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INTER-AMERICAN COMMISSION ON HUMAN RIGHTS

OEA/Ser.L/V/II.
Doc. 55
30 December 2009
Original: Spanish

HONDURAS: HUMAN RIGHTS AND THE *COUP D'ÉTAT*

2009
Internet: http://www.cidh.org
E-mail: cidhoea@oas.org

OAS Cataloging-in-Publication Data

Inter-American Commission on Human Rights.

Honduras : derechos humanos y golpe de estado = Honduras : human rights and coup d'état / Inter-American Commission on Human Rights.
p. ; cm. (OEA documentos oficiales ; OEA/Ser.L)(OAS official records ; OEA/Ser.L)
ISBN 978-0-8270-5406-6

1. Zelaya Rosales, José Manuel, 1952- . 2. Honduras--History--Coup d'état, 2009. 3. Honduras--Politics and government--21st century. 4. Democracy--Honduras--21st century. 5. Human rights--Honduras. 6. Civil rights--Honduras. 7. Justice, Administration of--Honduras. I. Title. II Series. III. Series. OAS official records ; OEA/Ser.L.

OEA/Ser.L/V/II. Doc.55

Approved by the Inter-American Commission on Human Rights on December 30, 2009

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HONDURAS: HUMAN RIGHTS AND THE *COUP D'ÉTAT*

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HONDURAS: HUMAN RIGHTS AND THE *COUP D'ÉTAT*

I. EXECUTIVE SUMMARY

1. As its paramount mission is to "promote the observance and defense of human rights" in the Hemisphere, the Commission has been particularly attentive in following the situation of human rights in Honduras, and through its reports has reviewed a series of structural issues in the areas of justice, security, marginalization and discrimination that have for decades taken a toll on the human rights of its inhabitants.

2. On June 28, 2009, the democratically elected President of Honduras was deposed and the democratic and constitutional order was interrupted.[1] At 5:00 a.m. that morning, Honduran Army troops, acting on orders of the Head of the Joint Chiefs of Staff and the Vice Minister of Defense, stormed the presidential residence, took President José Manuel Zelaya Rosales into custody and flew him by military aircraft to Costa Rica.

3. That same day, the Inter-American Commission on Human Rights (hereinafter "Inter-American Commission", "IACHR" or the "Commission") issued its first press release on the situation in Honduras, in which it strongly condemned the *coup d'état*, made an urgent call to restore democratic order in Honduras and to respect human rights, and demanded that the situation of the Foreign Minister and other cabinet members be clarified immediately, as their whereabouts at the time were unknown. On June 30, the Commission asked to conduct an urgent visit to Honduras. Also, in furtherance of its duties to promote and protect human rights and given the hundreds of complaints it had received on June 28 and thereafter alleging grave human rights violations, the IACHR granted precautionary measures, requested information on the danger that certain persons faced as a consequence of the *coup d'état*, and requested information pursuant to Article 41 of the American Convention on Human Rights (hereinafter, the "American Convention") and Article XIV of the Inter-American Convention on Forced Disappearance of Persons (hereinafter, the "Convention on Forced Disappearance"). It also issued a number of press releases.

4. The international community's condemnation of the *coup d'état* in Honduras has been unanimous. The *de facto* authorities have not been recognized. International forums have condemned the interruption of the democratic order in Honduras and have called for President Zelaya to be restored to office. For their part, the member states of the Organization of American States (hereinafter the "OAS") responded to the political crisis in Honduras by invoking mechanisms recognized in the Inter-American Democratic Charter, which stipulates that "[t]he peoples of the Americas have a right to democracy and their governments have an obligation to promote and defend it." Thus, at a special session held on July 4, 2009, the OAS General Assembly resolved to suspend the Honduran state from the exercise of its right to participate in the Organization. It further resolved to "reaffirm that the Republic of Honduras must continue to fulfill its obligations as a member of the Organization, in particular with regard to human rights; and to urge the Inter-American Commission on Human Rights to continue to take all necessary measures to protect and defend human rights and fundamental freedoms in Honduras."[2]

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[1] The IACHR deemed that the situation in Honduras since the *coup d'état* in June 2009 fulfilled the criteria established in its 1997 Annual Report and therefore decided to include the State of Honduras in Chapter IV of its 2009 Annual Report, pursuant to Article 57(1)(h) of its Rules of Procedure.

[2] OAS, Thirty-seventh Special Session of the General Assembly, Resolution AG/RES. 2 (XXXVII-E/09) rev. 1, July 4, 2009, operative paragraphs 1 and 2. Available at: http://www.oas.org/CONSEJO/GENERAL%20ASSEMBLY/37SGA.asp.

5. On July 13, the IACHR received a communication[3] from the Chief Justice of the Supreme Court of Honduras, in which he agreed to the Commission's visit. The IACHR's on-site visit to Honduras took place between August 17 and 21, 2009, after which it prepared this report, which concerns the human rights situation since the *coup d'état*.

6. Along with the loss of institutional legitimacy brought about by the *coup d'état*, during its visit the Commission confirmed that serious human rights violations had been committed, including killings, an arbitrary declaration of a state of emergency, disproportionate use of force against public demonstrations, criminalization of public protest, arbitrary detention of thousands of persons, cruel, inhuman and degrading treatment, poor detention conditions, militarization of Honduran territory, an increase in incidents of racial discrimination, violations of women's rights, severe and arbitrary restrictions on the right to freedom of expression, and serious violations of political rights. The Commission also established that judicial remedies were ineffective in protecting human rights.

7. From the day on which the *coup d´état* occurred, the state of emergency that the *de facto* authorities illegitimately decreed and that the security forces enforced was used as means to control the population. First, the Commission observes that the *de facto* government does not have legitimacy *ab initio* to declare a state of emergency; furthermore, under Article 27 of the American Convention, the scope of the suspensions must be those strictly necessary to relieve an emergency situation, and this implies limiting them in terms of time and space, and the rights that are suspended.

8. Thus, at least seven (7) people were killed as a consequence of the disproportionate force that security forces used to suppress the public demonstrations. According to the information received, there is nothing to suggest that internal investigations have made any significant headway toward identifying and punishing those responsible.

9. The IACHR confirmed that the security forces conducted thousands of illegal and arbitrary detentions, without an order from a competent authority. Those detained were not brought before a judge to review the lawfulness of their detention, were not informed of the reasons for their detention, and were not read their rights; many were held *incommunicado.* And while the majority of those detained were released within 24 hours, no records were made of the arrests, which in many cases obstructed execution of the writs of *habeas corpus* and provided the opportunity for violations of the detainees' right to have their physical, mental and moral integrity respected, especially in the case of women detainees, who were often sexually abused.

10. The materiel and tactics that the Army, the Police and the Cobra Command Strike Force deployed revealed a disproportionate use of force. This, combined with the conditions in which detainees were incarcerated, meant that thousands of persons endured inhuman, cruel and degrading treatment. In this context, the aggressive tactics used took a particularly heavy toll on women, who in many cases were victims of sexual violence. Other minority groups like the Garifuna, members of the gay community and foreign nationals were the target of discriminatory practices.

11. The Commission also received testimony about acts of harassment against persons who publicly demonstrated their political support for President Zelaya. The IACHR confirmed serious violations of political rights, such as the right to participate in politics and the right to hold public office. Ministers, governors, members of the National Congress and mayors were the targets of reprisals, threats, acts of violence and budgetary cuts, and the public offices where they worked

[3] See Memorandum from the Supreme Court of Justice of Honduras, PCSJ 464-2009, dated July 13, 2009.

were occupied by military troops. Furthermore, *de facto* and *de jure* restrictions were imposed on the activities of the opposition parties, groups and leaders who were against the *de facto* government. The family of President Zelaya in particular reported harassment and that a smear campaign was being waged against them.

12. The IACHR confirmed that the flow of information and news was controlled by temporarily shutting down some media outlets; orders were given to block transmission of the signal from certain cable television networks that were covering the *coup d'état*; selective power outages were used to affect broadcasting by audiovisual media covering the *coup*, and journalists from media outlets whose editorial positions were opposed to the *coup d'état* were attacked and threatened.

13. The Commission also confirmed that the airing of dissident opinions or criticism was prohibited, and security forces were authorized to search and confiscate broadcasting equipment when, in the opinion of the administrative authorities, the media were engaging in behavior prohibited under the existing laws. These measures are a very serious, arbitrary unnecessary and disproportionate restriction, in violation of international law, of the right of all Hondurans to freely express themselves and to receive information from a plurality and diversity of sources. The IACHR repeats that any curtailment of the right to freedom of expression, even under a state of emergency, must be ordered by a legitimate government and must be proportionate and strictly necessary to protect the existence of the democratic system of government.

14. Violations of the right to life, humane treatment, freedom of association, personal liberty, judicial guarantees, freedom of expression, political rights, the rights of women and the rights of minority groups were exacerbated by the absence of a legitimate government capable of processing complaints, investigating facts, punishing those responsible, and making reparations to victims. Those sectors of Honduran society that opposed the *coup d'état* told the Commission that they feared reprisals by security agents and were mistrustful of those institutions that had not energetically condemned the break with the democratic institutional order, and that had done nothing in response to public outcries.

15. Under the American Convention on Human Rights, which Honduras ratified in 1977, it an international obligation to prevent human rights violations and, should they occur, to investigate, prosecute and punish those responsible. Nevertheless, the *de facto* authorities and the Supreme Court of Honduras consistently deny the existence of those violations. Inactivity and tolerance enable the repetition of human rights violations with impunity.

16. The organs of the Inter-American system for the protection of human rights have repeatedly held that the democratic system of government is the best guarantee for the exercise and enjoyment of human rights. Indeed, this report reveals how the human rights violations reported in Honduras are a direct consequence of the interruption of the constitutional order. The Commission therefore considers that the restoration of democratic institutions in Honduras is a condition *sine qua non* for the effective protection and observance of the human rights of all the inhabitants of Honduras.

II. INTRODUCTION

17. On June 28, 2009, democratic and constitutional order in Honduras was interrupted. That same day, the Inter-American Commission condemned the *coup d'état* and the interruption of the Honduran constitutional order, and issued an urgent call for democratic order to be restored and for human rights, the rule of law and the Inter-American Democratic Charter to be respected. It also urged unqualified respect for the right to freedom of expression.

18. The organs of the inter-American system for the protection of human rights have emphasized the intrinsic relationship that exists between democracy and observance of and respect for human rights. Representative democracy is the form of political organization that the OAS member states have explicitly adopted. In its principles, the OAS Charter provides that "(t)he solidarity of the American States and the high aims which are sought through it require the political organization of those States on the basis of the effective exercise of representative democracy."[4] Furthermore, "representative democracy is an indispensable condition for the stability, peace and development of the region."[5] The countries of the American hemisphere reinforced their commitment to democratic government through their adoption of the Inter-American Democratic Charter[6], which provides that "the peoples of the Americas have a right to democracy and their governments have an obligation to promote and defend it."[7] That legal instrument reflects the efforts to promote and strengthen democracy and the mechanisms implemented to prevent and respond to situations that affect the development of the democratic political institutional process.

19. The Inter-American Democratic Charter reaffirms that "the promotion and protection of human rights is a basic prerequisite for the existence of a democratic society"[8] and declares that:

> Essential elements of representative democracy include, *inter alia*, respect for human rights and fundamental freedoms, access to and the exercise of power in accordance with the rule of law, the holding of periodic, free, and fair elections based on secret balloting and universal suffrage as an expression of the sovereignty of the people, the pluralistic system of political parties and organizations, and the separation of powers and independence of the branches of government.[9]

20. From the moment the *coup d'état* occurred, the Commission received numerous complaints of human rights violations committed by the *de facto* government, which affected such basic rights as the right to life, the right to humane treatment, the right to personal liberty and freedom of expression.

21. In compliance with its obligations to promote and defend human rights, the Commission has been constantly observing and monitoring the human rights situation since June 28 and has used precautionary measures and the procedure of requesting information as means to protect the human rights of thousands of persons.

22. The Commission conducted its on-site visit from August 17 through 21, 2009, to verify the observance of human rights in Honduras in the wake of the *coup d'état*. On August 21[10]

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[4] Article 3, paragraph d of the Charter of the Organization of American States, signed in Bogotá in 1948 and amended by the Protocol of Buenos Aires in 1967, the Protocol of Cartagena de Indias in 1985, the Protocol of Washington in 1992, and the Protocol of Managua in 1993.

[5] Charter of the Organization of American States, Preamble.

[6] Inter-American Democratic Charter, approved on September 11, 2001, during the Twenty-eight Special Session of the General Assembly of the Organization of American States, held in Lima, Peru.

[7] Inter-American Democratic Charter, Article 1.

[8] Inter-American Democratic Charter, Preamble.

[9] Inter-American Democratic Charter, Article 3.

[10] IACHR, Press Release 60/09: *IACHR presents preliminary observations on its visit to Honduras,* August 21, 2009. Available at: http://www.cidh.oas.org/Comunicados/English/2009/60-09eng.htm.

the IACHR presented its preliminary observations publicly in Tegucigalpa, where it reported on a pattern of disproportionate use of public force, arbitrary detentions, and control of information aimed at limiting the political participation of a sector of the populace. It also found that the interruption of the constitutional order caused by the *coup d'état* was coupled with a heavy military presence in various areas of civilian life, suspension of guarantees with enforcement of curfews, and the ineffectiveness of judicial remedies in safeguarding people's fundamental rights.

23. In its preliminary observations, the Commission concluded that the conditions for effective observance of the human rights of all inhabitants of Honduras would only be possible when the democratic institutional system was restored in Honduras.

24. The present report, which concerns the human rights situation since the *coup d´état*, was prepared after the on-site visit. During that visit, the Commission had an opportunity to meet with representatives of the *de facto* government and of diverse sectors of civil society. It also had an opportunity to observe and verify, in different places throughout the country, the situation of human rights in Honduras in the context of the *coup d'état*.

25. The Inter-American Commission approved the present report on November 27 2009. Pursuant to Article 58 of the Commission's Rules of Procedure, the report was forwarded to the state of Honduras on December 7, 2009, with the request that it submit such observations as it deemed pertinent within 15 days. The Commission's communication was addressed to the Chief Justice of the Supreme Court of Honduras and to the President of the National Congress, given the impossibility of communicating with President Zelaya or his Foreign Minister, Patricia Rodas.

26. On December 16 2009, the State requested an extension for the purposes of submitting its observations. The Commission did not accede to the State's request. The observations were received by the IACHR on December 22, 2009, signed by the Chief Justice of the Supreme Court of Honduras and, wherever pertinent, have been introduced throughout the body of this report. The Commission approved publication of this report on December 30, 2009.

27. The observations presented by the Chief Justice of the Supreme Court, contain comments pertaining to form and substance and a statement to the effect that "by claiming to have established and verified the presence of serious human rights violations, the draft report adopts an accusatory tone that constitutes a prejudgment of the Honduran state's international responsibility for alleged human rights violations." The observations also state that the Report "fails to provide an exhaustive account of the communications that the Supreme Court and the Foreign Ministry sent in response to the Commission's requests for information." The State's response goes on to state the following:

> The State of Honduras once again underscores its willingness and commitment to comply with its responsibilities, to respect the rights and freedoms recognized in the American Convention on Human Rights, and to ensure their free and full exercise to all persons subject to its jurisdiction without any form of discrimination.
>
> The State of Honduras understands that in its draft report, the IACHR recognizes the structural problems in the areas of justice, security, marginalization and discrimination that have for decades adversely affected the human rights of our inhabitants, and that these structural problems have only been exacerbated in the political crisis that Honduras is now experiencing and have created a climate in which those rights are vulnerable.

Nevertheless, the State of Honduras reaffirms its readiness to conduct a serious and thorough investigation into the facts described in the draft Report, and to file periodic reports with the Commission on the progress made in those investigations.

Finally, given these observations, the State of Honduras would respectfully request that the Honorable Commission amend its draft report to be in keeping with Article 18(b) of the Statute of the IACHR and Article 57(1)(h) of its Rules of Procedure, and to make an objective assessment of our State's capacity to comply with the obligations undertaken in the Convention and the measures to be taken to improve its capacity to ensure the free and full exercise of the human rights and freedoms recognized in the American Convention on Human Rights.[11]

A. Measures adopted by the IACHR since the *coup d'état*

28. The Inter-American Commission issued its first press release on the situation in Honduras on June 28, 2009. In that press release, it condemned the *coup d'état*, urgently called for the restoration of the democratic order in Honduras and observance of human rights, and demanded that the situation of the Foreign Minister, Patricia Rodas, and other cabinet members be immediately clarified, as their whereabouts were unknown at the time.[12]

29. Since then, the Commission has addressed all its correspondence to the Chief Justice of the Supreme Court and to the President of the National Congress of Honduras, since it was unable to communicate with President Zelaya or his Foreign Minister.[13]

30. In furtherance of Article 51 of the Commission's Rules of Procedure, on June 30 the Commission asked the President of the National Congress and the Chief Justice of the Supreme Court for permission to conduct an urgent on-site visit to verify the human rights situation.[14] That same day, the Commission issued a new press release entitled "IACHR Requests to Visit Honduras, Grants Precautionary Measures and Asks for Information."[15]

31. On July 3, the IACHR published its third press release wherein it expressed concern over the suspension of constitutional guarantees ordered by the *de facto* government on June 30 and reported on the amplification of Precautionary Measure 196-09 to add more beneficiaries.[16]

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[11] Observations made by the State of Honduras to the IACHR's Report, dated December 22, 2009 and signed by the Chief Justice of the Supreme Court.

[12] IACHR, Press Release 42/09: *IACHR strongly condemns* coup d'état *in Honduras,* June 28, 2009. Available at: http://www.cidh.oas.org/Comunicados/English/2009/42-09eng.htm.

[13] Communication from the IACHR, dated June 28, 2009.

[14] Communication from the IACHR, dated June 30, 2009.

[15] IACHR, Press Release 45/09: *IACHR Requests to Visit Honduras, Grants Precautionary Measures and Asks for Information,* June 30, 2009, Available at: http://www.cidh.oas.org/Comunicados/English/2009/45-09eng.htm.

[16] IACHR, Press Release 47/09: *IACHR Expresses Concern over the Suspension of Guarantees in Honduras and Amplifies Precautionary Measures,* July 3, 2009. Available at: http://www.cidh.oas.org/Comunicados/English/2009/47-09eng.htm.

32. On July 9, the IACHR issued its fourth press release in which it clarified that the suspension of Honduras from participating in the OAS did not change the obligations Honduras undertook in the American Declaration on the Rights and Duties of Man and the American Convention on Human Rights. Consequently, the Inter-American Commission on Human Rights maintained its competence in promoting the observance and defense of human rights in the country.[17]

33. On July 13, the IACHR received a communication from the Chief Justice of the Supreme Court which read as follows: "I hereby respectfully acknowledge your note of June 30, 2009, concerning the visit to our Republic. In reply, the Honorable Supreme Court of Justice has no objection to an on-site visit to our country at your convenience. […] This Court will be happy to receive you and will afford you all the means you deem necessary to accomplish the purpose of your visit."[18]

34. On July 14, the Commission received a communication from the Secretariat of Foreign Affairs of the Republic and signed by the *de facto* Deputy Secretary in the Foreign Affairs Office, Martha Lorena Alvarado de Casco. In that communication, she stated that "[t]he Government of Honduras is pleased to authorize the visit by the Honorable Inter-American Commission on Human Rights."[19]

35. On July 27, the IACHR published another press release in which it condemned the assassination of Pedro Ezequiel Muñoz (later identified as Pedro Madgiel Muñoz), which occurred in the department of El Paraíso between July 24 –the day on which the Police arrested him— and July 25 –the date on which his corpse was discovered.[20]

36. On August 4, the President of the IACHR spoke on the telephone with the Chief Justice of the Supreme Court and told him of the Commission's intention to conduct the visit and the date on which the visit could take place. The Chief Justice of the Supreme Court agreed to the visit and the date proposed by the Commission. That same day, a communication was sent to the Chief Justice of the Supreme Court and to the President of the National Congress spelling out the conditions under which the on-site visit must be conducted, pursuant to the American Convention on Human Rights and the Commission's Rules of Procedure.[21] These included the Commission's authority to speak freely and in private with persons, groups, entities or institutions,[22] and the State's obligation to provide the guarantees necessary to those who provide information, testimony or evidence of any kind to the Commission.[23]

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[17] IACHR, Press Release 49/09: *IACHR Maintains Its Competence in Honduras Following Suspension,* July 9, 2009. Available at: http://www.cidh.oas.org/Comunicados/English/2009/49-09eng.htm.

[18] Memorandum from the Supreme Court of Justice of Honduras, PCSJ 464-2009, dated July 13, 2009.

[19] Memorandum from the *de facto* Secretariat of Foreign Affairs of Honduras, 261-DGAE-09 dated July 8, 2009. It also reported that it had invited the Office of the United Nations High Commissioner for Human Rights to send observers to the country.

[20] IACHR, Press Release 52/09: *IACHR condemns murder in Honduras,* July 27, 2009. Available at: http://www.cidh.oas.org/Comunicados/English/2009/52-09eng.htm.

[21] Communication from the IACHR, dated August 5, 2009.

[22] Rules of Procedure of the IACHR, Article 55, paragraph a.

[23] Rules of Procedure of the IACHR, Article 55, paragraph b.

1. Precautionary Measure MC 196-09

37. In keeping with its obligations to promote and protect human rights and given the hundreds of complaints it had received of serious violations of the right to life and to humane treatment, on June 28, 2009 the Commission granted precautionary measures (hereinafter, "MC 196-09")[24] and requested information on the danger that certain persons were facing as a consequence of the *coup d'état*.[25] It also requested information pursuant to Article 41 of the American Convention and Article XIV of the Inter-American Convention on Forced Disappearance of Persons.

38. The IACHR continued to receive requests and complaints of human rights violations and about the ineffectiveness of the remedies under domestic law, the lack of confidence in the judiciary and the inactivity on the part of the domestic institutions charged with protecting human rights. Consequently, and because all the information received was directly related to the interruption of the democratic order, the Commission decided to join all the cases and amplified precautionary measure MC 196-09 on a number of occasions, even after the on-site visit, because this was the only way of responding immediately to the situations denounced.[26]

39. Nevertheless, during its on-site visit and thereafter, the Commission received reports from all affected sectors describing the failings of the *de facto* authorities in implementing the precautionary measures and their inefficacy as a mechanism for protecting the human rights of the persons affected.

40. By way of example it was reported that, on the initiative of the Supreme Court, on Saturday, August 15 –two days before the Commission's official visit was due to begin— a list of all

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[24] The mechanism of precautionary measures is provided for in Article 25 of the IACHR's Rules of Procedure. This provision states that in serious and urgent cases, and whenever necessary according to the information available, the IACHR may, on its own initiative or at the petition of a party, request that the State concerned adopt precautionary measures to prevent irreparable harm to persons. Further, whenever it so deems and in accordance with the procedure established in the IACHR's rules, it may request information from the interested parties on any matter related to the adoption and observance of the precautionary measures. In any event, the granting of such measures by the IACHR does not constitute any prejudgment of the merits of the case. Furthermore, under Article 41 of the American Convention, the IACHR has the authority to ask the governments of the member states to supply it with information on the measures adopted by them in matters of human rights. The IACHR also has the authority to request information on the whereabouts of presumed disappeared persons. This authority derives from Article XIV of the Inter-American Convention on Forced Disappearance of Persons (hereinafter "Convention on Forced Disappearance") and applies whenever the IACHR has received information on a supposed forced disappearance.

[25] The information on the granting of precautionary measure MC 196-09 and the subsequent amplifications is available at http://www.cidh.oas.org/medidas/2009.eng.htm. As of the date of preparation of this report, 147 persons have been named as beneficiaries of the precautionary measure. A number of the amplifications of this precautionary measure were done on a collective basis.

