya refused to submit a 2008 budget to Congress as required by law, leading to concerns that "the government was being run at the president's whim." Most importantly, Mr. Zelaya ignored multiple legal opinions and court rulings in his effort to amend the Constitution. For example:

- o On May 11, the Honduran Attorney General issued a press release stating that Mr. Zelaya's attempt to hold a referendum supporting a new constitution was illegal.
- o On May 27, the Honduran Administrative Law Tribunal ruled that the referendum violated the Constitution and ordered suspension of all acts supporting the referendum.
- o On May 29, the Honduran Administrative Law Tribunal clarified its May 27 ruling, explaining that any acts that would lead to any vote or poll similar to the referendum would violate the Constitution. The Tribunal then specifically ordered Mr. Zelaya to abide by its ruling.
- o On June 9, the Appellate Court of the Administrative Law Tribunal ruled that Mr. Zelaya's actions violated the Constitution.
- o On June 25, the Honduran Supreme Electoral Tribunal declared that the referendum violated the Constitution and ordered that the ballots and polling materials for the referendum be confiscated and held on an air force base. Mr. Zelaya later led a large group of supporters who forced their way into the base to seize the ballots.

Mr. Zelaya's decision to disregard these multiple rulings by the Honduran Judicial Branch led the Honduran Attorney General to file a criminal complaint in the Honduran Supreme Court accusing Mr. Zelaya of crimes against the form of government, treason, abuse of authority, and usurpation of power.

COMMITTEE ON FOREIGN AFFAIRS
SUBCOMMITTEE ON THE WESTERN HEMISPHERE
THE CRISIS IN HONDURAS
FRIDAY, JULY 10, 2009

QUESTIONS FOR THE RECORD
POSED BY CONGRESSMAN GUS BILIKRAKIS (R-FL)

Response from The Honorable Otto J. Reich, President, Otto Reich Associates, LLC

1. How can the Obama Administration refuse to speak with the Honduran government? Wouldn't it behoove us to get a fuller understanding of why Zelaya had to be ousted? What is the Administration afraid to find out? Why is the Administration willing to speak and negotiate with avowed enemies of the U.S. but refuses to meet with the Honduran government in order to ensure the well-being of the Honduran people?

Reich: I do not know what explains State's refusal to talk. It is possible that State did not properly study the events leading up to June 28 (Zelaya's expulsion) prior to making a premature allegation of "coup" and thus refused to talk to the "de jure" as well as "de facto" Micheletti government. The fact that State's lawyers have not called the expulsion a "coup" several weeks after the events supports that theory. Having painted itself into a public relations corner, it was difficult to admit error.

2. Ambassador Reich, in your statement you mention Vilma Morales, former President of Supreme Court, and how she says that the Supreme Court action ordering the arrest of Zelaya was legal. Could you elaborate more on how nearly every sector of the Honduran government has said that everything that occurred was legal?

Reich: Dr. Vilma Morales is only one of a number of Honduran Supreme Court alumni who support the Zelaya arrest order. In fact, to my knowledge no Honduran constitutional expert one has said the opposite. The Supreme Court, the overwhelming majority of Congress, the National Election Tribunal, the major political parties (including Zelaya's own), the Catholic Church, the Evangelical churches, and every other formal entity of Honduran democracy and society approve the arrest of Zelaya for violating the Constitution.

3. While Mr. Zelaya was elected democratically, did he govern democratically? And could the panel elaborate on how Mr. Zelaya trampled on Honduran democratic institutions?

Reich: Your question goes to the crux of the Zelaya matter and of the current effort by a number of elected demagogues to undermine democracy in Latin America. The leaders of the Bolivarian Alternative for the Americas (ALBA, in its Spanish acronym), Zelaya included, have all at one time reached power by winning elections. Having done so, however, they proceeded to change the rules of the process, and the Constitution if necessary, in order to stay in power indefinitely. They have, in most cases, run roughshod over their legislatures; packed the courts with political supporters; used force against peaceful opposition demonstrations; muzzled and harassed the press, the independent labor unions and the private sector; politicized the police and military; jailed opponents on spurious charges, exiled others, and taken all other actions necessary to maintain themselves in power.

4. Ambassador Reich, you touched on some of the everyday fears Hondurans had to live under with Mr. Zelaya in power. Could you elaborate on some of the illegal and corrupt practices of the government of Mr. Zelaya?