[26] The IACHR sent the Chief Justice of the Supreme Court and the President of the Congress communications advising them of the additions made to the list of beneficiaries of the precautionary measures, requesting information and follow-up of information requests. Those communications were sent on the following dates: June 29, July 2, 3, 10, 15, 24, 25 and 30; August 7, 17, and 21, 2009. Via four communications, information was requested on 5 persons whose whereabouts, according to the reports received by the IACHR, were unknown. The Supreme Court of Justice of Honduras and the *de facto* Secretariat of Foreign Affairs replied to the IACHR's communications on the following dates: July 3, 5, 8, 24, 25 and 30; August 3, 10 and 12, 2009. The IACHR continued to amplify the precautionary measures and to request request information after its on-site visit, on the following dates: September 4, 23, 24, and 28; October 6, 16, 23, and 30, and November 17, 2009. The *de facto* Secretariat of Foreign Affairs sent communications on the following dates: September 2, 16, 18, and 29; and October 5, 6, 13 and 21, 2009.

the beneficiaries of the precautionary measures granted by the Commission was published in four newspapers with nationwide circulation. At the bottom of the page was a notation to the effect that the individuals in question should report, either in person or through an attorney representing them, to the offices of the Supreme Court for purposes of executing and/or receiving information concerning the application of those measures.[27]

41. The Commission has also received information to the effect that the Supreme Court is not the organ charged with implementing the precautionary measures; instead, it is the Secretariat of Security, an agency reportedly responsible for creating some of the alleged situations. Some civil society organizations and beneficiaries of the precautionary measures reported that having filed complaints against the security forces, they are now afraid of them; that on appealing to the Secretariat of Security for assistance, they have instead become the targets of attacks and threats. Finally, on the matter of implementation of the measures, the Commission received information indicating that some beneficiaries were forced to sign documents renouncing the protection granted under the precautionary measures because they did not want a permanent police presence; in other cases, beneficiaries have simply been given a phone number to call in case of emergency.

42. In its observations, the Supreme Court stated the following: "The competent state organ to implement the precautionary measures of protection is the Secretariat of Security. The Supreme Court ordered publication of the list of beneficiaries of the precautionary measures. The claims that certain beneficiaries have made alleging assaults and threats are utterly false, since when beneficiaries apply for protection it is given promptly and the measures of protection are mutually agreed upon and documented."[28]

43. The Commission observes that the very problems that have for decades relentlessly plagued the institutions of democratic government in Honduras, especially the administration of justice, have had serious repercussions in the context of the *coup d'état*, as evidenced by the steadfast refusal of the *de facto* authorities and the judicial branch to implement the precautionary measures ordered by the Commission.

B. Activities conducted during the on-site visit

44. The IACHR conducted its on-site visit from August 17 through 21, 2009. The delegation was composed of the Commission's President, Luz Patricia Mejía Guerrero; the First Vice President, Víctor Abramovich; the Second Vice President and Rapporteur for Honduras, Felipe González; Commissioner Paolo G. Carozza, and the Commission's Executive Secretary, Santiago A. Canton. Also on the delegation were the Special Rapporteur for Freedom of Expression of the Inter-American Commission on Human Rights, Catalina Botero, and Executive Secretariat attorneys Isabel Madariaga, Víctor Madrigal, Débora Benchoam, Milagros Noli and Tatiana Gos; the press director, Isabel Rivero; journalist Pablo Sandino Martínez and assistants Gloria Hansen and Gloria Amanda Molina.

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[27] The list did not include the names of the persons added to the list of beneficiaries in the communication dated July 24, 2009. It is also important to point out that in the public notice the State misused the terms "human rights defenders", "journalists", "relatives of Mr. José Manuel Zelaya Rosales" and "international observers in Honduras" (numbers 68 to 71 in the publication), understood as groups of persons who are beneficiaries of the precautionary measures, since their use in the IACHR's communication of July 3, 2009 was intended to remind the State of its general obligations to protect and defend the basic rights of any member of those groups.

[28] Observations made by the State of Honduras to the IACHR's Report, dated December 22, 2009 and signed by the Chief Justice of the Supreme Court, p. 12, paragraph 21.

45. Considering the purpose of the visit and the circumstances surrounding it, the Commission drew up its agenda with a view to gathering information from all sectors of Honduran society with an overall perspective in the analysis of the impact that the *coup d'état* had produced on the observance of human rights.

46. During its on-site visit, the Commission received 460 testimonies and complaints, 29 requests seeking precautionary measures and 88 documents on the situation in the country. When all the testimony and complaints were combined, over 300 people had filed complaints alleging assaults and illegal detentions made during the course of the demonstrations favoring the return of President Zelaya. For the duration of its week-long visit, the Commission received complaints at an office opened for that purpose.

47. On Monday morning, August 17, the IACHR met with the Chief Justice of the Supreme Court and the justices serving in the Constitutional Chamber. The meeting was held at the Palace of Justice in the city of Tegucigalpa. There was discussion of the enforcement of the curfews, the processing of writs of *habeas corpus,* implementation of the precautionary measures, the powers of the police to make arrests, and the conditions under which persons deprived of their liberty since the *coup d'état* were held.

48. That same day, the Commission met with human rights defenders. Present at the meeting were some 50 defenders, who told the Commission about what effect the precautionary measures the Commission granted had had. Those present also gave detailed information on cases of human rights violations reported to the Commission: complaints of torture, arrests and mistreatment and abuse. The human rights defenders also described for the Commission the incidents of coercion, reprisals and general obstruction of their work, and the inefficacy of the writs of *habeas corpus* and *amparo* that had been filed to remedy the violations denounced.

49. The Commission then met with community leaders, who also pointed out the inefficacy of the writs of *habeas corpus,* the arrests and assaults to which they were subjected during the demonstrations, the poor medical treatment administered to the wounded, the limitations and restrictions on airing certain programs, and the exacerbation of racial discrimination.

50. Later, two meetings were held with journalists. Present at the first meeting were representatives from the following media outlets: Channel 36, Radio Globo, Channel 66 Maya TV and TeleSUR. During the meeting, the journalists complained of the military take-over of the media on the day of the *coup d'état* –June 28-, the interruption of their broadcasting signals, the telephone threats they received because of their criticism of the *de facto* government of Mr. Roberto Micheletti, and the threats and other acts of intimidation that the security forces committed against them during their coverage of the protests on the streets of Tegucigalpa and other Honduran cities.

51. The second meeting was with journalists, NGOs, and social organizations associated with the media. Participating in that meeting were attorneys and journalists of the Comité por la Libre Expresión (C-Libre) [Committee for Freedom of Expression], officials of the Journalists Association, one representative of the Foundation Democracy Without Borders and another from the Center for Justice and International Law (CEJIL). The IACHR received information on the polarization of the local press since the *coup d'état*; acts of intimidation by security forces and sympathizers of President Zelaya against members of the media; and the self-censorship of journalists to avoid retaliation.

52. The IACHR met with political authorities affected by the *coup d'état*. On that occasion it received information about the persecution of members of President Zelaya's cabinet, the assaults against a number of congressmen and former congressmen and one candidate for the presidency, and the failure to implement the precautionary measures granted by the Commission.

53. On Tuesday, August 18, the Commission met with the Secretariat of Defense, the civilian authority to which the Armed Forces answer. There was discussion of the institution charged with controlling the demonstrations, the methods used and the persons who died in the protests. The Commission was also given information about the military presence at Channel 36 and at the *Empresa Hondureña de Telecomunicaciones* [Honduran Telecommunications Company] (hereinafter, "HONDUTEL").

54. Later, the Commission met with the Military High Command, where representatives of that body reported on the human rights training that members of the armed forces receive, the fact that the Military High Command has no authority to make arrests, and the military takeover of a number of newspapers and radio and television stations.

55. The IACHR then met with the Secretariat of Security –the civilian authority to which the National Police are answerable- and with the National Police itself. During the meeting, the Commission was given information about the number of persons detained, the persons trapped between the military and police roadblocks set up on various highways in the country, the Armed Forces' involvement in controlling the demonstrations, implementation of the precautionary measures and enforcement of the curfews.

56. The IACHR met with representatives from the National Congress: its President, Vice Presidents, and 16 congressmen of various parties. In the course of that meeting, the Commission received information on the measures taken by the Legislative Branch in the context of the *coup d'état*. The congressmen attending the meeting also expressed their views on the *coup*. There was also specific discussion of the legislation and regulations regarding military service and the events that occurred on August 12 in the columned patio area [known as "Los Bajos"] of the National Congress building, which are described in this report.

57. The Commission also met with the National Commissioner of Human Rights. The matters discussed at that meeting included the way in which the Commissioner handled reports prepared by various human rights organizations, the status of persons reported as disappeared, the violations of the right to freedom of movement and the results of the writs of *habeas corpus.*

58. The IACHR then held meetings with the Office of the Chief Prosecutor[29] and the Office of the Special Prosecutor for Human Rights. At that meeting, reference was made to the actions that prosecutors undertook in response to violations of human rights, the progress made in the investigations and the implementation of the precautionary measures.

59. The Commission also met with the Inter-institutional Commission on Human Rights.[30] At that meeting, information was supplied in connection with the implementation of the

[29] The Office of the Chief Prosecutor is independent of the three branches of government and was created by Legislative Decree No. 228-93, in force since January 6, 1994.

[30] The Inter-institutional Commission on Human Rights was created on July 21, 2006, under a Special Agreement for Inter-institutional Cooperation among the Office of the Attorney General of the Republic, the Supreme Court, the Office of the Chief Prosecutor, the Secretariat of State for Government and Justice, the Secretariat of State for Security, the Secretariat of State for Foreign Affairs, the Secretariat of State for Finance and the Minister Legal Counsel to the Office of the President of the Republic. The Commission, composed of one principal member and one alternate, is responsible for matters brought to the attention of the inter-American and universal systems for the protection of human rights. Article 3, paragraph 3) of that Agreement specifically states that one of the functions of the Commission shall be: "To request, directly from the competent official or authority, implementation of the precautionary measures ordered by the organs of the inter-American system for the protection of human rights." Special Agreement for Inter-institutional Cooperation, received by the IACHR in Tegucigalpa on August 21, 2009 (No. 477).

precautionary measures, the processing of complaints brought alleging human rights violations in the context of the *coup d'état*, and the situation of the media.

60. The IACHR then sat down with the President of the National Telecommunications Commission (hereinafter, "CONATEL") and with foreign correspondents. At the first meeting, the executives of CONATEL gave the Commission their version of the complaints about the military takeover of the media, the blackouts that took some media outlets temporarily off the air and the blocking of the signals of international channels or national programs carried on local cable channels. The meeting with foreign correspondents examined the situation of the Honduran press in the wake of the *coup d'état*, the polarization of the media, and the problems that journalists have in practicing their profession.

61. That night, the Commission met with the family of President Zelaya, who provided information about their situation since the *coup d'état*.

62. On Wednesday, August 19, the Commission divided into two working groups in order to travel to other departments in the country.

63. One working group was composed of the President of the Commission, Luz Patricia Mejía Guerrero, the Second Vice President of the Commission and rapporteur for Honduras, Felipe González, the Executive Secretary of the Commission, Santiago A. Canton, the Special Rapporteur for Freedom of Expression, Catalina Botero, and staff of the Executive Secretariat. This group went to San Pedro Sula in the department of Cortés. The Commission met with civil society organizations, human rights defenders, community and political leaders, journalists and the *de facto* authorities of San Pedro Sula.

64. At the same time, a second working group, composed of First Vice President Víctor Abramovich, Commissioner Paolo Carozza and staff of the Executive Secretariat, went to Tocoa in the department of Colón. In Tocoa, the delegation held three meetings; it began with a meeting with human rights defenders and community leaders; it then met with representatives of the National Police, the Army and the regional representation of the Office of the Chief Prosecutor; the last of the three meetings was with a group of businessmen and citizens of that community who supported the *coup d'état*.

65. In the afternoon, the full delegation held meetings in Tegucigalpa with the "Alianza Hondureña Paz y Democracia" [Honduran Alliance for Peace and Democracy], the "Asociación de Mujeres Juristas" [Association of Women Jurists] of the Unión Cívica Democrática [Democratic Civic Union] and the Consejo Hondureño de la Empresa Privada [Honduran Private Enterprise Council].

66. On Thursday, August 20, the Commission again divided into two working groups. The first group, composed of Commission President Luz Patricia Mejía Guerrero, Second Vice President and rapporteur for Honduras, Felipe González, and staff of the Executive Secretariat traveled to the department of Comayagua, while the second working group –composed of First Vice President Víctor Abramovich, Commissioner Paolo G. Carozza and staff of the Executive Secretariat of the Commission- went to the National Penitentiary and the department of El Paraíso.

67. With the help of civil society organizations, during its visit to the department of Comayagua, the Commission set up an office where more than 100 complaints and testimonial statements were received. The Commission delegation also had a private hearing where it received testimony from four individuals who described in detail the events that transpired on July 30. The delegation then met with representatives of the Police and the Army and conducted an on-site

inspection of the places in the town of Comayagua that had been used to hold detainees on the day in question. Lastly, it met with the staff of the regional unit of the Chief Prosecutor's Office.

68. At the National Penitentiary, the IACHR visited 11 individuals still in custody, who were imprisoned along with another 17 people in the vicinity of the National Congress on August 12. In El Paraíso, the Commission received information from the authorities and from members of civil society concerning the Police and Military roadblocks set up on various roads across the nation, the enforcement of the curfew and its effects, and the detentions and assaults perpetrated by agents of the security forces. The Commission also held meetings with sectors that supported the *de facto* government.

69. That same day, meetings were held with civil society organizations.

70. The Commission met again with the Chief Justice of the Supreme Court in Tegucigalpa on Friday, August 21. At that meeting, the Commission received information and informed the Supreme Court Justices of the findings it had reached concerning the human rights situation.

71. That same day, as it concluded its on-site visit, the Commission convened a press conference where it issued its press release entitled "IACHR presents preliminary observations on its visit to Honduras"[31] and answered reporters' questions about its initial observations concerning democratic institutions, the measures adopted by the *de facto* government and the human rights violated.

III. INTERRUPTION OF DEMOCRATIC ORDER AND THE INTERNATIONAL COMMUNITY'S REACTION

72. There is widespread debate surrounding the sequence of events leading up to the *coup d´état*. The purpose of this chapter is to provide a detailed chronological analysis of the events surrounding the ousting of the constitutionally elected President of Honduras. There is also discussion of the process known as the "fourth ballot box" and the mechanisms that the *de facto* authorities employed in the wake of the interruption of democratic order.

A. The Ousting of President José Manuel Zelaya Rosales

73. At 5:00 a.m. on June 28, 2009, heavily armed troops of the Honduran Army, acting on orders of the Head of the Joint Chiefs of Staff and the then Vice Minister of Defense,[32] stormed the presidential residence and took President José Manuel Zelaya Rosales into custody. Later, still in his pajamas, the President was taken to Hernán Acosta Mejía Air Base south of the city of Tegucigalpa and from there was flown, without his consent, to Costa Rica aboard a military aircraft.[33]

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[31] IACHR, Press Release 60/09: *IACHR presents preliminary observations on its visit to Honduras,* August 21, 2009. Available at: http://www.cidh.oas.org/comu.eng.htm.

[32] On June 28, 2009, Adolfo Lionel Sevilla was Vice Minister of Defense and was appointed as Minister of Defense by the *de facto* authorities.

[33] Informe de la Delegación por la Democracia y los Derechos Humanos Guatemala-Honduras, Informe Final de la Visita realizada entre el 3 y el 6 de julio de 2009 a Honduras (Report of the Guatemalan-Honduran Delegation for Democracy and Human Rights. Final Report of the Visit made to Honduras from July 3 to 6, 2009), p. 5. "Mel llega a Costa Rica" [Mel Arrives in Costa Rica], La Tribuna, June 29, 2009; "Honduran Leader Forced into Exile", BBC News, June 28, 2009; "Manuel Zelaya: aún estoy en ropa de dormir" [Manuel Zelaya, I'm still in my pajamas], *El País* (Spain), June 28, 2009.

74. During the on-site visit, the Commission heard testimony from one of President Zelaya's daughters:

> At 5:00 a.m., I was getting ready to leave for my home. My father was asleep. At 5:30 a.m. we started hearing the first shots. My father woke up and said: 'they're deposing me'. There had already been shooting in front of the residence. They beat up my father but he got away and went up on the roof. My security guard entered, closed the windows and told me to shut the door. Four troopers entered the residence. When they opened the door to my room, with their weapons loaded, my security guard shouted 'don't shoot.' They didn't find me because I had hidden under the bed. They broke down all the doors to my house. According to the record, they took my father away at 6:00 a.m. Approximately 200 soldiers were involved in his abduction. They did not have a search warrant. It was illegal … warrantless searches are only permissible when someone is caught *in flagrante* and only after 6:00 a.m. But my father was asleep. There was no district attorney. When my father tried to straighten things out, one of the presidential escorts told him, "Shut up, you're a nobody now." They took him away in his pajamas, with his feet and hands bound; they boarded him on an aircraft with three heavily armed men wearing hoods. They abducted him without observing constitutional guarantees. There was never any trial.[34]

75. That same day, the Minister of Foreign Affairs, Patricia Rodas, was taken into custody by military forces at her residence and taken to a military air base,[35] while the ambassadors of Venezuela, Armando Laguna Laguna, of Cuba, Juan Carlos Hernández, and of Nicaragua, Mario Duarte –who were with the Minister at the time- were beaten by hooded soldiers and then released.[36] On June 29, it came to light that the Minister of Foreign Affairs had been granted asylum in Mexico and was in good health.[37]

76. On June 28, a power outage that lasted at least five hours made it impossible for radio and television stations to report that a *coup d'état* was underway. The lack of power also affected Internet access.[38]

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[34] Testimony from one of President Zelaya's daughters, received by the IACHR in Tegucigalpa on August 18, 2009.

[35] IACHR, Press Release 42/09: *"IACHR strongly condemns coup d'état in Honduras,* June 28, 2009. Available at: http://www.cidh.oas.org/comu.eng.htm.

[36] "*Detienen a Canciller hondureña frente a embajadores*" [Honduran Foreign Minister detained in the presence of ambassadors], La Tribuna, June 28, 2009; "Canciller hondureña Patricia Rodas fue secuestrada y llevada a la base aérea militar" [Honduran Minister of Foreign Affairs Patricia Rodas was abducted and taken to a military air base], VTV, June 28, 2009; "Militares golpistas mantienen secuestrada a canciller hondureña" [Military perpetrators of the *coup* sill have Honduran Foreign Minister in custody], TeleSUR, June 28, 2009.

[37] Press communiqué 169 of the Secretariat of Foreign Affairs of Mexico, June 29, 2009; "Ex Canciller Patricia Rodas llega a México" [Former Foreign Minister Patricia Rodas Arrives in Mexico], La Tribuna, June 29, 2009.

[38] IACHR, Rapporteurship for Freedom of Expression, Press Release No. 44/09: *Office of the Special Rapporteur for Freedom of Expression Condemns Limitations on Freedom of Expression in Honduras,* June 29, 2009. Available at: http://www.cidh.oas.org/relatoria/showarticle.asp?artID=753&lID=1. *Comité por la Libertad de Expresión* [Committee for Freedom of Expression], June 29: *Alert: Blockade of the Media in Honduras.* Available at: http://conexihon.com/blog/archives/324. Reporters Without Borders, *News blackout after Army ousts President*, June 29, 2009. Available at http://www.rsf.org/News-blackout-after-army-ousts.html. Inter-American Press Association, June 29, 2009. *IAPA censures acts against journalists and media in Honduras*. Available at: http://www.sipiapa.org/v4/index.php?page=cont_comunicados&seccion

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77. That same day, June 28, the National Congress held a morning session where the Secretary, José Alfredo Saavedra, read a supposed letter of resignation from President Zelaya[39] citing as reasons "political erosion" and ill health. Then, by a supposedly unanimous vote,[40] Congress adopted Legislative Decree 141-09[41] through which it ordered that "citizen Manuel Zelaya Rosales be removed from the office of President"[42] and that "citizen Roberto Micheletti Bain be hereby constitutionally appointed […] to the office of Constitutional President of the Republic for the remainder of the current term."[43] From Costa Rica, President Zelaya told the media that he had not signed any letter of resignation.[44] The *de facto* authorities never mentioned the supposed letter of resignation again.

78. Subsequently it was reported that on June 26, based on a request filed by the Public Prosecutor on June 25 seeking indictment of President Zelaya for crimes against "the form of government, treason, abuse of authority[45] and usurpation of powers to the detriment of the government and State of Honduras,"[46] the Supreme Court had allegedly ordered his arrest on the

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=detalles&id=4208&idioma=us. *El apagón de los medios [Media blackout in Honduras],* BBC, June 30, 2009. Available at: http://www.bbc.co.uk/mundo/america_latina/2009/06/090630_1030_honduras_medios_sao.shtml.

[39] "Congreso destituye a Zelaya" [Congress removes Zelaya from office], La Tribuna, June 29, 2009; "Congreso separa a Zelaya y nombra a Micheletti como nuevo Presidente de Honduras" [Congress removes Zelaya and names Micheletti as new President of Honduras], La Prensa (Nicaragua), June 28, 2009.

[40] It was alleged that during the June 28, 2009 legislative session various congressmen allied with President Zelaya were removed from their seats. See Preliminary Report of the Delegation of Guatemalan Human Rights Organizations in Honduras, July 3 to 6, 2009; *Centro de Investigación y Promoción de los Derechos Humanos* (CIPRODEH), Report on Human Rights Violations in the wake of the military coup of June 28, 2009, July 17, 2009, delivered at the headquarters of the IACHR.

[41] "Congreso destituye a Zelaya" [Congress removes Zelaya from office], La Tribuna, June 29, 2009; "Congreso separa a Zelaya y nombra a Micheleti como nuevo Presidente de Honduras" [Congress removes Zelaya and names Micheletti as new President of Honduras], La Prensa, June 28, 2009.

[42] National Congressional Decree No. 141 issued on June 28, 2009, Article 1.b).

[43] National Congressional Decree No. 141 issued on June 28, 2009, Article 2.

[44] "Zelaya niega haber renunciado" [Zelaya denies having resigned], BBC World, June 29, 2009.

[45] Article 2 of the Constitution of Honduras reads as follows: "Sovereignty belongs to the people, from whom emanate all powers of the State, which are exercised by representation. Supplanting popular sovereignty and usurping the powers conferred constitute the crimes of treason of treason against the Nation. Such crimes are not subject to statute of limitations and criminal proceedings can be initiated by public authority or by petition of any citizen.

Article 328, paragraph 3 of the Honduran Criminal Code provides that: "Those who perform acts directly aimed at accomplishing the following, either by force or outside legal channels, shall have committed a crime against the form of government and shall be punished with a sentence of imprisonment for a period of six (6) to twelve (12) years: 3) stripping the National Congress, the Executive Branch or the Supreme Court of all or some of the prerogatives and authorities that the Constitution invests in them."

[46] Article 349 of that Code provides that: "Any public official or employee shall face punishment of three (3) to six (6) years in prison and a special disqualification for double the period of his or her imprisonment for: 1. Refusing to fully carry out orders, rulings, measures, decisions, agreements or decrees issued by the judicial or government authorities within the limits of their respective authorities and in accordance with the formalities prescribed by law."

Finally, Article 354 stipulates that: "Any public official who usurps the functions of another office shall face imprisonment for a period of two (2) to five (5) years, plus a fine of five thousand (L 5,000.00) to ten thousand (L10,000.00) lempiras and special disqualification for double the period of his or her incarceration."

assumption that he was guilty of those crimes.[47] One of the justices was designated to prosecute the case in secret. The designated justice had allegedly issued a warrant to search the residence and take President Zelaya into custody, whereupon the Armed Forces had allegedly apprehended and deported the President.[48] The secrecy order had allegedly been lifted on June 30.[49]

79. The IACHR has received no information concerning the source of the order to deport the President; it has even been said that no arrest warrant existed at the time the President was taken into custody[50] and, in general, all the measures described above were patently unlawful. At the meeting held with the *de facto* Secretary of Defense, Adolfo Leonel Sevilla, the latter informed the IACHR that they detained President Zelaya by court order and took him out of the country for his own protection and to "avoid bloodshed".

80. On June 30, a petition seeking *amparo* relief was filed with the Constitutional Chamber of the Supreme Court on behalf of President Zelaya, claiming a violation of Article 102 of the Constitution of the Republic, which prohibits the expulsion of any Honduran citizen. That same day, a criminal complaint was filed with the Public Prosecutor's Office against the Joint Chiefs of Staff of the Armed Forces and the congressmen in the National Congress for their involvement in the *coup d'état*.[51] On July 30, 2009, the Office of the Military Judge Advocate of the Armed Forces answered the complaint as follows:

> Steps were taken to carry out the orders in question at the home of citizen JOSÉ MANUEL ZELAYA ROSALES; he was taken into custody, as ordered. Therefore, the act of entering that citizen's home and his subsequent apprehension were done according to the Constitution and the law and thus perfectly legal. […B]ringing Mr. Manuel Zelaya Rosales before the competent authority would have put countless lives in danger, including that of the accused. Whether to protect the established legal order or out of a misguided belief in citizen Zelaya's good faith, violent disturbances would have ensued, some to defend the public organs that have jurisdiction over the case and others to rescue and restore the unlawful government headed by the accused; had that been the case, the forces of law and order would have had to resort to the heaviest use of force, at gunpoint. […F]or that reason, before endangering the lives of many fellow citizens and after weighing the competing legal rights, the decision was made to remove citizen José Manuel Zelaya Rosales from the scene, leaving him in a place where he would have everything necessary to enjoy the guarantees and rights that the Constitution affords him, which is the system in Costa Rica's democracy.[52]

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[47] Supreme Court of Justice. Memorandum sent to the head of the Joint Chiefs of Staff of the Armed Forces, Division General Romeo Vásquez Velásquez, July 26, 2009.

[48] Supreme Court of Justice of Honduras, Special Communiqué of June 30, 2009.

[49] Supreme Court of Justice of Honduras, Special Communiqué of June 30, 2009.

[50] Preliminary Report of the Delegation of Guatemalan Human Rights Organizations in Honduras, July 3 to 6, 2009. See also, Inter-American Platform for Human Rights, Democracy and Development, International Observation Mission on the Human Rights Situation in Honduras, Tegucigalpa, July 23, 2009. Available at http://www.pidhdd.org/content/section/30/165/.

[51] Documentation received during the IACHR's visit, supplied by Osman Antonio Fajardo Morel, Public Defender of San Pedro Sula, Guillermo Lopez Lone, Judge of the Trial Court of San Pedro Sula, and Tirza Flores Lanza, Magistrate on the San Pedro Sula Appellate Court.

[52] Reply from Herberth Bayardo Inestroza Membreño, Military Judge Advocate, in connection with petitions 896, 897, 898, 899, 900, 901 and 902/09. Information received by the IACHR in San Pedro Sula on August 19, 2009 (No. 124).

81. On July 20, 2009, the Judicial Branch informed the international community that: "[t]he Supreme Court confirms that its orders have been carried out and will continue to be carried out in accordance with the Constitution and the law; it therefore rejects any attempt to influence or intimidate for the purpose of compromising the independence of the Judicial Branch and to obstruct the proper and normal functioning of the various organs of the system of justice."[53]

B. The "fourth ballot box"

82. The *de facto* government publicly defended its conduct on the ground that President Zelaya had violated the Constitution through the process known as "the fourth ballot box." This process began back in November 2008, when President Zelaya announced his intention to hold a referendum to consult citizens about the possibility of a fourt h ballot box, which would run concurrently with the other three ballot boxes for the presidential, legislative and municipal elections scheduled for November 29, 2009. In the fourth ballot box, Honduran citizens would decide on the advisability of convening a National Constituent Assembly to amend the Constitution.[54]

83. On March 23, the Executive Branch issued Executive Decree PCM 05-2009 in which it convened a popular consultation rather than a referendum so that the citizenry might cast its vote in favor of, or against, convening a National Constituent Assembly.[55] The Chief Prosecutor, however, requested that judicial authorities suspend the consultation, arguing that President Zelaya's objective was to convene a Constituent Assembly to change Constitutional clauses not subject to amendment.[56] On May 27, the Contentious Administrative Court ordered the suspension of the consultation[57] and on May 29 it clarified that its earlier decision covered any other general or specific administrative acts issued or that may be issued with the same purpose sought by the suspended

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[53] Supreme Court of Justice, Special Communiqué, July 20, 2009. In its observations, the Supreme Court wrote the following: "As for the June 24, 2009 consultation, which the competent organs declared illegal by a court ruling, said consultation was prohibited inasmuch as the action taken by the Armed Forces was deemed to be in strict adherence and compliance with articles 321 and 323 of the Constitution of the Republic; the materials for the consultation were lawfully confiscated and then forcibly retrieved by Mr. Zelaya Rosales and his followers, violating the security of Hernán Acosta Mejía Air Base and jeopardizing the Honduran State's national security." Observations made by the State of Honduras to the IACHR's Report, dated December 22, 2009 and signed by the Chief Justice of the Supreme Court, p. 18, paragraph 48.

[54] The IACHR has no information regarding which clauses of the Constitution were to be considered for amendment.

Article 373 of the Constitution of Honduras provides that: "Amendment of this Constitution shall be ordered by the National Congress, in regular session, by a vote of two thirds (2/3) of all its members. The decree shall spell out which article or articles of the Constitution are to be amended; in order to enter into force, the amendment must be ratified by the next regular legislature, and by the same number of votes."

[55] Executive Decree PCM 05-2009, Article 1.

[56] "Juzgado de Letras suspende encuesta de junio" [Court suspends June survey], El Heraldo, April 27, 2009. Position of the Office of the Public Prosecutor, May 11 2009, signed by the Chief Public Prosecutor and the Deputy Chief Public Prosecutor.

Article 374 of the Constitution of Honduras provides that: "Under no circumstances shall amendments be introduced to the preceding article, the present article, the articles of the Constitution that concern the form of government, the national territory, the presidential term, the article prohibiting re-election of the person who served as President of the Republic, regardless of the title of the office, and the article referring to those persons who are disqualified from running for the office of President in the following term."

[57] Ruling of the Contentious Administrative Court, May 27, 2009, Operative Paragraph 2. 'Juzgado de Letras suspende encuesta de junio" [Court suspends June survey], El Heraldo, April 27, 2009; Special Communiqué from the Supreme Court of Honduras, June 30, 2009.

administrative act.[58] On June 24, the National Congress passed the "Special Law Regulating the Referendum and Plebiscite"[59] which prohibited either mechanism from being used 180 days before or after general elections.[60]

84. The Office of the President decided to press for the consultation arguing that it would not be binding as it would be neither a plebiscite nor a referendum.[61] Therefore, President Zelaya ordered the Head of the Joint Chiefs of Staff, Romeo Vásquez Velásquez, to serve as custodian of the ballot boxes that would be used for the consultation. When General Vásquez Velázquez refused to obey the order, President Zelaya ordered that he be relieved of his command on June 24; that same day, he accepted the resignation of the Minister of Defense, Ángel Edmundo Orellana Mercado.[62]

85. The first mobilizations of military forces in Honduran cities began on June 24, 2009.[63] That same day, the Special Prosecutor to Defend the Constitution filed a petition seeking *amparo* relief on behalf of the Head of the Joint Chiefs of Staff.[64] In the context of those proceedings, on June 25 the Supreme Court nullified the presidential order removing the Head of the Joint Chiefs of Staff and ordered the Executive Branch "to temporarily suspend the order being challenged."[65] The next day, President Zelaya publicly refused to comply with the Court's order.

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[58] Judgment clarifying the ruling delivered by the Contentious Administrative Court on May 29, 2009, explanatory paragraph 1.

[59] "Congreso frena la reelección" [Congress puts a stop to re-election], BBC, June 24, 2009; "El Legislativo ratifica plesbicito y referendum" [Congress ratifies special law regulating plebiscite and referendum], La Prensa, June 24, 2009.

[60] Article 16 of the Special Law regulating the Plebiscite and Referendum.

[61] Statements made by the Presidential Private Secretary, Enrique Reina, to EFE news agency: "Zelaya is insisting on a consultation to amend the Constitution." Prensa Libre (Costa Rica), June 24, 2009.

Article 5, paragraph 2 of the Constitution of Honduras provides that: "To strengthen participatory democracy and enable it to function, the referendum and plebiscite are hereby instituted as mechanisms for consulting the public on issues of vital importance to the national life. A Special Law approved by two thirds (2/3) of all congressmen in the National Congress shall determine the procedures, requirements and other matters necessary to conduct the public consultations." The final paragraph of that article reads as follows: "Drafts intended to amend Article 374 of this Constitution shall not be put to a referendum or plebiscite. Nor can such mechanisms be used for issues related to taxation, public credit, amnesties, the national currency, budgets, international treaties and conventions and social conquests."

[62] "Destituyen a Jefe del Estado Mayor y renuncia el Ministro de Defensa" [Head of the Joint Chiefs removed and Minister of Defense resigns], La Tribuna, June 25, 2009.

[63] "Pulso en Honduras entre los poderes del Estado por destitución de Jefe militar" [Tension in Honduras among the branches of government over the dismissal of the Head of the Joint Staff], *El Mundo* (Spain), June 25, 2009.

[64] June 25, 2009 resolution of the Constitutional Chamber of the Supreme Court of Honduras, operative paragraph 1. "Office of the Public Prosecutor asks that the dismissed Head of Military in Honduras be reinstated," Associated Press, June 25, 2009.

[65] June 25, 2009 resolution of the Constitutional Chamber of the Supreme Court of Honduras, operative paragraph 3. "Supreme Court overturns dismissal of military chief in Honduras," Associated Press, *El Universal* (Venezuela), June 25, 2009; "Political crisis in Honduras intensifies," BBC World, June 26, 2009; "Honduran court orders head of Joint Staff reinstated,", AFP, June 25, 2009.

86. On June 25, the Executive Branch published Executive Decree PCM-020-2009 in the Official Gazette *La Gaceta* (hereinafter the "Official Gazette"). That Executive Decree entitled "Public Opinion Survey on the Convening of the National Constituent Assembly" ordered that the opinion survey be conducted on Sunday, June 28.[66] That same day, the Supreme Electoral Tribunal (hereinafter, "TSE") declared the survey called by the Executive Branch to be illegal. Acting jointly with the prosecutors appointed by the Attorney General of the Nation, it proceeded to confiscate the materials for the survey and had them stored in Armed Forces facilities. Given the circumstances, President Zelaya, escorted by his supporters, retrieved the confiscated material and designated the National Police and his supporters as its custodians.

87. On June 26, the Contentious Administrative Court ordered the Armed Forces to confiscate any documentation and materials to be used in the survey, as the survey would be a "flagrant violation of the order issued by [that] court."[67] In the early hours of June 28, the Army proceeded to confiscate the ballot boxes and the materials for the opinion survey while President Zelaya was being arrested and flown to Costa Rica, thereby completing the *coup d'état*.

C. Measures taken by the *de facto* government

88. The *de facto* authorities immediately adopted measures that had a negative impact on the human rights of the inhabitants of Honduras. One of the first m easures taken by the *de facto* government was the suspension of the constitutional guarantees of personal liberty, not to be held *incommunicado*, association and assembly and freedom of movement. The state of emergency, adopted without legal basis and announced at a press conference, was enforced in an arbitrary and disproportionate manner and lacking in reasonableness. The *de facto* government's lack of legitimacy *ab initio* and the absence of the procedural and substantive requisites to justify the state of emergency violate Article 27 of the American Convention.

89. At a press conference held on the premises of the National Congress on June 28, 2009, Mr. Micheletti announced that a curfew was being imposed. No information is available as to the legal instrument upon which the curfew was based. The nighttime curfew was to run from 9:00 p.m. until 6:00 a.m. for a period of 48 hours.[68]

90. On June 30, as the first 48-hour period was coming to a close, a new nighttime curfew was imposed for a 72-hour period, to run from 10:00 p.m. to 5:00 a.m.[69] That curfew was established by Executive Decree 011-2009, which stipulated that the suspension of civil liberties

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[66] Executive Decree PCM-020-2009, Article 1.

[67] Resolution of the Contentious Administrative Court, June 26, 2009, operative paragraphs 1, 2 and 3. The first operative paragraph reads as follows: "RESOLVED: ONE: To order the Honduran Armed Forces, through the Head of the Joint Chiefs of Staff, to IMMEDIATELY CONFISCATE all documentation and materials necessary for and related to the OPINION SURVEY THAT THE EXECUTIVE BRANCH, IN FLAGRANT VIOLATION OF THIS COURT'S ORDER, IS ATTEMPTING TO CONDUCT ON SUNDAY, JUNE 28, 2009."

[68] "Honduras, dividida tras el golpe de Estado entre el toque de queda y la huelga" [Honduras, divided after the coup d'état divided between curfew and strike], *El Mundo* (Spain), June 29, 2009. "Interim president declares curfew for two days," *El Universal*, June 28, 2009. "Micheletti decreta toque de queda" [Micheletti decrees curfew], *El Universo* (Ecuador), June 28, 2009.

[69] Under Article 2 of Executive Decree 011-2009, the time period is to be computed from the date of approval of the Decree, which was July 1, 2009

during the specified periods was to be governed by the State of Siege Law.[70] While the curfew was in effect, the following rights were restricted:

- The right to personal liberty (recognized in Article 69 of the National Constitution);
- The right not to be held without cause or *incommunicado* for more than 24 hours (recognized in Article 71 of the Constitution);
- Freedom of association and assembly (recognized in Article 78 of the Constitution), and
- The right to freedom of movement (recognized in Article 81 of the Constitution); the exceptions were patrol cars, ambulances, fire trucks, fuel trucks and trucks carrying daily newspapers with nationwide circulations.[71]

91. Having declared a state of emergency by means of an illegitimate decree, thereafter the *de facto* authorities arbitrarily extended it[72] and used it as a means to control and prevent demonstrations in support of the return of President Zelaya.

92. On July 5, President Zelaya failed in his attempt to return to the country by air. The curfew originally imposed began at 10:00 p.m. and ended at 5:00 a.m. the following day. However, at 6:00 p.m., a national radio and television chain[73] reported that the curfew would begin half an hour later and would remain in effect until 5:00 a.m., for the next 48 hours.[74] That day, after evading a number of roadblocks that military and police had set up on the highways,[75] thousands of President Zelaya's supporters gathered in the area outside Toncontín airport, to receive him upon his announced arrival. At around 3:30 p.m., with the multitude of persons clamoring for President Zelaya's imminent arrival up against the electric fence that separated the airport from the adjacent streets, Army troops fired tear gas and pepper spray.[76] When this happened, some of the demonstrators picked up the canisters and hurled them back at the security forces, which then fired

[70] Executive Decree 011-2009, Article 2.

[71] Executive Decree 011-2009, Article 1.

[72] No specific information is available concerning enforcement of the curfew from July 3 to 5, 2009. However, the articles in the press suggest that the enforcement of the curfew was uninterrupted from June 28 to July 12, 2009. As of July 7, 2009, the period during which rights were restricted gradually decreased (generally, the first and last hours of the curfew were cut back by half-hour intervals) so that by the end the curfew started at 11:00 p.m. and ended at 4:00 a.m.

[73] "Amplian toque de queda en Honduras" [Curfew extended in Honduras], El Heraldo, July 5, 2009.

[74] "El gobierno hondureño aplica toque de queda" [Honduran government enforces curfew], La Tribuna, July 5, 2009; "Amplian toque de queda en Honduras" [Curfew extended in Honduras], El Heraldo, July 5, 2009.

[75] CIPRODEH, *Reporte de Violaciones a Derechos Humanos* [Report on Human Rights Violations]*, op. cit.*

[76] Testimony of J.E.N., taken by the IACHR in Tegucigalpa on August 21, 2009 (No. 226).

on the crowd.[77] Snipers that the Armed Forces had stationed on nearby buildings also fired shots.[78] This resulted in the death of a youth, Isis Obed Murillo.[79]

93. On July 12, the curfew was suspended. The *de facto* government's contention was that the goal of restoring calm within the population had been achieved.[80] However, on July 15, a national radio and television network announced that the curfew was being reimposed. It was said that the curfew's reinstatement was necessitated by "[…] the constant, flagrant threats being made by groups bent upon causing disruption and disorder […]"; the curfew was to begin at midnight on July 15 and continue until 5:00 a.m. on July 16.

94. After July 16, the curfew was extended on a daily basis at the discretion of the *de facto* authorities and announced via a national broadcasting network.[81]

95. The arbitrary use of the state of emergency was coupled with the militarization of Honduran territory and the establishment of military and police roadblocks on the country's main roads, to prevent demonstrators supporting President Zelaya from mobilizing. Between 4000 and 5000 persons were trapped at the military and police roadblocks, unable to travel because the curfew established along the border with Nicaragua remained in effect, without interruption, from noon on July 23 until at least 6:00 p.m. on July 28.[82]

96. On July 24, the President's wife, her daughter Ortencia Xiomara Zelaya Castro, her mother Olga Doris Sarmiento and her mother-in-law Ortencia Rosales, escorted by a convoy of vehicles, headed toward the border with Nicaragua for a reunion with President Zelaya. En route, an announcement came over a radio and television network to the effect that the curfew was to take effect at 12:00 p.m. in the border areas of the departments of El Paraíso, Olancho, Valle and Choluteca, even though the curfew along the border was to be imposed at 6:00 p.m.[83]

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[77] Because firearms were used against the civilian population demonstrating in the vicinity of Toncontin Airport, attorneys from the CPRTR reportedly filed a complaint with the Office of the Special Prosecutor for Human Rights concerning the death of Isis Obed Murillo and 9 people injured by firearms. The IACHR has no information as to the progress made in the investigations. Information the IACHR received in Tegucigalpa during its meeting with human rights defenders, August 17, 2009 (No. 471). The IACHR granted precautionary measures for certain persons who had allegedly been seriously wounded.

[78] CIPRODEH, *Reporte de Violaciones a Derechos Humanos [Report on Human Rights Violations], op. cit.*

[79] "Enfrentamiento entre Ejército y manifestantes deja un muerto" [Clash between Army and demonstrators leaves one dead], Tiempo, July 6, 2009. (No. 124)

[80] "Suspendido el toque de queda" [Curfew suspended], El Heraldo, July 12, 2009; ""Curfew lifted", BBC World, July 12, 2009.

[81] Starting on July 16, the area covered by the curfew was announced each day via a national radio and television chain, and the curfew time for each specific day was also announced: on July 16, 17 and 18, 2009, the curfew started at 11:30 p.m. and ended at 4:30 a.m. the following day; then, on July 19, 20, 21 and 22, 2009, the curfew began at midnight and ended at 4:30 a.m. On July 23, 2009, the schedule was changed for certain zones: in border areas the curfew took effect at 6:00 p.m. and remained in effect until 6:00 a.m. the next day, while in the rest of the country the schedules were the same as they had been on the four previous nights. Elsewhere in the country, the curfew periods were reduced again, so that eventually, by July 27, 2009, the curfew took effect at 1:00 a.m. and lasted until 4:30 a.m. During its visit, the IACHR confirmed that curfews continued to be enforced in some parts of the country.

[82] Information supplied by CIPRODEH and the media. Also, testimony of M.O.V., taken by the IACHR in Tegucigalpa on August 21, 2009 (No. 232) and from C.E. in El Paraíso on August 20, 2009.

[83] Testimony of C.A.Z.S., taken by the IACHR in Tegucigalpa on August 20, 2009 (No. 53). Testimony of A.A., taken by the IACHR in El Paraíso on August 20, 2009.

97. The President's wife and more than 4,000 Hondurans were trapped between the Army's roadblocks on the highways for a number of days, until a judge granted a writ of *habeas corpus* and authorized them to proceed as far as the city of El Paraíso.[84]

98. Another mechanism that the *de facto* government used was to actively engage Army personnel in the control and dispersal of public demonstrations. Starting on June 28, numerous demonstrations were held in various places throughout the country and were violently suppressed by agents of the National Police, members of the Army and the Cobra Command Strike Force, using tear gas grenades, water tanks, bullets and police truncheons. The excessive use of force by security forces left at least seven persons dead, hundreds injured, some seriously. Specifically, the Commission was told that measures of this type were used to break up the following demonstrations: i) June 28 and 29, July 1, 3, 5 and 29, and August 5, 11 and 12 in Tegucigalpa; ii) June 30 in El Progreso; iii) July 2 and August 12 in San Pedro Sula; iv) July 3 in Olancho; v) July 30 in Comayagua; vi) July 30 in Comayagüela, vii) July 30 in El Lolo, viii) July 31 in Santa Rosa de Copán, and ix) August 14 in Choloma. The Commission also received complaints of property damage caused during the course of some of these demonstrations.

99. Finally, the security forces detained thousands of people in the demonstrations held on June 29; July 2, 4, 8, 12, 29, 30 and 31; August 3, 11, 12 and 14, and for violation of the curfew. These arrests were not carried out according to the law, as there was no warrant from a competent authority; detainees were not read their rights and were not told of the reasons for their arrest. The massive detentions contributed to creating a climate of insecurity and uncertainty among the population and a fear that the detainees would become disappeared.

100. The *de facto* government ordered these measures at its discretion, making them even more forceful in certain circumstances, for example, on President Zelaya's return to Honduras.

D. President Zelaya Enters the Brazilian Embassy

101. Unknown to the *de facto* authorities, on September 21, 2009 President Zelaya returned to Honduras and entered the Brazilian Embassy in Tegucigalpa. Once the news spread, a crowd of some 3000 converged upon the area[85] and the Teachers Union of Honduras ordered an indefinite work stoppage nationwide in a show of support for President Zelaya.[86]

102. For its part, the *de facto* government resorted again to declaring a state of emergency. On September 21, it was announced that a curfew would take effect at 4:00 p.m. that day and remain in effect until 7:00 a.m. the next day.[87] However, with successive extensions, the curfew remained in effect for the entire 48 hours.

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[84] Testimony of L.C.G, taken by the IACHR on August 17, 2009 (No. 129). According to information received, young A.L. and L.E.C., were apprehended by security forces of the *de facto* government and taken to a police post in the department of El Paraíso. In a communication dated July 30, 2009, the IACHR requested information, pursuant to Article 41 of the American Convention. Communication from the Alternate Ambassador of Honduras to the OAS, dated July 27, 2009. *De facto* Secretariat of Foreign Affairs of Honduras, Memorandum 596-DGAE-09 dated August 3, 2009.

[85] "Toque de queda no ha disminuido presencia de cientos de hondureños en embajada de Brasil" [Despite curfew, hundreds of Hondurans gather at the Brazilian embassy], TeleSUR, September 22, 2009.

[86] "Magisterio a paro en apoyo a Manuel Zelaya" [Teachers in work stoppage in a show of support for Manuel Zelaya], El Heraldo, September 21, 2009.

[87] "Gobierno de facto decreta nuevo toque de queda en Honduras" [*De facto* government orders another curfew in Honduras], TeleSUR, September 21, 2009.

103. At around 4:00 a.m. on September 22, Police and Army members arrived at the Brazilian Embassy to disperse the persons gathered there. They did so on the pretext of enforcing the curfew.[88] The security forces launched tear gas grenades and fired bullets and rubber bullets at the premises of the Embassy and at the demonstrators, whom they also beat with batons.[89] A total of 26 individuals –including a child-[90] were taken to the Escuela Hospital[91] and one of the injured died from inhaling the tear gas. In that incident, the security forces arrested approximately 300 demonstrators for violation of the curfew. The arrested demonstrators were held in the Chochi Sosa Stadium-José Simon Azona Sports Complex, where they were subjected to physical and psychological abuse.[92] The *de facto* government reported that the detainees were released once the curfew was over, except for 6 persons who were charged with the crime of damaging private property. The Commission also received information from human rights defenders who complained of the obstacles they encountered in trying to do their work and their fear of being detained.[93]

104. From the information reported, the Commission learned that at that time, the private cell phone company TIGO-CELTEL was cut off for 12 hours, a number of radio and television stations that opposed the *de facto* government were unable to broadcast,[94] and Radio Globo, Channel 36 and Cholusat were shut down. Also, journalists and leaders of the resistance movement were allegedly brutally repressed.[95]

105. On September 22, the *de facto* government closed down the four international airports: Toncontín (Tegucigalpa), Ramón Villeda Morales (San Pedro Sula), Golosón (La Ceiba) and Juan Manuel Gálvez (Roatán). The closure of these airports prevented OAS Secretary General José Miguel Insulza from arriving in Tegucigalpa that day to move the political negotiations forward.[96]

106. That same day, as the violence intensified, and given the steady stream of complaints the Commission was receiving claiming human rights violations, the Commission asked

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[88] Police and Army were allegedly posted at the entrance points into Tegucigalpa to prevent President Zelaya's sympathizers from entering the city. FIAN Honduras, e-mail received by the IACHR on September 22, 2009.