Reich: According to Honduran press reports and accusations by the Attorney General and other Honduran law enforcement entities, Manuel Zelaya, when he was President of Honduras, allowed and reportedly participated in large-scale corruption, illegal use of military and national police forces for personal gain of himself and his relatives and business associates, and violated the Constitution numerous ways. In the former charge, I refer the Committee to the testimony of Dr. Guillermo Perez Cadalso, former member of the Supreme Court, Foreign Minister of Honduras and professor of Constitutional law.

5. Could anyone in the panel address recent accusations against Mr. Zelaya and how he was involved in the smuggling of drugs from Venezuela to the US?

Reich: I will defer to my US Government colleagues on that question.

6. Could the current situation in Honduras have been avoided if Mr. Zelaya had not ignored a lawful supreme court order to desist from his efforts to change the presidential term limits?

Reich: The answer is “probably, yes.” Unfortunately, Zelaya’s corrupt and abusive behavior would not have been sufficient to arrant his removal unless he had tried to maintain himself in power illegally.

7. What is the status of United States Aid money to Honduras?

Reich: I will again defer to my US Government colleagues on that question.

8. After all Mr. Zelaya has done; and after all his illegal actions; how could the United States support his return if the courts, the Congress, the Attorney General and every political organ in Honduras declared what he has done as both unconstitutional and illegal?

Reich: To paraphrase what I said at the hearing, the US should not put itself in such a morally untenable position.



from the July 02, 2009 edition - <http://www.csmonitor.com/2009/0702/p09s03-coop.html>

A 'coup' in Honduras? Nonsense.

Don't believe the myth. The arrest of President Zelaya represents the triumph of the rule of law.

By Octavio Sánchez

TEGUCIGALPA, HONDURAS

Sometimes, the whole world prefers a lie to the truth. The White House, the United Nations, the Organization of American States, and much of the media have condemned the ouster of Honduran President Manuel Zelaya this past weekend as a coup d'état.

That is nonsense.

In fact, what happened here is nothing short of the triumph of the rule of law.

To understand recent events, you have to know a bit about Honduras's constitutional history. In 1982, my country adopted a new Constitution that enabled our orderly return to democracy after years of military rule. After more than a dozen previous constitutions, the current Constitution, at 27 years old, has endured the longest.

It has endured because it responds and adapts to changing political conditions: Of its original 379 articles, seven have been completely or partially repealed, 18 have been interpreted, and 121 have been reformed.

It also includes seven articles that cannot be repealed or amended because they address issues that are critical for us. Those unchangeable articles include the form of government; the extent of our borders; the number of years of the presidential term; two prohibitions – one with respect to reelection of presidents, the other concerning eligibility for the presidency; and one article that penalizes the abrogation of the Constitution.

During these 27 years, Honduras has dealt with its problems within the rule of law. Every

successful democratic country has lived through similar periods of trial and error until they were able to forge legal frameworks that adapt to their reality. France crafted more than a dozen constitutions between 1789 and the adoption of the current one in 1958. The US Constitution has been amended 27 times since 1789. And the British – pragmatic as they are – in 900 years have made so many changes that they have never bothered to compile their Constitution into a single body of law.

Under our Constitution, what happened in Honduras this past Sunday? Soldiers arrested and sent out of the country a Honduran citizen who, the day before, through his own actions had stripped himself of the presidency.

These are the facts: On June 26, President Zelaya issued a decree ordering all government employees to take part in the "Public Opinion Poll to convene a National Constitutional Assembly." In doing so, Zelaya triggered a constitutional provision that automatically removed him from office.

Constitutional assemblies are convened to write new constitutions. When Zelaya published that decree to initiate an "opinion poll" about the possibility of convening a national assembly, he contravened the unchangeable articles of the Constitution that deal with the prohibition of reelecting a president and of extending his term. His actions showed intent.

Our Constitution takes such intent seriously. According to Article 239: "No citizen who has already served as head of the Executive Branch can be President or Vice-President. Whoever violates this law or *proposes its reform* [emphasis added], as well as those that support such violation directly or indirectly, will *immediately* cease in their functions and will be unable to hold any public office for a period of 10 years."

Notice that the article speaks about intent and that it also says "immediately" – as in "instant," as in "no trial required," as in "no impeachment needed."

Continuismo – the tendency of heads of state to extend their rule indefinitely – has been the lifeblood of Latin America's authoritarian tradition. The Constitution's provision of instant sanction might sound draconian, but every Latin American democrat knows how much of a threat to our

fragile democracies continuismo presents. In Latin America, chiefs of state have often been above the law. The instant sanction of the supreme law has successfully prevented the possibility of a new Honduran continuismo.