[89] Testimony of A.S., taken by the IACHR on September 23, 2009.

[90] *De facto* Secretariat of Foreign Affairs of Honduras, Memorandum 712-DGAE-09 dated October 13, 2009.

[91] "Violento desalojo en las afueras de la embajada de Brasil" [Violent dispersal outside the Brazilian embassy], El Heraldo, September 22, 2009; "Policía reprime a manifestantes al frente de la embajada brasileña en Tegucigalpa" [Police repress demonstrators outside Brazilian embassy], TeleSUR, September 22, 2009.

[92] FIAN Honduras, e-mail received by the IACHR on September 22, 2009; G.G., e-mail received by the IACHR on September 22, 2009. In its observations, the Supreme Court stated that: "No foreign national was identified among those moved to the Chochi Sosa Sports Complex; however, there were a total of nine children, who were handed over to the Office of the Special Prosecutor for Children." Observations made by the State of Honduras to the IACHR's Report, dated December 22, 2009 and signed by the Chief Justice of the Supreme Court, p. 17, paragraph 41.

[93] Information that B.O. supplied to the IACHR on September 22, 2009.

[94] *De facto* Secretariat of Foreign Affairs of Honduras, Memorandum 712-DGAE-09 dated October 13, 2009.

[95] G.B.J., e-mail received by the IACHR on September 22, 2009.

[96] "Policía reprime a manifestantes al frente de la embajada brasileña en Tegucigalpa" [Police repress demonstrators outside Brazilian embassy], TeleSUR, September 22, 2009; "Gobierno hondureño anunció el cierre de todos los aeropuertos" [Honduran government announced closing of all airports", La Tribuna, September 22, 2009.

the Chief Justice of the Supreme Court and the President of the National Congress for another urgent on-site visit to verify the observance of human rights in Honduras and issued two press releases on the situation in Honduras. In the first, the Commission urged the *de facto* government of Honduras to respect public demonstrations and everyone's right to freedom of expression, to refrain from the excessive use of force that the Commission had confirmed during its on-site visit in August, and to take urgent measures to guarantee the rights to life, to humane treatment, personal liberty, freedom of expression, assembly and political participation.[97]

107. In the second press release, the Commission condemned the excessive use of force in suppressing the demonstrations that took place near the Brazilian Embassy, where tear gas grenades and rubber bullets were used.[98] The Commission also issued an urgent appeal to the *de facto* government to take all measures necessary to guarantee the rights to life, to humane treatment and the security of all persons, and reiterated its deep concern over the continuation of the state of emergency in Honduras, and the uninterrupted enforcement of the curfew since September 21.[99]

108. On Friday, September 25, the IACHR received news of an operation conducted in the vicinity of the Brazilian Embassy in which unidentified noxious gases had been used causing poisonings, bleeding, vomiting and dizziness among the people who were there. That same day, the IACHR issued another press release in which it called upon the *de facto* government to put an immediate end to the operation and to adopt all measures necessary to guarantee the rights to life and to humane treatment, and the security and safety of all persons who were there.[100]

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[97] IACHR, Press Release 64/09: *IACHR Urges Honduras' de facto Government to Respect Protests.* September 22, 2009. Available at: http://www.cidh.oas.org/comu.eng.htm.

[98] In its observations the Supreme Court wrote the following: "In keeping with the provisions of the 1961 Vienna Convention on Diplomatic Relations, the government of the Republic of Honduras has always and unreservedly respected the integrity of the Brazilian Embassy and the citizens who entered the Brazilian Diplomatic Mission in Tegucigalpa illegally and by violent means. Honduras maintains that under International Law, no country is required to allow the premises of a foreign mission to be used to foster violence and disrupt domestic tranquility and national security, as this situation is a violation of the provisions of Article 41(3) of the Vienna Convention on Diplomatic Relations. The measures taken by the National Police and other security forces in response to this illegal action have been professional at all times and have been conducted with the utmost care in order to guarantee the right to life, the right to personal integrity, the safety and security of all those inside the Embassy premises, the residential grounds and its real estate. The Government of Honduras has and will always respect the human rights of those inside that Mission. The proof is that former President José Manual Zelaya Rosales has always received and continues to receive visits from the OAS Foreign Ministers, Latin American parliamentarians, members of the Diplomatic Corps, the International Press, churches, prosecutors and forensic physicians with the Office of the Public Prosecutor, presidential candidates, maintenance personnel for public and private services, former President Zelaya Rosales' representatives on the Negotiating Commission (Guaymuras-Tegucigalpa/San José Agreement) and members of his family. As for the hostile acts that national authorities are alleged to have committed against the Brazilian Embassy, the Government of Honduras has always abided by the provisions of Article 45(a) of the Vienna Convention on Diplomatic Relations, as evidenced by the fact that the Government of Brazil has made no claim whatever as regards any property damages to its Mission's premises, nor has it claimed that any searches were conducted of the premises in question." Observations made by the State of Honduras to the IACHR's Report, dated December 22, 2009 and signed by the Chief Justice of the Supreme Court, pp. 5-6, paragraphs 1-4.

[99] IACHR, Press Release 65/09: *IACHR condemns excessive use of force in repression of protests in Honduras,* September 22, 2009. Available at: http://www.cidh.oas.org/comu.eng.htm.

[100] IACHR, Press Release 68/09: *IACHR Urges Honduras to Respect the Rights of the Persons inside the Brazilian Embassy,* September 25, 2009. Available at http://www.cidh.oas.org/comu.eng.htm.

109. The Commission also received information about the difficulties getting food and medication into the Brazilian Embassy, the lack of cleaning materials, articles of personal hygiene, and appliances to preserve foodstuffs. There were also problems with waste disposal.[101]

110. On September 26, the *de facto* government published Executive Decree PCM-M-016-2009 which suspended constitutional guarantees related to personal liberty, freedom of association and assembly, freedom of movement and freedom of expression and also stipulated that the Armed Forces would be participating in operations "to maintain the order and security of the Republic" and to take audiovisual media off the air. The measure prohibited public assemblies or meetings not authorized by the Police or the military authorities; freedom of movement was restricted as it was stipulated that the *de facto* authorities would "announce how long the curfews will last and where in the national territory they will apply." Any person on the streets after the curfew took effect was to be arrested.[102]

111. Acting on the *de facto* government's decree, on September 28, at 5:20 a.m. members of the Army took over the offices of Channel 36 and Radio Globo and disconnected and confiscated their equipment, thereby stopping broadcast operations.[103] On September 30 the police and military drove out some 60 *campesinos* who had seized the *Instituto Nacional Agrario* [National Agrarian Institute] after the *coup d'état.*[104] According to information supplied by the *de facto*

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[101] L.M., e-mail that the IACHR received on September 26, 2009. The *de facto* authorities stated that "national organizations and human rights defenders have been permitted to go inside; they were to provide water, food, medications and various supplies and essentials for their subsistence." They also reported that 158 "supporters of former President Zelaya" left the Embassy voluntarily.

[102] Executive Decree PCM-M-016-2009 dated September 26, 2009; "State of emergency in Honduras," El Heraldo, September 27, 2009; "Virtual estado de sitio en Honduras" [Virtual State of Siege in Honduras], *La Nación*, September 28, 2009. A circular issued nationwide stated that in fulfillment of Executive Decree PCM-M-016-2009, "(f)or any public gathering, prior authorization must be requested from the Secretariat of State of Security. The application must be filed in writing at least 24 hours beforehand, at Metropolian, Departmental or Municipal Police Headquarters, and shall specify the following: a) the reason for the public gathering, indicating the person or persons responsible for calling the requested gathering; b) the schedule for the public gathering, specifying the time the gathering would begin and end; c) the place of the public gathering and which streets will be used if people will have to move through the streets for the gathering; the applicant party must pledge that the assembly will not obstruct the freedom of movement of third parties; d) the approximate number of persons who will attend the public gathering; e) The Secretariat of State of Security, by way of the National Police, will issue the decision giving the applicant authorization for the gathering or denying authorization, based on the law; f) gatherings in closed places like churches, stadiums, parks, hotels, large assembly halls, rooms, which includes parties in private homes and elsewhere, are to be reported to the nearest police stations."

[103] "Gobierno de Micheletti saca del aire a Canal 36 y Radio Globo" [Micheletti Government takes Channel 36 and Radio Globo off the air], TeleSUR, September 28, 2009.

[104] "El gobierno de Micheletti detuvo a 60 seguidores de Zelaya" [Micheletti government detained 60 Zelaya supporters], *La Nación*, September 30, 2009. *Observatorio Internacional sobre la Situación de Derechos Humanos en Honduras* [International Observatory on the Human Rights Situation in Honduras] (OISDHHN), International Federation of Human Rights (FIDH), Center for Justice and International Law (CEJIL), Copenhagen Initiative for Central America and Mexico (CIFCA), FIAN International, Hemispheric Social Alliance 'Linking Alternatives', Inter-American Platform for Human Rights, Democracy and Development (PIDHDD), *Federación de Derechos Humanos de España*, *Suedwind – Austria*, IBIS – Denmark, *Instituto de Estudios Políticos sobre América Latina y África* [Institute of Policy Studies on Latin America and Africa (IEPALA-Spain)], *Servicio Paz y Justicia* [Peace and Justice Service] (SERPAJ-Uruguay), World Solidarity Movement – Belgium, Human Rights Institute of the *Universidad CentroAmericana "José Simeón Cañas"* (IDHUCA-El Salvador), Comité de Familiares de Detenidos – Desaparecidos de Honduras [Committee of Relatives of Detainees-Disappeared of Honduras] (COFADEH - Honduras), *Centro para la investigación y promoción de Derechos Humanos* [Center for Research and Promotion of Human Rights] (CIPRODEH - Honduras), *Centro de Derechos de Mujeres* [Women's Rights Center] (CDM-Honduras), FIAN Honduras, *Asociación Pro Derechos Humanos* [Pro Human Rights Association] (APRODEH-Peru),

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authorities, the *campesinos* inside the Institute had been removed by court order; a judge and 4 prosecutors from the Common Crimes Prosecution Office were present for the operation. It was also reported that 55 persons were detained, including two minors and six women. Except for the children, all of those detained were taken to the Metropolitan Police Station No. 1 in Barrio Dolores. Of those 53 persons, four were released as they were staff members of the INA; bail was granted in the case of 11 others. On October 7 a hearing was held at police headquarters where a preventive detention order was issued against the 38 detainees that remained in custody.[105] These individuals were charged with the crime of sedition against the domestic security of the Honduran state.[106] On the question of the physical condition of the persons detained, the *de facto* authorities reported that forensic examinations found that none of the persons showed any evidence of "temporary disability or impairment."[107]

112. At a press conference held on the same day, the *de facto* authorities reported that diplomatic relations with Brazil had been severed. They demanded that within ten days the Brazilian government clarify President Zelaya's diplomatic status.[108]

113. On September 29, the IACHR sent another communication to the Chief Justice of the Supreme Court and to the President of the National Congress, concerning another urgent on-site visit to confirm the human rights situation in the country.[109] That same day, the IACHR issued another press release in which it expressed deep concern over the content of the decree, whose

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Coordinadora Nacional de Derechos Humanos [National Human Rights Coordinator] (Peru), *Centro de Políticas Públicas y Derechos Humanos* [Center for Public Policy and Human Rights, Peru], and EQUIDAD, e-mail dated October 2, 2009.

[105] Information supplied by COFADEH to the IACHR on November 5, 2009.

[106] Article 337 of the Honduran Criminal Code reads as follows: "Any persons who, although not implicated in the crime of rebellion, stage a public and turbulent uprising, either by force or outside legal channels, for the purpose of achieving any of the following ends shall be deemed guilty of sedition: 1) Impeding elections for national, departmental or municipal authorities; 2) impeding lawfully elected or appointed officials from taking office; 3) impeding any authority from lawfully performing the functions of his or her office or carrying out his or her decisions; 4) impeding the approval, passage, enactment, publication or enforcement of any law; 5) engaging in any act of hatred or revenge against private parties or against servants of the State or against their property to achieve some political or social end; and 6) entering penal institutions or attacking the prison guards, whether to rescue or mistreat them."

[107] *De facto* Secretariat of Foreign Affairs of Honduras, Memorandum 731-DGAE-09 dated October 20, 2009.

[108] "Ultimátum a Brasil para definir destino de Mel" [Brazil given ultimatum to decide Mel's fate], El Heraldo, September 7, 2009. Previously, the First Secretary at the Venezuelan Embassy in Honduras had reported that on July 22, 2009, the *de facto* government had given the staff of the Venezuelan Embassy in Honduras 72 hours in which to leave the country on the grounds of alleged meddling in Honduran affairs. He also pointed out that when the Venezuelan Embassy personnel refused to leave, the *de facto* government proceeded to withdraw the diplomatic status of Embassy personnel and that on July 24, eight members of the National Bureau of Criminal Investigation –four of them wearing hoods and carrying rifles- showed up at the Ambassador's residence to evict and deport him. The attempt was thwarted thanks to the support of social movements and a group of friends of the Venezuelan Embassy. Since that day, vehicles with tinted window glass have allegedly been posted in front of the residence.

[109] Communication that the IACHR sent on September 29, 2009. On October 19, 2009, the IACHR repeated its request to conduct another on-site visit.

provisions arbitrarily restricted fundamental human rights and contained vague regulations that granted absolute discretion to the authorities, especially the Army and the Police forces.[110]

114. On October 5, the *de facto* government met with the Council of Ministers and revoked Decree PCM-016-2006.[111] However, the decree of nullification was not published until October 19.[112]

115. A decree of the *de facto* government dated October 5 and published in the Official Gazette of October 7, ordered CONATEL to revoke "the use of permits and licenses that CONATEL granted to operators of radio and television stations that broadcast messages that seek to generate hatred against the nation and violation of protected rights and claims, and that defend a system of social anarchy against the democratic State."[113]

116. On October 9, the IACHR received information of new attacks on the Brazilian Embassy, this time involving a mechanical platform manned with heavily armed police and military and the stationing of two snipers.[114]

117. On October 22, the IACHR sent another communication to the Chief Justice of the Supreme Court and to the President of the Congress, emphasizing the need for another on-site visit, given the open invitation that Honduras had extended to the Commission. No reply was received.

118. On October 30, during the Guaymuras dialogue held to settle the political crisis in the country,[115] representatives of President Zelaya and the *de facto* authorities signed the Tegucigalpa/San José Agreement for national reconciliation and for strengthening democracy in Honduras. The terms of that agreement were as follows: a National Unity and Reconciliation Government was to be formed, composed of representatives of the various political parties and social organizations; any call for a National Constituent Assembly or to amend the Constitution was to be explicitly renounced; the Honduran people were called upon to participate in the upcoming elections, in which electoral observation missions would also participate; the Armed Forces were to be at the disposition of the Supreme Electoral Tribunal starting one month before the elections; a Verification Commission was to be created –composed of two members of the international

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[110] IACHR, Press Release 69/09: *IACHR condemns suspension of guarantees in Honduras,* September 29, 2009. Available at http://www.cidh.oas.org/Comunicados/English/2009/69-09eng.htm.

[111] "Micheletti levanta estado de excepción" [Micheletti lifts state of emergency], BBC World, October 5, 2009; "Ejecutivo suspende el estado de sitio" [Chief Executive suspends state of siege], El Heraldo, October 5, 2009.

[112] "Gobierno publica decreto que revoca restricciones"[Government publishes decree revoking restrictions], El Heraldo, October 19, 2009.

[113] Executive Agreement No. 124-2009.

[114] L.M., e-mail that the IACHR received on October 9, 2009.

[115] "Principio de acuerdo en Honduras para que Zelaya retorne al poder" [The makings of an agreement in Honduras for Zelaya to return to power], *La Nación* (Argentina), October 14, 2009; "Delegación de Zelaya espera contrapropuesta de Micheletti para reabrir diálogo" [Zelaya's delegation awaits Micheletti's counterproposal for reopening dialogue], TeleSUR, October 19, 2009. The Supreme Court of Justice wrote the following in its observations: "The Guaymuras Tegucigalpa-San José Agreement was signed on October 30 of this year. Participating were representatives of the Government of the Republic and of Mr. Zelaya Rosales. National and international recognition have been obtained as a result of the negotiations between the parties, which is an important step toward a definitive resolution of the crisis and has created optimism in various countries of the Americas and Europe." Observations made by the State of Honduras to the IACHR's Report, dated December 22, 2009 and signed by the Chief Justice of the Supreme Court, p. 6, paragraph 7.

community and two members of the national community and coordinated by the Organization of American States- to ensure that the commitments undertaken in the Agreement were carried out; and, finally, a Truth Commission was to be established in the first half of 2010.

119. On the question of President Zelaya's return, the Agreement stipulated that, "in exercise of its authority and in consultation with such other bodies as it deems appropriate -such as the Supreme Court- and in accordance with the law, Congress shall decide the appropriate course of action regarding the matter of restoring the incumbency of the Executive Branch to its status prior to June 28, until the current term of presidential office ends on January 27, 2010."

120. The Agreement also provided a timetable for the commitments: the Verification Commission was to be formed by November 2; the "National Unity and Reconciliation Government [was to be formed] no later than November 5."[116]

121. However, the timetable was not followed. The Verification Commission, composed of former Chilean President Ricardo Lagos, United States Secretary of Labor Hilda Solís, and Hondurans Arturo Corrales and Jorge Arturo Reina, was formed on November 3. Prior to that, however, Mr. Micheletti sent President Zelaya a memorandum in which he requested that in order to comply with the obligation to form a National Reconciliation Government, President Zelaya should provide him with a list of citizens who would meet the requirements prescribed by law and who could be elected to serve in that government. Also, contrary to the agreements, the National Congress did not receive the Verification Commission.

122. On November 3, the Congress sent questions to the Supreme Court, to the Office of the Attorney General of the Republic, to the National Commissioner of Human Rights, and to the Public Prosecutor's Office to decide the question of President Zelaya's return to office. On Monday, November 9, the Supreme Court indicated that it would abstain from pronouncing on the issue of returning President Zelaya to office.[117] As of the date of preparation of this report, the Congress has not yet set a date for the debate on the issue of President Zelaya's return to office.

123. On November 5, Mr. Micheletti issued a press communiqué in which he asked his cabinet to resign in order to form the National Unity Government. He also indicated that President Zelaya would not be part of that government, because he had not sent the list requested from him.

124. Because the timetable was not observed and the National Congress did not take any decision, on November 8 President Zelaya called off the talks.[118] Also, on November 14, President Zelaya allegedly sent a letter to the President of the United States, Barack Obama, in which, *inter alia,* he reiterated his resolve not to accept any agreement of return to the Presidency that might legitimize the *coup d'état*.[119]

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[116] Tegucigalpa-San José Agreement, point 5.

[117] "CSJ rechazaría solicitud del CN sobre restitución" [Supreme Court would not respond to Congressional questions concerning reinstatement of incumbency], El Heraldo, November 9, 2009.

[118] "Manuel Zelaya da por fracasado acuerdo" [Manuel Zelaya calls the agreement a failure], El Heraldo, November 6, 2009; "Acuerdo Tegucigalpa – San José es 'letra muerta"[Tegucigalpa-San José Agreement is dead], El Heraldo, November 8, 2009.

[119] "Zelaya anuncia que no retorna a la presidencia" [Zelaya announces that he is not returning to the presidency], El Heraldo, November 15, 2009. Letter from President José Manuel Zelaya Rosales, dated November 14, 2009.

E. The International Community's Reaction

125. The international community has unanimously rejected the *coup d'état* in Honduras. The *de facto* authorities who emerged when the democratically elected president was deposed have never been recognized. International forums have repeatedly and categorically condemned the interruption of the constitutional order and have insisted that President Zelaya be restored to office.[120]

1. The Organization of American States (OAS)

126. With their adoption of the Inter-American Democratic Charter, the States of this Hemisphere not only confirmed their commitment to democracy but also established precise courses of action to be followed if democratic government were threatened. In effect, Article 20 of the Inter-American Charter provides that in the event of an alteration of the constitutional regime seriously impairing the democratic order in a member state, any member state, or the Secretary General, may convene the Permanent Council to undertake a collective assessment of the situation and to take such decisions as it deems appropriate. That article also provides that if such diplomatic initiatives prove unsuccessful, or if the urgency of the situation so warrants, the Permanent Council shall immediately convene a special session of the General Assembly to adopt the decisions it deems appropriate, including the undertaking of diplomatic initiatives, in accordance with the Charter of the Organization, international law, and the provisions of the Democratic Charter.

127. Furthermore, under Article 21 of the Inter-American Democratic Charter, when the special session of the General Assembly determines that there has been an unconstitutional interruption of the democratic order of a member state and that diplomatic initiatives have failed, the special session shall take the decision to suspend said member state from the exercise of its right to participate in the OAS by an affirmative vote of two thirds of the member states and any suspension shall take effect immediately. The suspended member state shall continue to fulfill its obligations to the Organization, in particular its human rights obligations.

128. With the interruption of the democratic order and in keeping with the provisions of the Inter-American Democratic Charter, the OAS Permanent Council convened a special meeting on June 28[121] and adopted resolution CP/RES. 953 (1700/09) "Current Situation in Honduras."[122] In that resolution, the Council condemned the *coup d'état* and the expulsion from the country of

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[120] In its observations, the Supreme Court of Justice stated that: "Similarly, and as a result of the events of June 28, 2009, the International Community acted in haste and inaccurately portrayed the Presidential Succession, which was in fact done in accordance with the Constitution of the Republic of Honduras and secondary laws, all for the sake of strengthening the rule of law and protecting and preserving democracy in a climate of peace and tranquility." Observations made by the State of Honduras to the IACHR's Report, dated December 22, 2009 and signed by the Chief Justice of the Supreme Court, p. 6, paragraph 6.

[121] Article 20 of the Inter-American Democratic Charter provides that in the event of an unconstitutional alteration of the constitutional regime that seriously impairs the democratic order in a member state, any member state or the Secretary General may request the immediate convocation of the Permanent Council to undertake a collective assessment of the situation and to take such decisions as it deems appropriate. The article also states that if such diplomatic initiatives prove unsuccessful, or if the urgency of the situation so warrants, the Permanent Council shall immediately convene a special session of the General Assembly. The General Assembly will adopt the decisions it deems appropriate, including the undertaking of diplomatic initiatives, in accordance with the Charter of the Organization, international law, and the provisions of this Democratic Charter.

[122] OAS, Permanent Council, Resolution CP/RES. 953 (1700/09) of June 30, 2009. Available at http://www.oas.org/consejo/resolutions/res953.asp.

President Zelaya. It also demanded that the President be returned to office and declared that no government arising from this unconstitutional interruption would be recognized. The Council has continued to monitor the situation in Honduras and has convened a number of meetings to discuss the matter.

129. On June 30, the OAS General Assembly held a special session at which President Zelaya was present. That special session discussed and –in the early hours of the following day- approved resolution AG/RES. 1 (XXXVII-E/09) "Resolution on the political crisis in Honduras." In that resolution, the *de facto* government was given 72 hours in which to restore President Zelaya and was warned that its status as an OAS member state could be suspended.[123]

130. On July 3, OAS Secretary General José Miguel Insulza traveled to Tegucigalpa, where he met with the Chief Justice of the Supreme Court, Jorge Alberto Rivera Avilés, and three other justices. At that meeting the Secretary General officially advised them of the resolution that the special session of the OAS General Assembly had adopted on July 1 and the possible consequences. He also told them of the Assembly's decision not to recognize the authorities who emerged in the wake of the June 28 *coup d'état,* and of the request that democratic order be restored and that President José Manuel Zelaya Rosales be returned to his constitutional functions.[124]

131. On July 4, the Secretary General stated at a press conference that given the intransigence of the *de facto* regime, the only alternative appeared to be that of pursuing the position taken by the General Assembly: the enforcement of Article 21 of the Inter-American Democratic Charter as a means to exert pressure on the *de facto* government.[125] Article 21 of the Inter-American Democratic Charter reads as follows:

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[123] OAS, Special Session of the OAS General Assembly, Resolution AG/RES. 1 (XXXVII-E/09) of June 30, 2009. Available at: http://www.oas.org/CONSEJO/GENERAL%20ASSEMBLY/37SGA.asp.

[124] OAS, Press Release C-219: *OAS suspends membership of Honduras, July 5, 2009.* Available at http://www.oas.org/OASpage/press_releases/press_release.asp?sCodigo=E-219/09. That same day, the Secretary General met with the following persons: the Cardinal Primate of the Catholic Church in Honduras, Oscar Andrés Rodríguez Maradiaga;.the National Party's presidential candidate, Porfirio Lobo, accompanied by the Party Chairman and Mayor of Tegucigalpa, Ricardo Álvarez; the Liberal Party's presidential candidate, Elvin Santos; the independent presidential candidate of *Bloque Popular* and leader of the National Front against the coup d'état, Carlos Reyes, and a group of leaders of that movement. He also met in Tegucigalpa that same day with members of the diplomatic corps and representatives of international organizations. The following were among those attending the meeting: representatives of Canada, the United States, Ecuador, Mexico, Chile, Germany, Spain, France, Japan, Sweden, as well as the Central American Bank for Economic Integration (BCIE), the Inter-American Development Bank (IDB), the United Nations System, the United Nations Development Programme (UNDP), the World Bank, the European Commission, and the Swiss Agency for Development and Cooperation (COSUDE).

[125] OAS, Press Release C-219: *OAS suspends membership of Honduras,* July 5, 2009. Available at: http://www.oas.org/OASpage/press_releases/press_release.asp?sCodigo=E-219/09. In its observations, the Supreme Court stated the following: "The Organization of American States acted hastily in condemning the Government of Honduras, thereby denying its right of legitimate self-defense and its right to explain to the American Community the legal grounds for the June 28 Presidential Succession. (…). By their biased conduct, the members of the Organization of American States violated Article 1 of the Charter of the Organization, the second paragraph of which reads as follows: '**The Organization of American States has no powers other than those expressly conferred upon it by this Charter, none of whose provisions authorizes it to intervene in matters that are within the internal jurisdiction of the Member States.'** Observations made by the State of Honduras to the IACHR's Report, dated December 22, 2009 and signed by the Chief Justice of the Supreme Court, pp. 6-7, paragraphs 5 and 8.

> When the special session of the General Assembly determines that there has been an unconstitutional interruption of the democratic order of a member state, and that diplomatic initiatives have failed, the special session shall take the decision to suspend said member state from the exercise of its right to participate in the OAS by an affirmative vote of two thirds of the member states in accordance with the Charter of the OAS. The suspension shall take effect immediately.
>
> The suspended member state shall continue to fulfill its obligations to the Organization, in particular its human rights obligations.
>
> Notwithstanding the suspension of the member state, the Organization will maintain diplomatic initiatives to restore democracy in that state.

132. On July 4, once the deadline for restoring democratic order had expired without the *de facto* government responding accordingly, the special session of the OAS General Assembly went back into session, with President Zelaya present, and approved resolution AG/RES. 2 (XXXVII-E/09) wherein it resolved to suspend the Honduran state from the exercise of its right to participate in the Organization of American States.[126]

133. In that same resolution, the General Assembly resolved "(t)o reaffirm that the Republic of Honduras must continue to fulfill its obligations as a member of the Organization, in particular with regard to human rights; and to urge the Inter-American Commission on Human Rights to continue to take all necessary measures to protect and defend human rights and fundamental freedoms in Honduras."[127]

134. On August 24, a delegation -composed of the ministers of foreign affairs of Argentina, Canada, Costa Rica, the Dominican Republic, Jamaica, Mexico and Panama and Secretary General José Miguel Insulza- visited Honduras to meet with various public and private groups in order to promote the signing of the San José Agreement. However, the *de facto* government insisted that it would not allow President Zelaya to be returned to office.

135. On September 21, the OAS Permanent Council held a special meeting where it approved a declaration demanding full guarantees from the *de facto* authorities in order to ensure the life and physical integrity of President Zelaya, calling for the immediate signing of the San José Agreement and calling on all sectors of Honduran society to act responsibly and prudently.[128] At that

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[126] In its observations, the Supreme Court stated the following: "Albeit the suspension of Honduras form the OAS, it continues supervising the full compliance with the human rights instruments that have been ratified by the State, particularly in protection of the life and physical integrity of the persons that have precautionary measures or that have been subjected to detention". Observations made by the State of Honduras to the IACHR's Report, dated December 22, 2009 and signed by the Chief Justice of the Supreme Court, pp. 6-7, paragraph 9.

[127] OAS, Special Session of the General Assembly, resolution AG/RES 2 (XXXVII-E/09) of July 4, 2009, operative paragraphs 1 and 2. Available at: http://www.oas.org/CONSEJO/GENERAL%20ASSEMBLY/37SGA.asp#inf.

[128] "OEA pide respeto a la vida de Manuel Zelaya" [OAS asks that Manuel Zelaya's right to life be respected], El Heraldo, September 21, 2009; "OEA pide reconciliación y evitar actos de violencia" [OAS seeks reconciliation and end to violence], El Heraldo, September 22, 2009; "OEA aprueba resolución en solidaridad al retorno de Zelaya" [OAS approves resolution expressing support for Zelaya's return], TeleSUR, September 22, 2009.

meeting, it was also decided that the following day the OAS Secretary General would travel with a group of foreign ministers to Honduras to further the process of dialogue.

136. On September 27, OAS Secretary General José Miguel Insulza criticized the *de facto* government's decision not to allow a visit by an advance delegation whose purpose was to pave the way for a visit to Tegucigalpa by a mission composed of the Secretary General and ministers of foreign affairs of various countries to facilitate a peaceful settlement of the crisis.[129]

137. On October 3, the OAS Secretary General issued a press released in which he confirmed that in recent days he had met in Honduras with the head of the *de facto* government with the idea of promoting the dialogue.[130] On October 5, the OAS announced which foreign ministers would be part of the Mission that would travel to Honduras to continue the negotiations.[131]

138. On October 21, the OAS Permanent Council issued a declaration in which it "strongly condemned the hostile action by the *de facto* regime against the Brazilian Embassy in Tegucigalpa and the harassment of its occupants through deliberate actions that affect them physically and psychologically and violate their human rights." It demanded an immediate end to these actions and observance of the Vienna Convention on Diplomatic Relations and international instruments on human rights; it appealed for guarantees for the right to life, integrity, and security of President José Manuel Zelaya Rosales and of all persons in and around the Brazilian Embassy, and urged the Inter-American Commission on Human Rights to follow up on this situation.[132]

139. On November 10, the Permanent Council convened another special meeting to discuss the situation in Honduras. There, the Secretary General reported on the status of compliance with the Tegucigalpa/San José Agreement and observed that the Verification Commission was not functioning because of stalling tactics and noncompliance on the part of the *de facto* regime. Given the circumstances and based on the provisions of the Charter of the Organization of American States, the Inter-American Democratic Charter, and the earlier resolutions adopted both by the Permanent Council and the General Assembly of the OAS, the majority of the delegations present reiterated that the return of President Zelaya was a condition *sine qua non* for recognition of the elections that were to be held on November 29.

a. The San José Agreement

140. On July 6, the President of Costa Rica, Óscar Arias Sánchez, offered to serve as a mediator of the political conflict and to try to reconcile the positions of President Zelaya and the *de facto* regime.[133]

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[129] OAS, General Secretariat, Press Release C-311/09, *OAS Secretary General Condemns Honduran Authorities' Decision to Forbid Entrance of OAS High Officials into the Country,* September 27, 2009.

[130] OAS, General Secretariat, Press Release C-321/09, *OAS Secretary General Confirms Recent Meeting with Micheletti,* October 3, 2009.

[131] OAS, General Secretariat, Press Release C-322/09, *OAS Mission Will Arrive in Honduras This Wednesday, October 7,* October 5, 2009.

[132] OAS, Permanent Council, declaration CP/DEC. 43 (1723/09) of October 21, 2009.

[133] "Arias se ofrece como mediador en conflicto político hondureño" [Arias offers to mediate Honduran political conflict], La Tribuna, July 6, 2009.

141. On July 7, President Zelaya and Mr. Micheletti agreed to the talks[134] and President Arias invited the parties to a first meeting in San José, Costa Rica, on Thursday, July 9.[135]

142. The first round of negotiations took place on July 9 and 10 and ended without the parties reaching any agreement.[136]

143. The second round of negotiations was on July 18 and 19. There, the delegation representing the *de facto* regime was headed by former Foreign Minister Carlos López, while President Zelaya's delegation was led by the former manager of the National Electric Power Company [Empresa Nacional de Energía Eléctrica] (ENEE), Rixi Moncada. On the first day of this second round of negotiations, President Arias presented the parties with a proposal for settling the crisis.[137]

144. The parties' reactions to the proposal were very different: President Zelaya approved of the content of the proposal and said he was in agreement "provided all three branches of government are integrated under the new Government."[138] For their part, the representatives of the *de facto* regime rejected the proposal on the grounds that President Zelaya's return to effective exercise of the office of the presidency was unacceptable.[139] They presented a counter-proposal

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[134] "Zelaya acepta mediación de Arias" [Zelaya agrees to Arias' mediation], *El* Tiempo, July 7, 2009; "Honduras rivals back peace moves," BBC Americas, July 8, 2009; "Micheletti acepta mediación de Arias" [Micheletti agrees to Arias' mediation], La Tribuna, July 7, 2009; "Arias mediará en conflicto hondureño si acepta Zelaya" [Arias will mediate Honduran conflict if Zelaya agrees], *La Nación* (Costa Rica), July 7, 2009.

[135] "Arias iniciará mediación sobre Honduras el jueves en su propia casa" [Arias to begin mediation of Honduran conflict at his own home on Thursday], *La Nación* (Costa Rica), July 7, 2009.

[136] The delegation representing President Zelaya was composed of his Foreign Minister, Patricia Rodas; a Congresswoman with the Partido Unificación Democrática [Democratic Unification Party], Silvia Ayala; the coordinator of grassroots organizations, Salvador Zúniga; and the chairman of the Banking and Insurance Commission, Milton Jiménez. The delegation appointed by Mr. Micheletti was composed of former Foreign Minister Carlos López, advisors Arturo Corrales and Mauricio Villega, and Vilma Morales, former Chief Justice of the Supreme Court. ""Comisiones designadas por Zelaya y Micheletti se reúnen en Costa Rica" [Delegations appointed by Zelaya and Micheletti meet in Costa Rica], La Tribuna, July 10, 2009.

[137] The proposal consisted of the following points: 1) the return of President Zelaya to the Office of the President of the Republic until the end of the term for which he was elected, which would be January 27, 2010; 2) formation of a National Unity and Reconciliation Government composed of representatives of the major Honduran political parties; 3) a general amnesty, to apply exclusively to political crimes committed in connection with the conflict, before and after June 28; 4) President Zelaya's express commitment not to pursue his plan to place a fourth ballot box or conduct a public consultation, which is not expressly authorized by the National Constitution; 5) a speeding up of the national elections originally set down for November 29, 2009, so that they are held instead on the last Sunday in October of this year; 6) command of the Armed Forces, which are ordinarily under the Executive Branch, would be transferred to the Supreme Electoral Council one month before the elections; and 7) formation of a verification commission composed of Honduran citizens and members of international organizations –especially representatives of the OAS- which would be in charge of overseeing compliance with the agreement.

[138] "Zelaya acepta propuesta de Arias, Micheletti no" [Zelaya accepts Arias proposal; Micheletti does not], La Tribuna, July 18, 2009; "Zelaya acepta encabezar un Gobierno de concentración como propone Arias" [Zelaya agrees to head up a reconciliation government, as Arias proposes], *El País* (Spain), July 19, 2009.

[139] "Lo siento mucho, responde canciller ante propuesta de restituir a Zelaya en el poder" ['I'm very sorry' is the foreign minister's answer to the proposal to return Zelaya to power], El Heraldo, June 18, 2009; "Gobierno de Micheletti rechaza acuerdo inmediato para reinstalar a Zelaya" [Micheletti government rejects agreement to reinstate Zelaya], La Tribuna, July 18, 2009.

instead.[140] After looking at both parties' positions, on Sunday July 19, the Costa Rican President asked for a 72-hour period to steer the dialogue on a new course with a view to overcoming the political crisis.[141]

145. On July 22, President Arias announced the "San José Agreement."[142] The document consisted of the 7 points that were in the first proposal –with observations made by the delegation representing the *de facto* government- and contained a timetable for fulfilling the terms of the agreement.[143]

146. President Zelaya's delegation did not accept the proposed agreement and blamed the *de facto* government for the failure of the negotiations. The *de facto* government, for its part, said that the proposal would have to be evaluated by all branches of government, which would make it impossible to meet the proposed timetable.[144]

2. The United Nations

147. On June 30, and with President Zelaya in attendance, the United Nations General Assembly adopted, by consensus, Resolution 63/301: "The situation in Honduras: democracy breakdown." In that resolution, it condemned the *coup d'état*, demanded the immediate and unconditional restoration of the legitimate Government, and called firmly and unequivocally upon States to recognize no Government other than that of the Constitutional President, Mr. José Manuel Zelaya Rosales.[145]

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[140] The counterproposal also consisted of 7 points, namely: 1) President Zelaya's return to Honduras as an ordinary citizen, without his office, with full guarantees that his rights to due process of law would be respected; 2) formation of a national unity and reconciliation government composed of members of different political parties and social sectors; 3) the guarantee of the effective enforcement of the rule of law, thereby ensuring that the professionalism of the police will be respected, the public finances will be preserved intact, and that the budget recently approved by Congress will be observed; 4) formation of a Truth Commission; 5) the possibility of moving up the elections set down for November 29, which will depend on the reaction of the Supreme Electoral Tribunal and the presidential candidates; 6) transfer of command of the Armed Forces from the Executive branch to the Supreme Electoral Tribunal four months before the date of the elections; and 7) formation of a Truth Commission –composed only of Honduran citizens- whose mission would be to verify compliance with the agreement and report on the matter to international organizations.

[141] "Oscar Arias da 72 horas para buscar acuerdo sobre la crisis" [Oscar Arias gives 72 hours to reach an agreement on the crisis], La Tribuna, July 19, 2009. "Fracaso de la segunda ronda de diálogo para resolver la crisis política en Honduras. Arias pide 72 horas para evitar un derramamiento de sangre" [Second round of dialogue to settle political crisis in Honduras fails. Arias asks for 72 hours to avoid bloodshed], *El País*, July 20, 2009.

[142] "Arias presentó el *Acuerdo de San José* para buscar reconciliación en Honduras" [Arias presented the *San José Agreement* for reconciliation in Honduras], *La Nación*, July 22, 2009; "Arias propone que Mel regrese el viernes" [Arias proposes that Mel return on Friday], La Prensa, July 22, 2009.

[143] San José Agreement, Article 11: Timetable for complying with the agreements; "Acuerdo de San José, clave para poner fin a la crisis política de Honduras" [San José Agreement, key to putting the Honduran political crisis to an end], El Heraldo, July 27, 2009.

[144] "Acuerdo de San José ha fracasado" [San José Agreement has failed], TeleSUR, July 22, 2007; "Honduras sigue abierta al diálogo" [Honduras remains open to dialogue], La Tribuna, July 23, 2009.

[145] United Nations, General Assembly, 93rd plenary meeting, 63rd session, Resolution 63/301. Available at: http://www.unhcr.org/refworld/pdfid/4a535f4a2.pdf. The Supreme Court of Honduras wrote the following in its observations: "Concerning Resolution 63/301, "The situation in Honduras: democracy breakdown,"' which the Inter-American Commission on Human Rights cites in its draft report, the State of Honduras again attests: That it is and always has been respectful of the principle of the right to self-

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148. On August 3 and 4, the United Nations' Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, Mr. Frank La Rue, made a visit to Tegucigalpa to meet with media outlets, journalists, representatives of community-based radio stations, and defenders of human rights to assess the situation of freedom of expression in Honduras one month after the *coup d'état*.[146]

149. On September 14, the ambassador of the *de facto* government was removed from a meeting of the United Nations Human Rights Council because the other nations present maintained that he did not represent the democratically elected government of President Zelaya.[147]

150. On September 23, during the 64th session of the United Nations General Assembly, Secretary-General Ban Ki-moon decided to suspend technical assistance for elections in Honduras, owing to the instability in the country.[148] At its meeting of September 25, the United Nations Security Council called upon the *de facto* government to stop attacking the Brazilian Embassy.[149]

151. On October 10, a group of United Nations human rights experts expressed concern over reports that Honduran landowners had recruited approximately 40 former paramilitaries who had been members of the Autodefensas Unidas de Colombia (AUC). It was alleged that, among other activities, these paramilitaries employed long-range listening devices against President Zelaya and those inside the Brazilian Embassy in Tegucigalpa.[150]

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determination of peoples, in keeping with the major international instruments, among them the United Nations Charter, Article 2, paragraph 7 of which provides that: 'Nothing contained in the present Charter shall authorize the United Nations to intervene in matters which are essentially within the domestic jurisdiction of any state or shall require the Members to submit such matters to settlement under the present Charter; but this principle shall not prejudice the application of enforcement measures under Chapter Vll.' The conclusion, then, is that the very resolution issued by the United Nations against the State of Honduras concerning the latter's internal affairs is a violation of the principle of the self-determination of peoples and of the United Nations Charter itself. At the session held on June 30, with Mr. Zelaya Rosales in attendance, the United Nations General Assembly adopted, by consensus, Resolution 63/301 'The situation in Honduras: democracy breakdown.' In that resolution, the United Nations demanded that former President José Manuel Zelaya be immediately restored to office. At the request of Mr. Zelaya Rosales' Commission, the decision in the Guaymas Agreement was that the National Congress would decide whether or not to restore the former president to office; under that Agreement, the parties agreed to accept the decision taken by Congress. Before issuing its decision, the National Congress heard from the Supreme Court, the Office of the Attorney General, the National Human Rights Commission and the Public Prosecutor's Office regarding Mr. Zelaya Rosales' legal situation." Observations made by the State of Honduras to the IACHR's Report, dated December 22, 2009 and signed by the Chief Justice of the Supreme Court, pp. 7-8, paras. 10-13.

[146] Office of the United Nations Special Rapporteur on the Promotion and Protection of the Right to Freedom of Opinion and Expression. Press Release on visit to Honduras by the Rapporteur on Freedom of Expression, August 10, 2009.

[147] "ONU excluye de nuevo a representante de Honduras" [UN again ejects Honduras' representative], El Heraldo, September 15, 2009.

[148] U.N., General Secretariat, *Secretary-General suspends technical assistance for elections in Honduras,* September 23, 2009, Available at http://www.un.org/News/Press/docs/2009/sgsm12482.doc.htm.

[149] "'Cesar acoso' pide Consejo de Seguridad" [Security Council: "Stop Harassing"], El Heraldo, September 25, 2009.

[150] "La ONU, alarmada por la presencia de paramilitares en Honduras" [UN alarmed by the presence of paramilitaries in Honduras], *El País*, October 10, 2009.

152. On October 14, the United Nations Secretary-General issued a press communiqué in which he confirmed the position taken by the United Nations General Assembly in resolution 63/301 of July 1 and supported the work being done by the OAS to find a solution to the political crisis in Honduras.[151]

153. On October 16, the Office of the United Nations High Commissioner for Human Rights announced that it would begin a three-week official visit to Honduras on November 7. The purpose of the visit would be to examine human rights violations in the context of the *coup d'état*.[152]

3. The European Union

154. On July 24, 2009, the European Union called upon the parties to find a rapid solution to the crisis and to refrain from measures that might result in increasing violence and tension. It stated that until a peaceful negotiated solution had been found, the EU would continue to restrict contacts at the political level with representatives of the *de facto* government and suspend member states' bilateral development co-operation with government institutions, other than humanitarian assistance and emergency relief. Lastly, the EU underlined the importance of democracy, respect for human rights and the rule of law in Honduras, and its own readiness to contribute to the restoration of the constitutional order and a democratic process.[153]

155. On October 6, during the European Union-Brazil Summit, the EU condemned the "violation of the constitutional order" in Honduras, called for guaranteeing the inviolability of the Brazilian Embassy in Tegucigalpa, and urged that the physical integrity of President Zelaya, his family and the members of his government be respected.[154]

4. Other Intergovernmental Organizations

156. On July 29, the Central American Integration System (SICA) issued a statement on "immediate political measures to be taken to deal with the situation in Honduras."[155] That same day, the Special Presidential Council of the *Alianza Bolivariana para los Pueblos de Nuestra América* [Bolivarian Alliance for the Peoples of Our America] (ALBA) condemned the *coup d'état* in Honduras.[156] Later, during its VII Summit, it reiterated that condemnation.[157]

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[151] ONU, Secretary General, *Honduran president's ouster is 'coup d'état,' UN Secretariat reaffirms,* 14 October 2009. Available at http://www.un.org/apps/news/story.asp?NewsID=32543&Cr=honduras&Cr1=.

[152] "Honduras: UN sends team to examine human rights violations after coup", UN News Centre, October 16, 2009. Available at http://www.un.org/apps/news/story.asp?NewsID=32582&Cr=honduras&Crl=.

[153] European Union, Press Release 12255/09 (Presse 222). Available at: http://europa.eu/rapid/pressReleasesAction.do?reference=PESC/09/84&format=HTML&aged=0&language=EN&guiLanguage=en.

[154] "La UE y Brasil condenan la violación del orden constitucional en Honduras" [The EU and Brazil condemn breach of the constitutional order in Honduras], TeleSUR, October 6, 2009.

[155] The measures that SICA agreed upon include the following: 1) to instruct the directors of the SICA countries to the Central American Bank of Economic Integration to immediately suspend all loans and disbursements to Honduras; 2) to suspend any type of meetings with the "coup regime" in Honduras; 3) to ban any representatives not accredited by President Zelaya from participating in SICA meetings; 4) to support the OAS' June 28, 2009 resolution on Honduras and to ask for a meeting of the United Nations Security Council to "issue a resolution of condemnation and adopt the appropriate coercive measures"; 5) to take all necessary measures against the coup regime in Honduras, until President Zelaya is returned to office. Document available at: http://www.sica.int/busqueda/documentos_recientes.aspx.

[156] Proclamation of the Special Presidential Council, June 29, 2009, Managua, Nicaragua.

157. For their part, on November 6, during two summits held in Montego Bay, Jamaica, the countries in the Rio Group and the Latin American and Caribbean foreign ministers demanded that President Zelaya be immediately returned to the presidency. They also demanded compliance with the Tegucigalpa/San José Agreement and condemned the strategy of the *de facto* government of unilaterally forming the National Unity and Reconciliation Government.[158]

5. International Civil Society

158. An International Observation Mission for the Human Rights Situation in Honduras, composed of 15 human rights organizations from various countries in the world[159] visited Honduras from July 14 through 24, to verify the human rights situation in the wake of the *coup d'état*. According to the International Mission's preliminary report, published on July 23, the delegation identified serious violations of human rights committed since the *coup d'état* and said that the persons affected were not being protected, in part due to inaction on the part of the Office of the National Commissioner of Human Rights. According to this report, a significant number of extrajudicial executions, arbitrary arrests and threats had occurred and undue restrictions had been placed on freedom of expression and movement. Those most severely affected were the political leaders, labor leaders, human rights defenders, community leaders, journalists and foreign nationals.[160] A second press communiqué was issued by this Mission on July 21, at a time when the number of warrantless arrests of foreign nationals were said to have significantly increased, particularly among those of Nicaraguan origin,[161] who had purportedly not been afforded consular assistance and had been locked in the same cells as common criminals.