The Supreme Court and the attorney general ordered Zelaya's arrest for disobeying several court orders compelling him to obey the Constitution. He was detained and taken to Costa Rica. Why? Congress needed time to convene and remove him from office. With him inside the country that would have been impossible. This decision was taken by the 123 (of the 128) members of Congress present that day.

Don't believe the coup myth. The Honduran military acted entirely within the bounds of the Constitution. The military gained nothing but the respect of the nation by its actions.

I am extremely proud of my compatriots. Finally, we have decided to stand up and become a country of laws, not men. From now on, here in Honduras, no one will be above the law.

Octavio Sánchez, a lawyer, is a former presidential adviser (2002-05) and minister of culture (2005-06) of the Republic of Honduras.



Casa Presidencial
Honduras, C. A.

Good evening. Tomorrow morning, many of us will gather together to celebrate our democracy in the face of these current challenges. Our number one priority is helping safeguard the democracy and rule of law that we Hondurans have all worked so hard to achieve over the last several decades. Our government continues to work with the international community toward a resolution that recognizes that no person -- not even our president -- is above the law.

I understand that U.S. Secretary of State Hillary Clinton will meet with former President Zelaya tomorrow morning. I welcome Secretary Clinton's attempt to advance the dialogue in this situation, particularly her effort to find a peaceful resolution consistent with our security and sovereignty.

I hope Secretary Clinton confirms for Mr. Zelaya that democracy and security are no less important for us than for the United States. I trust Secretary Clinton recognizes that the rule of law is why we are where we are today, and why Mr. Zelaya must be held accountable for his unconstitutional and other illegal acts through the exercise of due process.

Our Constitution says he broke the law. The Supreme Court has ruled twice that he broke the law. The Congress has said he broke the law. The Attorney General has said he broke the law. My objective -- and I believe the objective of all of those in government -- is to restore the unity of the Honduran family through maintaining our safety, security, democracy, and freedom.

Rumors abound throughout the world about what is happening here. Let me be clear for everyone, for you and for the international community, that our government is run by civilians, is one that respects the rights of our people to be heard through protests and the press, and is one that continues to respect the right of every part of our country -- from our farmers to our workers to our reporters to our political parties -- to speak and be heard.

This is a time when we should be most proud of what we have achieved and of how far we have come. This is a time when the overwhelming majority of our country has stood together and demanded that we continue our democracy and sovereignty. And this is truly a time when we have demonstrated that we are a nation of laws that everyone must abide.

A Chance for Honduras

The best way to defeat deposed president Manuel Zelaya lies in allowing his return.

Thursday, July 9, 2009

THE POLITICAL crisis in Honduras began as a disaster for supporters of Latin American democracy -- not only because the army's arrest and deportation of President Manuel Zelaya last week violated the country's constitution but because it played into the hands of the faction, led by Mr. Zelaya's mentor, Hugo Chávez, that is attempting to overthrow democratic institutions across the region. Fortunately, Mr. Chávez wasted his advantage: His foolish attempt to fly Mr. Zelaya back into Tegucigalpa on Sunday flopped, producing a ludicrous televised circus in the air and deadly violence on the ground.

Now, with some help from the Obama administration, what could have been a catastrophe has become an opportunity to deal a defeat to the populist authoritarianism that Mr. Chávez and Mr. Zelaya represent. That chance will depend, however, on whether Honduras's de facto government, which says that it is defending democracy and the rule of law, is willing to act on its words.

Today, Costa Rica's President Oscar Arias is due to begin mediating between Mr. Zelaya and the de facto government's president, Roberto Micheletti. Secretary of State Hillary Rodham Clinton, who played an important role in setting up the talks, said that the aim is to avoid further bloodshed and achieve the "restoration of democratic constitutional order." For Mr. Micheletti, this must mean a concession that he -- along with the overwhelming majority of Honduras's political elite -- will be loath to grant: the return of Mr. Zelaya to his post as president. To many Hondurans, this concession looks risky as well as humiliating, since before being deposed, Mr. Zelaya was flouting decisions by Congress and the Supreme Court while attempting to mobilize popular support for an illegal rewrite of the constitution.