159. A delegation of human rights organizations from Guatemala also visited the country from July 3 to 6, and made public their preliminary observations on the situation in the country. The delegation was composed of representatives of 8 civil society organizations in

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[157] Declaration of the VII Summit of ALBA, concerning the *coup d'état* in Honduras, adopted on October 17, 2009 in Cochabamba, Bolivia.

[158] "Grupo de Río y cancilleres de LA reclaman la restitución de Zelaya" [Rio Group and LA foreign ministers demand Zelaya's return to office], El Tiempo, November 10, 2009.

[159] Organizations in the International Observation Mission for the Human Rights Situation in Honduras: the International Federation of Human Rights (FIDH); the Center for Justice and International Law (CEJIL); the Copenhagen Initiative for Central America and Mexico (CIFCA); FIAN International; the Inter-American Platform for Human Rights, Democracy and Development (PIDHDD); the Consultancy on Human Rights and Displacement (CODHES-Colombia); Suedwind- Austria; Human Rights Institute of the *Universidad CentroAmericana* "*José Simeón Cañas*" (IDHUCA-El Salvador); the *Asociación Pro Derechos Humanos* [Pro Human Rights Association] (APRODEH-Peru); the Alianza Social Continental [Hemispheric Social Alliance] Linking Alternatives; the *Instituto de Estudios Políticos sobre América Latina y África* [Institute of Policy Studies on Latin America and Africa (IEPALA-Spain)]; the *Coordinadora Nacional de Derechos Humanos* [National Human Rights Coordinator] (Peru); *Servicio Paz y Justicia* [Peace and Justice Service] (SERPAJ-Uruguay); World Solidarity Movement – Belgium; IBIS and the Center of Tricontinental Studies.

[160] The preliminary report is available [in Spanish] at: http://www.cejil.org/comunicados/MISION%20DDHH%20HONDURAS%20informe%20preliminar%2023%2007%2009.pdf.

[161] On this last point, the Mission lists the following Nicaraguan nationals as victims of arbitrary detentions: J.M.T.T., N.E.A.R, T.R.B.M, A.J.G.O., P.Y.B., J.D.F., F.I.C., C.D.B.M., J.G., D.A.R.L., M.A.A.F., H.G.M.L and D.J.

Guatemala and was headed by Rigoberta Menchú, winner of the Nobel Peace Prize.[162] The delegation compiled information on extrajudicial executions, repression of public demonstrations protesting against the *coup d'état*, and arbitrary detentions. It also received information related to the closure of media outlets and persecution of human rights defenders.

IV. EVALUATION OF THE HUMAN RIGHTS SITUATION

160. From the date of the *coup d'état* to the date of the preparation of this report, the IACHR has compiled information from a variety of sources: political and social actors, civil society organizations and citizens, all concerning the human rights situation in Honduras. During its on-site visit, the Commission had an opportunity to speak personally with these sources and with State authorities, all for the purpose of compiling complete information on the human rights situation in that country as a result of the *coup d'état*.

161. Various types of information were considered when preparing this report: testimony and complaints, newspaper articles, reports prepared by human rights organizations and information from civil society in general, photographs, videos, presentations, case files, court proceedings, memorandums, and information supplied by state entities. Consideration was also given to international law and the Constitution and laws in effect in Honduras. In order to protect their lives and personal integrity, persons who testified before the Commission are identified in this report only by their initials.

162. Because it has no basis in either the Constitution or the law, the *de facto* regime's declaration of a state of emergency is null and void *ab initio.* In the immediate wake of the *coup d'état* and for a period of time thereafter, the *de facto* authorities announced, via a national broadcasting network, the enforcement of curfews during certain times of the day and in certain parts of the country. This was an excessive measure not duly justified. Only two executive decrees were issued specifically spelling out the period of the curfew and the guarantees being suspended with the curfew. In the first case, the state of emergency continued beyond the period of time stipulated in the decree; in the second case, the decree was revoked before the stipulated duration of the state of emergency had expired.

163. Under the American Convention, certain rights may not be suspended under any circumstances. But in the midst of the institutional crisis that Honduras was experiencing, the arbitrary and prolonged suspension of constitutional guarantees took a heavy toll on the right to life, humane treatment, personal liberty, freedom of expression, sexual integrity, equality and nondiscrimination, the right to strike, the right to education, judicial guarantees, and others.

164. The repeated curfews, the militarization of the national territory, the primacy of military power over civilian power, and the inefficacy of the judicial mechanisms, all placed the public

[162] The other members of the delegation were: Eduardo de León of the Rigoberta Menchú Tum Foundation; Carmela Curup of the Asociación de Abogados Mayas de Guatemala por la Convergencia de los Derechos Humanos [Association of Mayan Attorneys of Guatemala for the Convergence of Human Rights]; Iduvina Hernández of Seguridad en Democracia –SEDEM- [Security in Democracy]; Claudia Samayoa of the Unidad de Protección de Defensores y Defensoras de Derechos Humanos –UDEFEGUA- [Unit for the Protection of Human Rights Defenders]; Mario Domingo from the Human Rights Office of the Archdiocese of Guatemala –ODHAG-; Arturo Albizures from the Asociación COMUNICARTE; Graham Russel and Rosa Martínez, from Derechos en Acción [Rights in Action].

in a defenseless situation, which created a favorable climate for the perpetration of human rights violations.

A. The Role of Human Rights Defenders

165. Apropos the situation of human rights defenders, the Inter-American Democratic Charter underlines the importance of the permanent, ethical, and responsible participation of citizens within the law and the constitutional order vis-a-vis the development of democracy. Human rights defenders, from different sectors of civil society and, in some cases, from state institutions, make fundamental contributions to enable democratic societies to exist and become stronger. Accordingly, respect for human rights in a democratic state largely depends on whether human rights defenders are able to enjoy effective and adequate guarantees that allow them to conduct their activities freely.[163]

166. For more than a decade the OAS General Assembly has repeatedly addressed the importance of protecting human rights defenders and has demonstrated the OAS's profound concern over the situation of human rights defenders and their organizations. On June 8, 1990, by resolution AG/RES. 1044, the General Assembly reiterated "the recommendation made in prior years to the governments of the member states that they grant the necessary guarantees and facilities to enable nongovernmental human rights organizations to continue contributing to the promotion and protection of human rights, and that they respect the freedom and safety of the members of such organizations."[164]

167. For his part, the United Nations Secretary-General has said that "Human rights defenders are at the core of the human rights movement the world over. They work at democratic transformation in order to increase the participation of people in the decision-making that shapes their lives. Human rights defenders contribute to the improvement of social, political and economical conditions, the reduction of social and political tensions, the building-up of a peaceful environment, domestically and internationally, and the nurturing of national and international awareness of human rights. They form the base upon which regional and international human rights organizations and mechanisms, including those within the United Nations, build the promotion and protection of human rights".[165]

168. The Commission values and acknowledges the important role of human rights defenders and it has constantly monitored their situation in the Hemisphere. Honduras has been no exception. Quite the contrary: the IACHR has followed up on the difficulties that, for decades now, have obstructed and impaired the work of human rights defenders in that country. These difficulties have increased with the institutional crisis.

169. Since June 28, a number of civil society organizations have openly expressed their opposition to the *coup d'état*: the Equipo de Reflexión, Investigación y Comunicación Compañía de Jesús (ERIC) [Jesuit Ministries' Team of Reflection, Research and Communication]; the Asociación de Jueces para la Democracia [Association of Judges for Democracy]; the Centro de Derechos de la Mujer (CDM) [the Women's Rights Center]; the Consejo Cívico de Organizaciones Populares e Indígenas de Honduras (COPIHN) [the Civic Council of Grassroots and Indigenous Organizations of

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[163] IACHR, *Report on the situation of human rights defenders in the Americas*, OEA/Ser.L/V/II.124, Doc. 5 rev.1, March 7, 2006, paragraph 20.

[164] IACHR, *Report on the situation of human rights defenders in the Americas*, *op. cit.,* paragraph 21.

[165] United Nations, Report of the Secretary-General on Human Rights Defenders, Fifty-fith session, August 11, 2000, A/55/292. IACHR, *Report on the situation of human rights defenders in the Americas*, *op. cit.,* paragraph 26.

Honduras]; the Centro para la Prevención, Tratamiento y Rehabilitación de Víctimas de Tortura (CPTRT) [Center for the Prevention of Torture and Treatment and Rehabilitation of its Victims and Their Families]; the Centro de Estudios de la Mujer (CEM-H) [Women's Studies Center]; the Asociación Arco Iris [Rainbow Association]; Jha Jha; the Bloque Popular de Honduras; the Coordinadora de Resistencia Popular [Coordinator of Grassroots Resistance]; the Coordinadora de Organizaciones Populares del Aguán (COPA) [Coordinator of Grassroots Organizations of El Aguán]; the Organización Fraternal Negra (OFRANEH) [Black Fraternal Organization]; the Movimiento Ambientalista de Olancho (MAO) [Olancho Environmentalist Organization]; the Asociación LGTB Arcoiris de Honduras [LGTB Rainbow Association of Honduras]; the Federación de Tribus Xicaques de Yoro (FETRIXY) [Federation of Yoro Xicaque Tribes]; the Centro de Investigación y Promoción de los Derechos Humanos (CIPRODEH) [Center for Research and Promotion of Human Rights]; the Comité de Familiares Detenidos – Desaparecidos de Honduras (COFADEH) [Committee of Relatives of Detainees – Disappeared of Honduras],and the Asociación de Organismos No Gubernamentales (ASONOG) [Association of Nongovernmental Organizations].

170. These organizations have taken on an active role in protecting human rights as the number of complaints has increased. Some of them had to reorganize their daily routines in order to process complaints filed by those who reach them. Since the *coup d'état* in Honduras, the Commission has received information to the effect that numerous human rights defenders were in danger.[166] Some human rights organizations filed complaints with the Commission about the means being used by the State to harass[167] human rights defenders. These techniques included the institution of police and judicial inquiries, arbitrary detentions,[168] assaults,[169] intimidation, surveillance and stalking.[170] It was also reported that some of these organizations had had the power

[166] Berta Cáceres, a member of the Civic Council of Grassroots and Indigenous Organizations of Honduras; Danny Reyes, a leader of the LGTB Rainbow Association of Honduras; Héctor Licona, a staff member of the LGTB Rainbow Association of Honduras; Patrick Pavón, a staff member of the LGTB Rainbow Association of Honduras; Edward Yeferí Lobo Sánchez, a defender of the rights of children and youth; Guillermo de Jesús Mayen Jiménez, a defender of the rights of children and youth and member of the Democratic Union political party; Israel Salinas, member of the Sindicato Mayoritario; Juan Barahona, member of the Bloque Popular and director of the CUT and FUT; Matilde Durón Ochoa, a defender of the rights of children and young persons; Sara Elisa Rosales, member of the Las Lolas organization and feminist movement; Tomás Andino Mencía, a defender of the rights of children and youth; Andrés Pavón Uribe, member of the Human Rights Committee of Honduras; Bertha Oliva de Nativí, a member of the Committee of Relatives of Detainees-Disappeared of Honduras; Andrés Tamayo, president of the Olancho Environmentalist Movement; Gladys Lanza, Coordinator of the Comité por la Paz Visitación Padilla; Lilibeth Reyes Cartagena, Lídice Isabel Ortega Reyes, Keyla Amador and Isis Gabriela Arriaga Hernández, young feminist activists defenders of human rights, and members of the Women's Studies Center-Honduras (CEM-H); and Alvencio Fernández Pineda, a representative of CIPRODEH.

[167] CIPRODEH, *Coup* d'état *en Honduras. Amenazas y obstáculos a defensores de derechos humanos post coup d'état en Honduras* [Coup d'état in Honduras. Threats and obstacles for human rights defenders in the wake of the *coup d'état*], September 5, 2009, p. 8.

[168] Alex Matamoros, CIPRODEH attorney, was detained by Police when he intervened on behalf of three youngsters who were being beaten. He was held in custody from 5:40 p.m. on August 11, 2009 until 3:30 a.m. on August 12, locked in a small, foul-smelling cell. No consideration was given to his condition as a defender of human rights. None of those detained were allegedly informed of the reasons why they were taken into custody; when they were released, they were reportedly forced to sign a paper in which they were accused of destruction of private property, causing a public scandal and terrorism. Because the curfew was in effect, he was unable to leave the police station until 5: 30 a.m. Amnesty International: Human Rights crisis threatens as repression increases, p. 15, received by the IACHR at its headquarters on September 3, 2009.

[169] CIPRODEH, *Reporte de violaciones [Report on violations], op. cit.*

[170] Testimony of K.V.O.C., an attorney with COFADEH and representative of the father of Isis Obed Murillo Mencía.

cut to their officers, their communication systems disrupted, and their e-mail accounts interfered with.[171] Some offices were fired upon by heavily armed individuals[172] and explosive devices were thrown.[173] Others were searched.[174]

171. The human rights defenders also described the difficulties they have entering hospitals, detention centers and other places that –although not authorized by law to house detainees- are nonetheless being used to hold victims of arbitrary detention. They also complained of the difficulty they encounter in gaining access to court records, since bureaucratic steps are now required that were not necessary prior to the *coup d'état*. By way of example, it was reported that when the police and military roadblocks were in place on July 24 and 25, human rights defenders were not allowed to enter command posts and areas where persons were detained. They were also denied access to police public records. During the demonstration in Comayagüela on July 30, in which Professor Vallejo and other persons were injured, human rights defenders were not allowed inside the detention center, with the exception of two attorneys who were already at the premises before the events occurred. Professor Vallejo died two days later. Finally, on August 11, no one was allowed in to represent those held in custody at Metropolitan Police Headquarters No. 1, also known as CORE VII. The Office of the Prosecutor on Duty at the Combined[175] Center of Justice had allegedly refused to allow communication with the prosecutors to find out what the charges against the accused would be.[176]

172. The work of the human rights defenders was made all the more difficult because they were unable to move around during the curfew hours. This circumstance made it impossible for them to assist victims at night. The *de facto* authorities had allegedly announced in the media that they would bring criminal charges against human rights organizations that slandered them with accusations of human rights violations.[177]

173. For example, one of the attorneys from CIPRODEH said that she was standing on the corner opposite the Central Bank on August 12, at around 3:30 p.m., receiving complaints from relatives of persons being held in the columned patio area ["Los Bajos"] of the National Congress building. She said that she was being filmed and photographed by members of the security forces. When she saw how the security forces were beating, kicking, punching and clubbing an individual, even though they already had that individual subdued, she began to take photographs. What happened next was that the police allegedly began slapping her, hitting her with their clubs and punching her in the head and chest; they dragged her by the hair through the patio area and allegedly tried to take away her camera. The security forces told her to "stop causing problems for

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[171] CIPRODEH, *Amenazas y obstáculos a defensores de derechos humanos. [Threats and obstacles for human rights defenders]*, op. cit. pp. 9 and 11.

[172] CIPRODEH, *Amenazas y obstáculos a defensores de derechos humanos [Threats and obstacles for human rights defenders], op. cit.*, p. 9.

[173] Information received by the IACHR on November 5, 2009.

[174] CIPRODEH, *Amenazas y obstáculos a defensores de derechos humanos [Threats and obstacles for human rights defenders], op. cit.*, pp. 10 and 11.

[175] The combined centers jointly house the police, prosecutors, judges and forensic physicians.

[176] CIPRODEH, Golpe de Estado en Honduras. Violaciones al trabajo de los defensores de derechos humanos [*Coup d'état* in Honduras. Transgressions against the work of human rights defenders], p. 7. Information that the IACHR received in Tegucigalpa on August 17, 2009.

[177] CIPRODEH, Amenazas y obstáculos a defensores de derechos humanos [Threats and obstacles for human rights defenders], op. cit., pp. 14-16.

them with [her] photographs; they told [her] to go hell; [that if she was] not a journalist [but] a human rights defender, all the worse because because of them we're all screwed."[178]

174. In the work they do, human rights defenders have not been able to rely on the cooperation of state entities charged with the protection and defense of human rights. The human rights defenders criticized the inactivity of the Office of the Special Prosecutor for Human Rights and the Office of the National Commissioner of Human Rights.[179] Neither of those institutions raised any objection to the decree ordering suspension of guarantees; they did not institute inspections or investigations for confiscation of materials whose use against demonstrators was prohibited (pepper spray, pipes, baseball bats, clubs and chains); they failed to order the release of persons being held unlawfully in places not certified as detention facilities; and they never took statements from the police and military personnel in command of area operations.[180]

175. The Commission is concerned by the news regarding the role played by National Commissioner of Human Rights, Ramón Custodio López. By denying the existence of the *coup d'état* he prevented the inhabitants of Honduras from gaining access to an independent mechanism for the protection of their human rights. The day the *coup d'état* took place, he issued international statements via CNN cable television alleging that there was no *coup d'état* in Honduras and that the President had been removed by Congress "in application of domestic law." He also participated in the press conference where it was announced that Mr. Micheletti had "taken office".[181] On July 1, he announced his own proposal for legitimizing the exercise of national sovereignty and the people's right of self-determination: presenting the question of "citizen" José Manuel Zelaya's return to the Presidency to the Honduran people via a plebiscite consisting of a simple "Yes" or "No" question.[182]

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[178] Testimony of L.E.D.L., taken by the IACHR in Tegucigalpa on August 21, 2009 (No. 259).

[179] National Congressional Decree No. 2-95 created this institution with the amendment introduced in Article 59 of the 1982 Constitution of the Republic, which established the obligation to "guarantee the rights and freedoms recognized in the Constitution and in the treaties, pacts and conventions ratified by the Honduran State and their optional protocols." Institutionally speaking, CONADEH has "functional, administrative, technical independence and conditional autonomy"; it has offices in almost every department in the country and its structure is dictated by the Organic Law of the National Commissioner of Human Rights. The functions of CONADEH are as follows: a) to monitor for the observance of human rights in government procedures; b) to monitor public sector intervention so as to guarantee the principle of legality, paying special attention to arbitrary, flawed, negligent and abusive measures or regulations; c) to teach, disseminate and promote human rights, and d) to play a role in coordinating human rights policies with government, the international actors and civil society. CONADEH has nationwide jurisdiction. In principle, any government measure is subject to the Commissionner's oversight. The Commissioner is also authorized to request information from any authority or official and has access to confidential documents. That authority is reinforced by the obligation incumbent upon all officials to cooperate in the Commissioner's investigations. Obstruction is regarded as an offense of noncompliance, punishable by three months to one year imprisonment. The Commissioner is also authorized to enter all civilian and military installations, including detention and incarceration facilities. Organic Law of the National Commissioner of Human Rights, Articles 6, 7, 35, and 39. Criminal Code of Honduras, Article 346. More information available [in Spanish] at the official Web site of CONADEH, http://www.conadeh.hn/mandato_atribuciones.htm.

[180] CIPRODEH, *Violaciones al trabajo de los defensores de derechos humanos [Transgressions against the work of human rights defenders], op. cit.*, p. 7.

[181] CIPRODEH, *Reporte de Violaciones a Derechos Humanos [Report of Human Rights Violations], op. cit.*

[182] CONADEH official Web site, available at http://www.conadeh.hn/noticias/propuesta.htm.

The official Web page of the institution had an announcement stating that "the most viable avenue to solve the problem is for Manuel Zelaya Rosales to announce that he is abandoning his hopes of returning to the Presidency."[183] Mr. Custodio issued the following statement:

> …human rights are being respected in Honduras… the only guarantee that has been suspended is freedom of movement, [… he also applauded the fact that this restriction of basic civil liberties had reduced the crime rate in Honduras], 'something that was never achieved in the three previous administrations.[184]

176. For human rights defenders, Mr. Custodio's attitude meant that victims of human rights violations were left with no means of defense, have lost their belief in the institution and are fearful of visiting the offices of the National Commissioner of Human Rights to ask for help.[185] The situation is even worse for victims who live in areas of the country where nongovernmental human rights organizations have no presence.[186]

177. Some human rights defenders believe that while the Office of the Special Prosecutor for Human Rights does respond to complaints, it is too bureaucratic, as it "confines itself to reviewing books and official documents of the police, military and Public Prosecutor's office; in cases of arbitrary detentions, it refrains from taking statements from victims of human rights violations, even those who are seriously injured or wounded."[187] On the other hand, they also said that the Office of the Special Prosecutor for Human Rights did seek and advance some protective actions, even against measures taken by the *de facto* government.[188]

B. The Situation of Political Authorities and other Authorities and Community Leaders

178. Since the *coup d'état*, many officials in President Zelaya's cabinet have told the Commission about situations that put their lives and personal integrity at risk. They have also reported that they have become the target of administrative and criminal investigations in retaliation for their support of President Zelaya.[189]

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[183] CONADEH official Web site, available at http://www.conadeh.hn/mandato_atribuciones.htm.

[184] Available at http://www.adn.es/sociedad/20090705/NWS-1132-Ombudsman-Honduras-vulneran-derechos-humanos. html.

[185] CIPRODEH, *Violaciones al trabajo de los defensores de derechos humanos [Transgressions against the work of human rights defenders], op. cit.*, p. 4.

[186] CIPRODEH, *Reporte de Violaciones a Derechos Humanos [Report on Human Rights Violations], op. cit.*

[187] CIPRODEH, *Violaciones al trabajo de los defensores de derechos humanos [Transgressions against the work of human rights defenders],* op. *cit*, p. 6.

[188] CIPRODEH, *Golpe de Estado en Honduras. Amenazas y obstáculos a defensores de derechos humanos post coup d'état en Honduras [Coup d'état in Honduras. Threats and obstacles for human rights defenders in the wake of the coup d'état], op. cit.*, p. 18.

[189] Gloria Valladares, the President's Secretary; Karen Q. Lizeth Zelaya, Secretary of State for Technical Development and Cooperation; Rebeca Santos, Secretary of State for Finance; Ricardo Martínez, Secretary of State for Tourism; Rodolfo Pastor Fasquelle, Secretary of State for Culture, Art and Sports; Víctor Meza, Secretary of State for Government and Justice; Marlon Breve, Secretary of State for Education; Fredis Cerrato, Secretary of State for Industry and Trade; Rixi Moncada (in exile), Minister of Energy and General Manager of the National Electric Power Company; Suyapa Otero, Minister Director of the National Institute for Conservation and Development of Forests, Protected Areas and Wildlife; Gustavo Cáceres, Minister of Youth Affairs; Cesar Salgado, Minister Director of the Honduran Social Investment Fund; Francisco Funes, Minister Director of the National

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179. During the Commission's visit with President Zelaya's family, the President's wife complained of a smear campaign being waged against the family and about publication of defamatory reports in the official media, a situation that the Commission was able to confirm for itself during its on-site visit. She also said that while the military roadblocks were in place, the family had to seek safe haven in the mountains and requested asylum in embassies to avoid being deported. However, when Isis Obed Murillo was killed, they decided to leave the embassies and join the demonstrations.

180. Concerning the events that transpired in El Paraíso, the President's wife reported that they were trapped for five days, unable to move and without food or medication. When a petition of *amparo* was filed on her behalf, a judge executor appeared on the scene with an order that would have allowed the President's wife, but no one else, to leave. She therefore decided to remain with the people. She recounted how they spent the night in a hotel and that at around 12:30 a.m. they heard two shots; then police ordered them to leave and gave them until 6:00 a.m. to do so.

181. Finally, the President's wife indicated that their cell phones were being tapped, and that their personal accounts and credit cards had been frozen. It was only on the day of the Commission's visit with her, August 18, that they had been able to use one credit card. She also said that they were allegedly accusing one of her sons of drug trafficking, while the home of a nephew had been searched.

182. As for Honduran diplomats, on July 17 the *de facto* government dismissed 16 members of the diplomatic corps.[190] The IACHR immediately received the testimony of the *Charge d'Affaires* at the Honduran Embassy to the Costa Rican Government to the effect that diplomatic personnel were being threatened and that the media were circulating stories to the effect that

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Agrarian Institute; Nerza Paz, Under Secretary of State for Health; Marcio Sierra, Under Secretary of State of the Office of the Presidency; José Antonio Borja, Under Secretary of State for Finance; Jaime Turcio, Under Secretary of State for Industry and Trade; Beatriz Valle, Under Secretary of State for Foreign Affairs; Patricia Licona, Under Secretary of State for Foreign Affairs; Eduardo Rosales, Under Secretary of State for Foreign Affairs; Marco Velásquez, Under Secretary of State for Public Works, Transportation and Housing; Marco Tulio Cartagena, Vice Minister of the National Agrarian Institute; Ángel Murillo, Under Secretary of State for Agriculture and Livestock; Mario Ramón López, President of the National Agricultural Development Bank; Jorge Méndez, manager of Water and Sewer Services; Jorge Rosa, Manager of the Honduran Telecommunications Company; Raúl Valladares, President National Commissioner of Telecommunications; Marco Rosa, Director of Civic Authority; Carlos Montoya, Presidential Advisor; José Francisco Funes Rodríguez, Minister of the National Agrarian Institute; Marco Tulio Cartagena Santos, Vice Minister of the National Agrarian Institute; Ángel Murillo Selva-Reina, Deputy Secretary of State for Agriculture and Livestock; Arcadia López, Minister of Staff of the Presidential Residence; Carlos Melano, assistant to President Zelaya; Doris García, Minister of the National Women's Institute; Enrique Flores Lanza, Secretary to the President; Enrique Reina, President Zelaya's Private Secretary; Kenia Irias, Technical Director of the National Women's Institute; Luter Castillo Harris, Chief of External Cooperation of the Foreign Office; Marco Tulio Burgos Córdova, National Commissioner of the Permanent Contingencies Committee; Mayra Mejía, Secretary of Labor; Miriam Mejh, Institute of Youth Affairs; Milton Jiménez Puerto, President of the Banking and Insurance Commission; Lourdes Amalia Sánchez, assistant to the family of President Zelaya, and Glenda Zaldaña, a member of the President's wife's Office.

[190] Jorge Arturo Reina (UN), Carlos Sosa Coello (OAS), Rosalinda Bueso (Mexico), Bessy Rossana Valenzuela (Guatemala), Juan Alfaro Posadas (Panama), German Espinal (Venezuela), Rafael Murillo Selva (Colombia), Nadina Lefebvre (Japan), Juan Ramón Elvir (Cuba), Max Velásquez Díaz (France). "Embajadores destituidos se atrincheran en oficinas" [Dismissed ambassadors hole up in offices], El Heraldo, June 23, 2009; "Embajadores arriesgan la política exterior" [Ambassadors put foreign policy at risk], El Heraldo, July 23, 2009; "Venezuela le paga a embajador Reina" [Venezuela is paying Ambassador Reina], El *Heraldo*, July 23, 2009; "Inician investigación contra ex diplomáticos" [Investigation launched against former diplomats], El Heraldo, July 23, 2009. Testimony of M.M.A., taken by the IACHR in Tegucigalpa on August 21, 2009 (No. 118).

diplomats who supported the Constitutional President were guilty of usurpation of functions, contempt, disobedience and appropriation of assets, public and otherwise, and that the cases would be turned over to the Superior Court of Accounts, the Attorney General's Office and the Public Prosecutor's Office in order to establish the appropriate criminal, civil and administrative responsibilities. He also reported that the *de facto* authorities are retaining diplomatic passports, making it difficult for diplomats and their families to return.[191]

183. By the same token, some mayors and local government officials and employees reported that arrest warrants had been issued against them and that they were being persecuted, harassed and threatened by the security forces.[192] These episodes have been labeled "municipal *coup d'état*" as their purpose is to minimize resistance work on the part of those who "still have political leadership positions and who have openly expressed their opposition to the *coup d'état*."[193] The Commission took testimony from three mayors.

184. The Mayor of San José de Colinas in the department of Santa Bárbara recounted how that community had been in favor of the consultation from the outset, which is why a smear campaign was launched. In his case, an investigation of his accounts had been ordered, because he was supposedly suspected of receiving monies from abroad. Also, an investigation of his assets had allegedly been instituted. On June 26, two days before the "fourth ballot box," while the mayor was attending an assembly at a school in the community of La Victoria, there had allegedly been a shooting. The Police Chief's explanation of the shooting was reportedly that the mayor himself "was to blame, because he was roaming around at night." On June 28, the day of the *coup d'état*, the Army had tried to arrest the mayor and had threatened to make them disappear.

185. According to reports, all projects in the municipality were brought to a halt; the opening of an office of the BANADESA state bank, a BANASUPRO store and other projects were suspended. The 5% monthly transfer that the national government is required to send to all local governments was also suspended.[194]

186. The Mayor of El Paraíso stated that the curfew caused significant financial and economic damage and cut tax revenues. Specifically, he reported that between July 24 and 27 the authorities told him that a warrant had been issued for his arrest. He also complained that the Office of the Mayor had experienced direct and indirect interference i.e.: a) military troops had taken over the mayor's office; b) when they wanted to execute projects started under the Administration of President Zelaya, they were told that the money was not there because project funding had been suspended; c) social projects were brought to a complete halt; d) many members of the community were afraid to report human rights violations, and e) the municipalities that were supporters of the *de facto* government were allotted funding to carry out projects.[195]

187. The wife of the Mayor of the Incorporated Municipality of San Pedro Sula reported that on June 28, at around 5:00 a.m., about 12 people were at her home making

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[191] Testimony of M.M.A., taken by the IACHR in Tegucigalpa on August 21, 2009. (No. 118).

[192] A.R., Mayor of Sonaguera, department of Colón; A.F., Mayor of Tocoa, department of Colón; O.E.C.M., Superintendent of Social Work of the Municipality of San Pedro Sula; F.F., advisor to the Mayor of Tocoa, department of Colón; G.C., Municipal Office of Women's Affairs, city of Tocoa.

[193] CIPRODEH, *Reporte de Violaciones a Derechos Humanos* [Report on Human Rights Violations], *op. cit*.

[194] Testimony of A.J.H., taken by the IACHR in San Pedro Sula on August 19, 2009 (No. 202).

[195] Information received by the IACHR during the visit to El Paraíso on August 20, 2009.

preparations for the consultation or "fourth ballot box." At around 5:30 a.m., the mayor received a phone call in which he was told that soldiers were heading to his home; the caller suggested that anyone there should get out. A few moments later, unidentified Army personnel, without any written authorization, entered the mayor's home, detained him and took him to the headquarters of the 105th Brigade. The mayor's wife spoke with an employee at the Embassy of the United States in Honduras, since the individual in question was a United States citizen. Later, his wife said that the mayor had sent her a text message in which he asked for a suitcase and told her that he was leaving the country to save his life. According to what the mayor's wife told the Commission, after that the authorities of the *de facto* government and members of political and business groups brought pressure to bear on the mayor to force him to resign and to abandon his bid for re-election as the Liberal Party candidate. The threat was that criminal charges would be brought against him.[196]

188. The IACHR also received reports indicating that state employees in various offices were arbitrarily dismissed because of their opposition to the *coup d'état*,[197] while still more were threatened.[198]

189. A group of congressmen in the Liberal Party held a press conference to condemn the *coup d'état* and complained that they had not been convened to the session for the session where Congress appointed Mr. Micheletti as President of the Republic, in the manner prescribed by law. They also pointed out that their seats in Congress had been unlawfully taken over so that the *de facto* authorities could claim that Mr. Micheletti's appointment had been unanimous. After making these statements, a number of those congressmen were threatened, persecuted, and harassed: they were followed, shots were fired near their homes, fabricated evidence was planted, investigations were launched on charges of sedition and treason, and their bank accounts were frozen.[199]

190. The Commission also received reports that the following political leaders were threatened with arrest warrants and were persecuted, beaten and unlawfully detained by security forces: Carlos Amaya Funez, Director of the Asamblea Popular Permanente [Permanent Popular Assembly] (APP) of El Progreso, Yoro, and Leader of the Partido Socialista de los Trabajadores [Socialist Workers Party] (PST); Margarita Murillo, Foro Social del Valle de Sula [Valle de Sula Social Forum] and Coordinator of the Frente Nacional de Resistencia Popular [National Popular Resistance Front], northwestern district; María Luisa Regalado, Coordinator of the Colectiva de Mujeres de Honduras [Honduran Women's Cooperative] (CODEMUH); Onelia Josefa Ramírez Torres, Director of the Bloque Popular and Coordinator of the Milagro de San Pedro Sula Mission; Farabundo Murillo Godoy, Director of the Frente de Abogados de la Resistencia Popular [Popular Resistance Lawyers' Front] and Director of the Frente Nacional de Resistencia Popular [National Popular Resistance Front], northwestern district; Samuel Montes Alberto, Director of the Bloque Popular; Manuel López, Director of the Coordinadora del Frente de Resistencia Popular [Steering Committee of the Popular

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[196] Testimony of R.A.P.S., taken by the IACHR in San Pedro Sula on August 19, 2009 (No. 229).

[197] Testimony from F.R.M., R.E., B.B.C., G.G. and N.R.S., taken by the IACHR in Tegucigalpa on August 21, 2009 (Nos. 125,134,168,138, and 139).

[198] M.I.M., Oficina Municipal de la Mujer [Municipal Women's Bureau] of the Office of the Mayor of Santa Bárbara.

[199] Eric Mauricio Navarrete, Elias Arnaldo Guevara, Edna Carolina Echaverría, Eleazar Juárez, Rodrigo Tróchez, Manuel de Jesús Velásquez, Javier Hall Polio, Norma Calderón, Gladys del Cid, José Simón Azcona, Edmundo Orellana, Julio Santos (alternate), Olman Maldonado (alternate), Dayana Burke, Víctor Cubas (alternate), Francis Hernández (alternate), Elvira Argentina Valle, José de la Paz Herrera, María Margarita Zelaya Rivas, all of whom are members of Congress affiliated with the Liberal Party; Silvia Ayala, Oscar Mejía, Marlene Paz and Tomas Andino (alternate), César Ham, Angélica Patricia Benítez (former member of Congress), Marvin Ponce, all members of the Democratic Unification Party, and María Margarita Zelada Rivas.

Resistance Front] in San Pedro Sula and Member of the Board of the Federación Nacional de *Campesinos* de Honduras [National Federation of Honduran *Campesinos] (*FENACH); José Edgardo Castro Rodríguez, journalists and Liberal Party candidate for Congress; Mario Arturo Padilla Mendoza, candidate for the National Congress, and Maribel Barahona, Democratic Unification Party candidate for Congress.

191. In its observations the Supreme Court wrote the following: "Concerning the alleged acts of intimidation, threats, physical assaults and arbitrary detentions supposedly committed against certain political leaders, the truth is quite the opposite: these people participated in the demonstrations and, together with certain NGOs, incited acts of vandalism and the use of explosive devices; their actions were suppressed, as the videos in the custody of the National Police show.[200]

192. Officials in the judicial branch were also affected by the *coup d'état*. The "Asociación de Jueces por la Democracia" [Association of Judges for Democracy] reported transfers,[201] removals from the bench, and appointments not made according to legal procedure. It also told the Commission that those officials in the judicial branch who opposed the *coup d'état* were threatened, attacked and unlawfully detained.[202] Others judicial authorities were subjected to disciplinary action[203] and other forms of harassment.[204] It was also reported that the Justices on the

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[200] Observations made by the State of Honduras to the IACHR's Report, dated December 22, 2009 and signed by the Chief Justice of the Supreme Court, p. 17, paragraph 42.

[201] On November 2, 2009, one of the magistrates on the Criminal Appellate Court of the San Pedro Sula Judicial Section was notified that he was being transferred to the city of Tegucigalpa. The magistrate in question had not requested the transfer and had not been given any explanation for it. CEJIL, e-mail received by the IACHR on November 10, 2009.

[202] Juan Carlos Griffin, Tegucigalpa Prosecutor for Human Rights, Julio Cesar Dubrón, brother of former magistrate Marlina Dubrón, Luis Alonso Chevez de la Rocha, Domestic Violence Trial Judge.

[203] Judge Adán Guillermo López Lone received a summons dated October 30, 2009, in which he was informed that disciplinary action was being taken for his failure to perform the duties of his office when he engaged in activities offensive to the dignity of the Administration of Justice by having actively participated in the demonstration held near Toncontín International Airport on July 5, 2009, in flagrant violation of articles 319(2) of the Constitution, Article 3(6) of the Law on the Organization and Authorities of the Courts, Articles 44, 53(g) and 55 of the Judicial Career Service Law, Articles 149, 172(f) and 174 of the Regulations governing the Judicial Service Law, and Articles 1 and 2(g) of the Code of Ethics for Officials and Employees of the Judicial Branch. Deputy Director of Administration of Judicial Career Service Personnel, summons of October 30, 2009.

Judge Luis Alonso Chevez de la Rocha was detained by the National Police on August 12, 2009, because he was present at events that disrupted public order, for having discussed rebellion against the established Government with various employees of the Judicial Branch and for having said that he "feels ashamed of his association with the Judicial Branch"; engaging in acts that offend the dignity of the administration. Deputy Director of Administration of Judicial Career Service Personnel, summons of October 30, 2009.

Judge Ramón Enrique Barrios is accused of having made a statement in a press conference, which was then published in an editorial opinion that appeared in the August 28, 2009 issue of *El* Tiempo under the title "THE HANDOVER WAS NOT CONSTITUTIONAL." This is alleged to constitute a violation of Article 3(1) and (4) of the Law on the Organization and Authorities of the Courts," Article 53(f) and (g), and Article 55 of the Judicial Career Service Law. Deputy Director of Administration of Judicial Career Service Personnel, summons of October 27, 2009.

Proceedings were instituted against public defender Osman Fajardo Morel for unexplained absences during the week following June 28, 2009, when he was participating in demonstrations against the coup d'état. Deputy Director of Administration of Judicial Career Service Personnel, summons of October 5, 2009.

[204] Osman Antonio Fajardo Morel, San Pedro Sula Public Defender, Guillermo Lopez Lone, San Pedro Sula Trial Court Judge, Tirza Flores Lanza, Magistrate on the San Pedro Sula District Appellate Court.

Supreme Court received telephone calls and messages, both from the Armed Forces and private enterprise, demanding that judges and judicial authorities who opposed the *coup d'état* be made an example of what can happen to those who oppose it.

193. The Commission received testimony from one of Tegucigalpa's criminal trial judges. On August 12, that judge was presiding over night court and heard the prosecutorial request seeking indictment of three individuals on charges of arson involving Popeye's restaurant in Colonia Miraflores and a city bus. The hearing to take statements from the accused was held at night. The purpose of such a hearing is to decide what will happen to the individuals being charged. The judge decided to order the following alternatives for the accused: court appearance three times weekly; a restriction against leaving the municipality of the central District; guardianship and surveillance by one of the defense attorneys; and a ban on any communication and contact with any office of the INTUR enterprise. None of the parties filed any objection to that decision.[205] According to the Judge's testimony, because of the alternative measures she ordered, she was removed from the case and requests were filed seeking her removal from the bench.[206] At the meeting that the Commission held with the justices of the Constitutional Chamber of the Supreme Court, the justices asserted that the judge in question did not continue in the case because she had originally heard the case as night-court judge; they explained that the judge on the bench for night court would only take the accused' statement; the hearing itself, they said, would be held in day court, with the competent judge presiding. The justices did not offer any information concerning the requests that had allegedly been made seeking to have the night-court judge removed from the bench.

194. According to information supplied to the IACHR, numerous community leaders were in danger while others were threatened,[207] beaten and pursued because of arrests warrants

[205] Information supplied by the *Asociación de Jueces por la Democracia*, received by the IACHR in San Pedro Sula on August 19, 2009 (No. 124).

[206] Testimony of Maritza Arita, taken by the IACHR in Tegucigalpa on August 21, 2009 (No. 172).

[207] Marta Maritza Somoza, National Leader of the Sindicato de Trabajadores del Registro Nacional de las Personas [National Registry of Persons Employees Union], SITRARENAPRE; Ana María Ríos, President of the Sindicato de Trabajadores y Empleados de la Municipalidad de San Pedro Sula [Union of Workers and Employees of the Municipality of San Pedro Sula], SIDEYTMS; Erasto Reyes, leader of the Bloque Popular in San Pedro Sula; Gustavo Antonio Mejía Escobar, leader of the Colegio de Profesores de Educación Media de Honduras [Association of Secondary Education Teachers of Honduras], COPEMH, and Director of the Manuel Pagan Lozano Institute in the municipality of Choloma; Marco Antonio Baday, President of the Confederación Nacional de Patronatos de Honduras [National Confederation of Charitable Foundations of Honduras], CONAFEPH; Faustino de Jesús Martínez Rodríguez, a leader of the Bloque Popular in San Pedro Sula and sectional vice president of the Sindicato de Trabajadores de la Universidad Nacional Autónoma de Honduras [Universidad Nacional Autónoma de Honduras Workers Union], SITRAUNAH; Israel Salinas, Secretary General of the Confederación Unitaria de Trabajadores de Honduras [Honduran Single Confederation of Labor], CUTH; María Agurcia, Regional President of the Federación de Organizaciones Magisteriales de Honduras [Federation of Teachers' Organizations of Honduras], FOMH; Salvador Zuniga, a director on the Consejo de Organizaciones Populares e Indígenas de Honduras [Council of Grassroots and Indigenous Organizations of Honduras], COPINH; Berta Cáceres, a director on the Consejo de Organizaciones Populares e Indígenas de Honduras [Council of Grassroots and Indigenous Organizations of Honduras], COPINH; Julio Flores, Section President of the Sindicato de la Industria de Bebidas y Similares [Beverage and Related Industries Labor Union], STIBYS; Araminta Pereira, a leader of the Yoro Department regional section of the Federación de Organizaciones Magisteriales de Honduras [Federation of Teachers' Organizations of Honduras], FOMH; Joel Almendarez, a leader of the Yoro Department regional section of the Federación de Organizaciones Magisteriales de Honduras [Federation of Teachers' Organizations of Honduras], FOMH; José Joel Navarrete Melgar, National Director of the Federación de Organizaciones Magisteriales de Honduras [Federation of Teachers' Organizations of Honduras], FOMH, and a leader of the Frente Nacional de Resistencia Popular [National Popular Resistance Front], northwestern district; Sócrates Saúl Coello Ardon, a leader of the Asamblea Popular Permanente [Permanent Popular Assembly], APP, in El Progreso, department of Yoro, and Coordinator of the Frente Nacional de Resistencia Popular [National Popular Resistance

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issued against them for their participation in marches protesting against the *de facto* regime.[208] Among them were the following: Carlos Eduardo Reina, a member of the Comité Nacional de Resistencia [National Resistance Committee]; Eulogio Chávez, a member of the Comité Nacional de Resistencia [National Resistance Committee]; Carlos Humberto Reyes, Secretary General of the Sindicato de Trabajadores de la Industria de la Bebida y Similares [Beverage and Related Industries Labor Union] and a member of the Bloque Popular; Rafael Alegría, a national director of the *Vía Campesina;* Roger Ulises Peña, a member of organized labor; Salvador Zúñiga, *Consejo Cívico de Organizaciones Populares e Indígenas de Honduras* [Civic Council of Grassroots and Indigenous Organizations of Honduras]; Ángel Alvarado, a member of the *Comité Nacional de Resistencia* [National Resistance Committee]; Buenaventura Calderón, a community leader from Puerto Lempira in the department of Gracias a Dios; Evelio Sánchez, a community leader from Guapinol, Tocoa, Colón; Fabio Ochoa, Local President of the Partido Unificación Democrática [Democratic Unification Party] in Tocoa; Felipe Antonio Gutiérrez, a community leader in Guapinol, Tocoa, Colón; Humberto Maldonado, a community leader in Guapinol, Tocoa, Colón; Iris Munguía, Coordinator of Sindicatos Bananeros de Honduras [Honduran Banana Workers Unions]; Manuel Membreño, a community leader in Guapinol, Tocoa, Colón; Waldemar Cabrera, a community leader in Puerto Lempira, department of Gracias a Dios; Wilfredo Paz Maestro, a member of the Federación de Organizaciones Magisteriales de Honduras [Federation of Teachers Organizations of Honduras]; Elsy Benegas, President of the Sindicato de Trabajadores del Instituto Nacional Agrario [National Agrarian Institute Workers Union] and a leader of the Steering Committee of Organizaciones Populares del Aguan [El Aguan Grassroots Organizations] (COPA); Manuel Montoya, director of the Sindicato de Trabajadores de la Empresa Nacional de Energía Eléctrica [National Electric Power Company Labor Union]; Eduardo Flores, a member of the Steering Committee of Organizaciones Populares del Aguan [El Aguan Grassroots Organizations] (COPA); Carlos Mencía, a *campesino* leader and candidate for Congress nominated by the Partido Unificación Democrática [Democratic Unification Party]; Lety Orfilia Figueroa Rivera, a community leader in Guapinol, Tocoa, Colón; Melany Mercedes Perdomo Gaitán, a community leader in Guapinol, Tocoa, Colón; and Paula Durán, a teacher and former municipal commissioner for human rights and a leader of the local women's organization. Another seven community leaders had allegedly been charged with the crime of sedition after being detained during a public demonstration on June 30, in the city of El Progreso.[209]

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Front]; Idalmi Elizabeth Carcamo Mejia, a leader of the Frente Nacional de Resistencia Popular [National Popular Resistance Front] and of the Confederación de Trabajadores de Honduras [Honduran Single Confederation of Labor], CUTH; José Antonio Carballo, a director of the José Trinidad Reyes Government institute in San Pedro Sula and a leader of the FOMH; Jimmy Jonathan Sorto Paz, a leader of the Federation of Teachers Organizations of Honduras in San Pedro Sula and of the Steering Committee of the Frente Nacional de la Resistencia Popular [National Popular Resistance Front]; Sergio Rivera, a leader of COPEMH in Tegucigalpa; Marcelino Martínez, a leader of the Organización Mártires de Guaymas [Guaymas Martyrs Organization] in El Progreso, department of Yoro; Baudilio Andara, President of the Federación Nacional de Patronatos de Honduras [National Federation of Charitable Foundations of Honduras] and a leader of the CUTH; Ernesto Bardales, Coordinator of the Organización Juvenil Jha-Ja [Jha-Ja Youth Organization] in San Pedro Sula and a leader of the Frente Nacional de Resistencia Popular [National Popular Resistance Front], northwestern sector; Justo Pastor Reyes, a leader of the Bloque Popular in San Pedro Sula.

[208] Daniel Durón; Eliseo Hernández; Hilario Espinoza; Idalmi Cárcamo; Jaime Vallecillo Turcios; Javier Alonso Valladares Aciego; José Marcial Zúñiga Rodríguez; Luis Alonzo Mayorga Galvez; Marco Tulio Sanchez del Cid; Mauro Enrique Soto Gómez; Roque García Solórzano; Rufino García Espinoza; Víctor Arita Petit; Víctor Manuel Izaguirre Varela; and Vladimiro Santos Espinal.

[209] COFADEH Preliminary report on human rights violations, received by the IACHR in Tegucigalpa on August 17, 2009.

195. During its visit, the Commission was able to confirm that political authorities, community leaders and public officials who voiced opposition to the *coup d'état* experienced situations that endangered their lives and personal integrity, as did members of the family of President Zelaya. They were threatened, pursued, beaten, harassed and/or investigated by the courts.

196. During the Commission's 137th regular session, it received a communiqué that the Head of the Army's Human Resources Section had sent to a Mayor. It read as follows:

> The purpose of this message is to enlist your assistance by providing the following: a) names and telephone numbers of your community leaders who are members of the Unidad Cívica Democrática and who are engaged in working with the municipality for the welfare of its people; b) names and telephone numbers of leaders in the resistance who are disrupting your community's plans. Mr. Mayor, we need this information as quickly as possible as we will shortly be paying you a visit, so that day by day we become better prepared to strengthen our democratic system.[210]

197. The IACHR is concerned by the note that the Honduran Army sent to the Mayors. This note confirms how deep the rift with democratic and constitutional order was, and the intelligence work done against persons who publicly expressed their condemnation of the *coup d'état*.