Yet, once Mr. Zelaya is back in office, the weight of the law will lie entirely on the side of his opponents. He has been charged with multiple crimes -- from refusing to respect court orders to invading a military base with a mob of his supporters. Even if he does not wind up in jail, there is little chance he could now -- with the rest of the hemisphere looking on -- succeed in changing the constitution or perpetuating himself in office beyond the end of his term in January. Supreme Court spokesmen in Tegucigalpa have been hinting at the possibility of an amnesty for the president; Mr. Micheletti should be aiming to exchange that for Mr. Zelaya's commitment to leave peacefully when his term ends and respect the decisions of Congress and the Supreme Court in the meantime.

Such an outcome would be a victory not only for Honduras but also for the beleaguered cause of democracy in the region. Mr. Chávez dreams of a putsch in Tegucigalpa that would produce another lawless autocracy like his own; instead, he could watch as a peaceful solution is brokered by the United States and moderate Latin allies that would reinforce the Organization of American States' democracy charter.

Reuters

Q+A-The dispute that led to a coup in Honduras

07.09.09, 2:50 PM ET

HONDURAS - By Daniel Trotta

TEGUCIGALPA (Reuters) - Veteran mediator President Oscar Arias of Costa Rica hosts talks Thursday between the rivals for power in Honduras following last month's military coup.

President Manuel Zelaya was ousted on June 28 after he clashed with the country's Supreme Court, Congress and army over his effort to extend presidential term limits.

Here are some questions and answers about the balance of power between the different institutions in the impoverished Central American country.

Q - Why was Zelaya seen as such a threat?

A - Largely because of his increasingly friendship with Hugo Chavez, Venezuela's socialist and anti-U.S. president. Honduras is a traditionally conservative country that never had the type of leftist insurrections that brought the Sandinistas to power in neighboring Nicaragua in 1979 and nearly put guerrillas in power in El Salvador, another neighbor, in the 1980s. When Zelaya allied himself with Chavez by taking Venezuelan oil at preferential prices and adopted some of Chavez's populist rhetoric and policies, it raised concerns within the political and business class. Zelaya took office in 2006 and had been due to step down in 2010 after a single four-year term. His Chavez-like steps to seek support for amending the constitution and allowing presidential re-election finally triggered his ouster.

Q - What exactly did Zelaya do?

A - Zelaya was attempting to conduct nationwide balloting on June 28 -- he called it a "survey" -- to gauge popular support for a vote in the November elections on whether to hold a constituent assembly to amend the constitution. Such an assembly could have thrown state institutions into disarray, perhaps dissolving Congress and allowing for the president to seek re-election. The Congress, the Supreme Court and the Supreme Electoral Tribunal all said the June vote was illegal, but Zelaya insisted on going forward. As tension mounted over the looming vote, Zelaya angered the military by trying to fire the head of the armed forces -- he was overruled by the Supreme Court -- and then by seizing ballot boxes at an army base.

Q - Why couldn't Congress and the courts stop him?

A - Because they are weak and don't carry the same weight as they would in a more mature democracy. Honduras has historically seen its affairs heavily influenced by foreign powers like the United States and the foreign companies that invested here, supported by the army, which has been the final arbiter. For most of the period between 1951 and 1982, the country was governed by the military. In the case of the current crisis, it was the army that had the final say on Zelaya's survey because it had the responsibility of distributing ballots and ballot boxes. The army refused to do so, citing the other branches of government who said Zelaya's planned vote was illegal. Moreover, the army is charged with the responsibility of ensuring the transfer of power.

Q - Why not impeach him?

A - There is no impeachment law as such, but legal experts who support Zelaya's ouster say his actions triggered a clause in the constitution that requires the removal from office of any public official seeking to change the laws governing the presidential limit of a single four-year term.

Q - Why not simply charge Zelaya with a crime?

A - Because Honduras does not have the kind of professional, independent judiciary to handle criminal charges against a president, nor the institutions needed for a political trial. It appears the army and civilian authorities decided they needed to remove Zelaya from the country in order to avoid bloodshed in the event Zelaya supporters rebelled against any trial.

Q - So who is holding the real power in Honduras?

A - In this crisis, it is the army. The Supreme Court and Congress proved incapable of stopping Zelaya in his push to conduct a ballot that his opponents feared could lead to an extension of presidential term limits. In the end, it was the military that seized Zelaya and put him on a plane to Costa Rica. But the army was not acting on its own – the Supreme Court said it had asked the army to remove Zelaya and Congress installed Roberto Micheletti soon after the ouster. (Additional reporting by Gustavo Palencia, Editing by Frances Kerry)

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