C. The Impact on Specific Groups

198. The IACHR has received information indicating a surge in discrimination against certain social groups that have historically been excluded and discriminated against in Honduras. The situation of particular groups has become noticeably worse, specifically Nicaraguan nationals, the Garifuna and members of the gay community.

199. The International Observation Mission for the Human Rights Situation in Honduras reported that on July 20 and 21, members of the Mission witnessed the human rights violations that a group of young people of Nicaraguan nationality suffered. They were arbitrarily detained for supposed administrative violations of immigration law. These young people were mistreated, were not advised that they could request the assistance of the Nicaraguan consulate, were not brought before a judge and did not have access to a defense attorney. The conditions in which they were incarcerated were entirely inappropriate; in some cases, they were held in police cells mixed with persons accused of common crimes.[211] The Commission also received information to the effect that on July 26, 6 Nicaraguans were singled out to be detained at the police station in El Paraíso.[212]

200. Strict measures were allegedly used to control the entry of foreign nationals into the country. The control of Nicaraguan nationals entering or leaving the country was tightened, even though both countries are parties to the free transit convention; it was also reported that

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[210] Honduran Armed Forces, Army First Communications Battalion, October 22, 2009.

[211] International Observation Mission for the Human Rights Situation in Honduras. Preliminary Report, Tegucigalpa, June 23, 2009, available at: http://upsidedownworld.org/main/content/view/2040/68.

[212] Information received by the IACHR in El Paraíso on August 20, 2009.

investigations had been launched into foreign nationals, especially Nicaraguans, Cubans and Venezuelans.[213]

201. There were also complaints of more than 150 Nicaraguans and Venezuelans being arbitrarily detained in Choluteca, El Progreso, San Pedro Sula and Tegucigalpa as a result of searches conducted in hotels, motels, restaurants and on main highways,[214] information that the highest-ranking police officials confirmed.

202. The Supreme Court wrote the following in its observations: "The Honduran state regulates immigration through the Office of the Director General for Immigration and Alien Affairs in order to ensure the security of the public and of the State; to that end, periodic control and oversight checks are conducted which range from specific operations at police posts, inspection of hotels, places of public and private employment, inspections of inter-urban transportation units, etc., all in coordination with the National Police."[215]

203. According to information received, while the military and police roadblocks were in place, the Garifuna had allegedly been particularly mistreated and endured hunger and overcrowded conditions:[216] "the *coup d'état* has exacerbated racial discrimination. If there are more

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[213] CIPRODEH, *Reporte de Violaciones a Derechos Humanos [Report on Human Rights Violations], op. cit.*

[214] Testimony of N.E.A.R., P.J.B.M., M.A.A.F., F.I.C., J.M.F., G.M.L., A.J.G.O., J.D.F., D.A.R.L., J.B.G., J.J.B.S., V.I.M., J.F.U.E., F.L.G.A., J.C., F.R.F.J., P.A.C.V., A.D.C., R.A.G.A., J.G.A.L., W.A.C.Z., M.A.C.V. and N.E.R.C., cited in CIPRODEH, Reporte de violaciones de derechos humanos en Honduras en el marco del golpe de Estado [Report on human rights violations in Honduras in the context of the coup d'état], received by the IACHR in Tegucigalpa on August 17, 2009. Preliminary Report of the Delegation of Guatemalan Human Rights Organizations in Honduras, July 3 – 6, 2009. In its observations, the Supreme Court reported that: "Concerning the Commission's questions regarding the situation of the youths Jorge Danilo Flores, Francisco Israel Connor, Miguel Ángel Aguilar Fernández, Noel Emilio Avellán Ruiz, Darwin Antonio Reyes Lazo, Tulio Rafael Bendaña Mejía, Pablo José Bendaña Mejía, Harvin Manuel Torres Torres and Lester David Girón, a flagrant violation of our domestic law was established, as the individuals in question overstayed their visit in our country and were working without a permit; Article 9 of the International Covenant on Civil and Political Rights provides as follows: '**Everyone has the right to liberty and security of person. No one shall be subjected to arbitrary arrest or detention. No one shall be deprived of his liberty except on such grounds and in accordance with such procedure as are established by law.'** However, the Covenant provides an exception, which is that rights shall not be subject to any restrictions except those which are provided by law and are necessary to protect national security and public order (*ordre public*). Observations made by the State of Honduras to the IACHR's Report, dated December 22, 2009 and signed by the Chief Justice of the Supreme Court, p. 10, paragraph 18.

[215] In its observations, the Supreme Court also wrote that: "The political influence exerted by the authorities of certain countries had the effect of increasing the influx of foreign nationals into Honduras, among them Nicaraguans, Venezuelans and Cubans; immigration controls have been tightened to ensure that the rights of every foreign national are respected. The tightened controls have succeeded in revealing a larger number of foreign nationals whose immigration status was irregular; within a reasonable period of time, administrative proceedings were instituted in those cases and the penalties that the laws required in each case were imposed (…). All the actions taken by the National Police were done in accordance with the Constitution of the Republic, laws, international conventions and agreements, and executive decrees issued by the Office of the President of the Republic to avoid damaging the integrity of the individuals, their property and the restoration of public order. The exceptional cases are under investigation and others have been brought to the attention of the courts." Observations made by the State of Honduras to the IACHR's Report, dated December 22, 2009 and signed by the Chief Justice of the Supreme Court, p. 9, paragraph 16, 17 and 19.

[216] Testimony of C.O., taken by the IACHR in El Paraíso on August 20, 2009.

than 5 Garifuna congregated in the same place, they are detained; when they traveled to the border they were told they needed a special permit".[217]

204. On July 29, the National Police selectively detained seven Garifuna. The Police agents took away their identification papers and their musical instruments. They told them that the Garifuna were prohibited from leaving the Caribbean coastline without a special permit.[218] Referring to these incidents, the *de facto* authorities sent the Commission a communication in which they stated that according to an August 21 report issued by the National Directorate of the Preventive Police, "in enforcing the curfew, ten persons were detained for approximately two hours, after which they were released, save for one person who was allegedly held pending trial and an arrest warrant had been issued for him on suspicion of robbery."[219]

205. On August 31, the IACHR received information to the effect that the Garifuna Community Hospital in Ciriboya had been downgraded to health center status. According to reports, this measure was taken as a reprisal for the role that Dr. Luther Castillo –a Garifuna and founder of that hospital- had played in resistance actions against the *coup d'état*.[220] According to the complaint, the Garifuna Community Hospital had long been practicing medicine in a way that respected the traditions and customs of the Garifuna community. The hospital had reportedly now been converted, however, into a health center practicing traditional medicine without respecting the Garifuna community's cultural vision.[221]

206. As for the situation of members of the gay community, a human rights defender complained that on July 8, while monitoring the situation of transsexuals and gays in El Obelisco Park in Comayagüela, he was verbally assaulted and then beaten up by 7 soldiers who were guards for the Joint Chiefs of Staff. At that time, a group of persons approached to see what was happening, whereupon the soldiers withdrew saying the following:

> Heh, fag, you and the other two who hang out here are going to pay us sooner or later; if not, we'll take you up the little mountain and shoot you in the head, and no one will ever know who did it ….[222]

V. HUMAN RIGHTS VIOLATIONS

207. The organs of the Inter-American system for the protection of human rights have repeatedly underscored the connection between democracy and human rights. In Advisory Opinion OC-8, the Inter-American Court of Human Rights (hereinafter, "the Inter-American Court") wrote that: "In a democratic society, the rights and freedoms inherent in the human person, the guarantees applicable to them and the rule of law form a triad. Each component thereof defines

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[217] Testimony of M.M., taken by the IACHR at the meeting of community leaders in Tegucigalpa on August 17, 2009.

[218] *Organización Fraternal Negra Hondureña*, OFRANEH, e-mail received by the IACHR on July 29, 2009.

[219] *De facto* Secretariat of Foreign Affairs of Honduras, Memorandum 702-DGAE-09 of September 29, 2009.

[220] Organización Fraternal Negra Hondureña, OFRANEH, Communiqué of August 31, 2009.

[221] Organización Fraternal Negra Hondureña, OFRANEH, Communiqué of August 31, 2009.

[222] Testimony of W.O.T., an activist and human rights defender with the Lesbian, Gay, Bisexual, Transsexual and Transvestite Community (LGBTT), cited in *CIPRODEH, Reporte de violaciones [Report on violations], op. cit.* The IACHR granted precautionary measures for some members of the LGBTT Association on July 2, 2009.

itself, complements and depends on the others for its meaning."[223] For its part, the Inter-American Commission wrote that the democratic system and the rule of law are essentials for effective protection on human rights; conversely, human rights cannot be fully guaranteed without effective and unqualified recognition of political rights.[224]

208. Given the interrelationship between democracy, the rule of law and the observance of human rights, the Commission confirmed that the *coup d'état* that deposed the Constitutional President had and still has an immediate adverse impact on the rule of law and human rights.

A. The State of Emergency and Judicial Guarantees

209. Article 25 of the American Convention provides that:

> 1. Everyone has the right to simple and prompt recourse, or any other effective recourse, to a competent court or tribunal for protection against acts that violate his fundamental rights recognized by the constitution or laws of the state concerned or by this Convention, even though such violation may have been committed by persons acting in the course of their official duties.

210. Article 27 of the American Convention reads as follows:

> 1. In time of war, public danger, or other emergency that threatens the independence or security of a State Party, it may take measures derogating from its obligations under the present Convention to the extent and for the period of time strictly required by the exigencies of the situation, provided that such measures are not inconsistent with its other obligations under international law and do not involve discrimination on the ground of race, color, sex, language, religion, or social origin.
>
> 2. The foregoing provision does not authorize any suspension of the following articles: Article 3 (Right to Juridical Personality), Article 4 (Right to Life), Article 5 (Right to Humane Treatment), Article 6 (Freedom from Slavery), Article 9 (Freedom from Ex Post Facto Laws), Article 12 (Freedom of Conscience and Religion), Article 17 (Rights of the Family), Article 18 (Right to a Name), Article 19 (Rights of the Child), Article 20 (Right to Nationality), and Article 23 (Right to Participate in Government), or of the judicial guarantees essential for the protection of such rights.
>
> 3. Any State Party availing itself of the right of suspension shall immediately inform the other States Parties, through the Secretary General of the Organization of American States, of the provisions the application of which it has suspended, the reasons that gave rise to the suspension, and the date set for the termination of such suspension.

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[223] I/A Court H.R., *Habeas Corpus in Emergency Situations* (Arts. 27(2), 25(1) and 7(6) American Convention on Human Rights). Advisory Opinion OC-8/87 of January 30, 1987. Series A No. 8, paragraph 26.

[224] IACHR, *Annual Report 2008*, Chapter IV, Cuba.

211. Article 187 of the Constitution of Honduras provides that:

> The President of the Republic, in agreement with the Council of Ministers, may suspend exercise of the rights set forth in Articles 69, 71, 72, 78, 81, 84, 93, 99 and 103 in the event of an invasion of the national territory, serious disturbance of the peace, epidemic or any other general calamity. Said suspension shall be by Decree, which shall spell out the following:
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> 1. The reasons justifying it;
> 2. The guarantee or guarantees being restricted;
> 3. The territory that will be affected by the restriction; and
> 4. The period of time the suspension shall remain in effect.
>
> Furthermore, in that Decree the President shall also convene the National Congress to examine said decree and ratify, modify or revoke it within a period of 30 days.
>
> If Congress is already in session, it shall take up the Decree immediately.
>
> The restriction on guarantees shall not exceed a period of 45 days for each time it is decreed. In the event the grounds that were the basis for the Decree no longer obtain prior to expiration of the time period set forth for the restriction, its effects shall no longer be valid, and in this case all citizens shall have the right to petition for their review. After the period of 45 days, the guarantees shall automatically be reinstated, except when a new Decree of restriction is issued. The restriction of guarantees by decree shall in no way affect the governance of the agencies of the State, whose members shall always enjoy the immunity and prerogatives that the law confers upon them.

212. Under the American Convention, a series of requirements must be met for suspension of guarantees. First, the suspension must be ordered by a government that exercises public power legitimately, within the context of a democratic society. In effect, as the Inter-American Court has held, "[t]he suspension of guarantees lacks all legitimacy whenever it is resorted to for the purpose of undermining the democratic system. That system establishes limits that may not be transgressed, thus ensuring that certain fundamental human rights remain permanently protected."[225]

213. At a press conference held on June 28, the very day the *coup d'état* came about, the *de facto* government announced a curfew, but made no reference to the legal grounds for the curfew. Since that date, the *de facto* government has continued to use curfews and to extend the state of emergency arbitrarily, without any basis in law or legitimate grounds.

214. Then, on June 30, the *de facto* government approved Executive Decree 011-2009, wherein it imposed a curfew to take effect that day. The National Congress ratified that decree through Legislative Decree 144-2009 of July 2. Executive Decree 011-2009 provided that the curfew would remain in effect over a 72-hour period, starting on June 30, and would be enforced between 10:00 p.m. and 5:00 a.m. the following day. Although the 72-hour period expired on July 3, the curfew continued to be enforced for over a month, without any legal basis. According to the wording of that decree, the following guarantees were suspended: i) personal liberty (Article 69 of the Constitution); ii) the right not to be held in custody or incommunicado for more than 24 hours without a hearing before

[225] I/A Court H.R., *Habeas Corpus in Emergency Situations* (Arts. 27(2), 25(1) and 7(6) American Convention on Human Rights). Advisory Opinion OC-8/87 of January 30, 1987. Series A No. 8, paragraph. 20.

a competent authority (Article 71 of the Constitution); iii) freedom of association and assembly (Article 78 of the Constitution); and iv) the right to freedom of movement (Article 81 of the Constitution).

215. The constitutionality of Executive Decree 011-2009 was challenged through a number of petitions filed with the Constitutional Chamber of the Supreme Court, but not one was decided.[226]

216. During its on-site visit, the IACHR met with the justices presiding the Constitutional Bench of the Supreme Court, who stated that during the first month, the state of emergency was in effect from 10:00 p.m. or 11:00 p.m. until 4:00 a.m. the follow day. They also explained that the curfew was ordered for 30 days, after which it was extended but ran from 10:00 p.m. until 3:00 or 4:00 a.m. In the view of the justices, there was no state of emergency; instead, there were curfews for certain hours. They explained that during the curfew hours, constitutional guarantees were not suspended; instead, the suspension mainly had to do with "freedom of movement and of association, in order to prevent uprisings."[227] As for the curfew formalities, the justices stated that curfews are ordered by the Executive Branch and confirmed by the National Congress. That confirmation is broadcast daily by a national network.[228]

217. The National Human Rights Commissioner (CONADEH) also expressed his position on the state of emergency and maintained that "freedom of movement and other guarantees had been restricted through the legally decreed curfew in force from June 28 to August 11, the date on which freedom of movement was fully restored. When, through Decree 144-2009, the National Congress made the unfortunate decision to restrict the rights established in articles 69, 71, 78 and 81 for a period of 72 hours, concurrently with the right to freedom of movement, my views were heard and when the point in question was up for reconsideration, the wording approved the previous day was discarded; nevertheless, there are still complaints regarding a state of emergency."[229] He also stated that "as matters now stand, the general public's right to freedom of movement and to the security of one's person and property, free of fear, is being restricted because groups of persons who abuse the right to peaceful demonstration and freedom of association for lawful purposes are staging violent takeovers at strategic points along streets, avenues, bridges, highways and public buildings. Acts of vandalism are being committed that seriously endanger persons who have nothing to do with

[226] CEJIL, e-mail received by the IACHR on August 10, 2009. Testimony of L.C.G., taken by the IACHR in Tegucigalpa on August 17, 2009 (No. 129). The justices of the Constitutional Chamber stated that the Judicial Branch never acts on its own initiative; instead, it responds to petitions filed by parties. In this matter, the Constitutional Chamber held that "we have no role in the curfews". Information that the Supreme Court supplied to the IACHR in Tegucigalpa on August 17, 2009.

[227] Information received by the IACHR during the meeting with the Supreme Court in Tegucigalpa on August 17, 2009.

[228] Information received by the IACHR at the meeting with the Supreme Court in Tegucigalpa on August 17, 2009. Concerning the formalities that must be followed when declaring a state of emergency, the 1921 State of Siege Act provides as follows: i) Article 17.- Pursuant to clause 21 of Article 86 of the Constitution, the Federal Legislative Branch shall be responsible for declaring the State of Siege. Pursuant to clause 4 of Article 117 of the Constitution, when the Legislative Branch is in recess, it shall be the Federal Executive Branch that declares the State of Siege. The Declaration must be done in the Council of Ministers;" ii) Article 18.- A State of Siege, whether declared by Congress or by the Executive Branch, must be lifted by Congress, unless it is in recess, in which case it shall be lifted by the Executive Branch. Nevertheless, if the State of Siege is for a prescribed time period it shall be lifted automatically on the prescribed date and time; iii) Article 19.- "Improperly declaring or prolonging a State of Siege shall be deemed a crime against the Sovereignty of the Nation."

[229] Report of the CONADEH, *op. cit.,* p. 12.

these events. The repeated clashes with police forces have resulted in excessive use of force by the police, which has claimed a regrettable number of victims …"[230]

218. In this case, the state of emergency was established by a decree issued by a *de facto* government, and was decreed for a period shorter than it lasted in actual fact, without ever being published in the Official Gazette.[231] Congress' subsequent ratification of the executive decree and its publication on July 27 do not correct the original defects.[232]

219. Irrespective of the Constitutional Chamber's interpretation, the curfews were states of exception during which guarantees were restricted, even some whose restriction is not allowed under Honduran domestic law governing a state of emergency.[233] And all this without taking the precautions required under Honduran law and the American Convention.

220. Under Article 27 of the American Convention, the suspensions must be to the extent and for the period of time strictly required to ease the emergency situation, which implies limiting the duration of a suspension, the area it covers and the rights restricted. The Commission is of the view that the curfews that started on June 28 in the context of the *coup d'état* in Honduras, were ordered without any explanation of their reasons or their relevance to the situation that prompted the state of emergency.

221. Specific mention should be made of the arbitrary change made to the starting time of the curfew on July 5, a change made for the purpose of preventing President Zelaya's sympathizers from receiving him at Toncontín International Airport. It is equally telling that the measure was lifted on July 12, only to be reinstated on July 15, without any explanation of the circumstances that would warrant a further suspension of rights.

222. Even in a legitimate state of emergency, each measure taken must be reasonable; in other words, it must be strictly appropriate to the cause and to the scope of the state of emergency. There must be no type of discrimination. The IACHR has confirmed that while the curfew was in place, thousands of persons were trapped between military roadblocks, without any justification or cause. Furthermore, enforcement of the curfew was not uniform throughout the national territory; enforcement of the restriction on freedom of movement was even discriminatory. For example, the Commission found that in the city of El Paraíso, certain persons were allowed to move about during curfew hours, which meant that enforcement was selective and thereby discriminatory.

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[230] Report of the CONADEH, *op. cit.,* p. 12.

[231] By a communication dated July 2, 2009, the IACHR requested information concerning the adoption of Executive Decree 011-2009.

[232] By a communication dated July 30, 2009, the *de facto* Secretariat of Foreign Affairs of Honduras sent a copy of Legislative Decree 144-2009 through which the National Congress ratified Executive Decree 011-2009 *in toto.* It also sent a copy of the Official Gazette, dated July 27, 2009, where that legislative decree is published in print.

[233] Under the 1921 State of Siege Act, in a state of siege the following rights may only be suspended for the most serious cause: "i) the right of assembly or association for political purposes but not assembly or association for scientific or industrial purposes, freedom of the press and the right to bear arms, ii) the inviolability of correspondence and the rights of immigration and emigration for freedom of movement and change of residence; iii) the inviolability of the home; any domestic or foreign-owned industry can be brought to a halt for the sake of the Nation and its immovable property temporarily taken over, as can its movable assets by paying their value either at the time of takeover or once the State of Siege is lifted."

223. The *de facto* authorities suspended constitutional guarantees again when President Zelaya returned to Honduras and entered the Brazilian Embassy. On September 21, the *de facto* authorities announced a curfew that would begin at 4:00 p.m. that day; however, it remained in place for the next 48 hours.

224. On September 26, the *de facto* government published Executive Decree PCM-M-016-2009 announcing that certain guarantees would be suspended for a period of 45 days (the maximum allowed under the Constitution). Those guarantees were the right to personal liberty (Article 69), freedom of expression without prior censorship (Article 72), freedom of association and assembly (Article 78), freedom of movement (Article 81), and the right to be brought before a competent authority within 24 hours if arrested or detained (Article 84). The Decree also prohibited public meetings or assemblies unless authorized by the police or military authorities.

225. In its fifth paragraph, the Decree states that "as a consequence of the constitutional change in the Executive Branch office, dissident and ideologically compromised groups instigated by governments that do not share our democratic system, are fomenting insurrection among the population, causing clashes with the general public, National Police personnel and the Armed Forces personnel who are providing support, thereby endangering lives, property, social peace and constitutional rule."[234]

226. Four different petitions of *amparo* were filed challenging that decree, but not one was decided by the Constitutional Chamber.[235] About a month later, the decree was revoked by the very authorities who had issued it.

227. The state of emergency declared by those who unlawfully seized power had adverse consequences for the rights of individuals, made all the worse by the serious problems that have for decades plagued the system for the administration of justice in Honduras. The Commission has underscored how essential judicial oversight of government measures is in a democratic society. Nevertheless, the *de facto* authorities are denying the existence of a state of emergency and human rights violations and are therefore doing nothing to protect and promote human rights. Specifically, nothing in the information received suggests that any organ with the authority to conduct its own investigations into human rights violations has taken any measures internally to ascertain responsibility, even though it is self-evident, for example, that persons were held illegally and some of them were seriously injured.

228. Again, the case file for a writ of *habeas corpus* on behalf of Gerson Vilches Almendares was instituted on the basis of a communication that the Commission issued in application of Article XIV of the Inter-American Convention on Forced Disappearance of Persons. The grounds for the petition cited the following:

> The Inter-American Commission on Human Rights has repeatedly requested information concerning the whereabouts of this person. Yet no petition on his behalf has thus far been filed by any citizen or foreign national and in accordance with the provisions of articles 16, 19, 21 and 22 of the Law on Constitutional Justice. And no particulars concerning his detention, the reason for it, and the

[234] Executive Decree CM-M-016-2009, *Consideranda* 5.

[235] N.B., e-mail received by the IACHR on September 21, 2009. Petitions of *amparo* that C.H., A.G.L.L. and S.Y.P.A. filed with the Constitutional Chamber of the Supreme Court on September 29, 2009, received by the IACHR on September 30, 2009.

specific authority with which the petition is being filed have been provided, except for a vague account of his detention by supposed agents of the State.[236]

229. The justices serving in the Constitutional Chamber stated that immediate action has been taken on writs of *habeas corpus* and that executor judges "have not really found anyone who has been mistreated or detained" nor have they received any communications alleging mistreatment or torture. In the report he prepared for the on-site visit, the National Commissioner for Human Rights stated that "on June 29 and 30, CONADEH executed a writ of *habeas corpus* granted by the Constitutional Chamber, and found not one political prisoner at the Estado Mayor [Joint Staff] or in any other military facility in the country."[237]

230. The information compiled also reflects the difficulties and obstacles that judges executing writs of *habeas corpus* encountered, both when police refused to release persons being held and when the judges themselves were assaulted or otherwise attacked.[238] The Commission also found that by the time some writs of *habeas corpus* were granted, the individual on whose behalf the petition had been filed had already been released.

231. Furthermore, despite the many complaints of human rights violations, prosecutors had allegedly filed only six (6) requests seeking indictment of state agents. In one of those cases, police chiefs accused of excessive and disproportionate use of force, unlawful detention and battery were acquitted on the ground that their actions were lawful.[239]

232. Furthermore, the authorities in the Judicial Branch denounced the steps taken to transfer judges, and the fact that proper procedure was not followed in removing judges and appointing new judges to the bench. This constitutes a breach of the independence of the judicial branch of government and possible violations of the guarantee of the impartiality of judges.

233. The Supreme Court wrote the following in its observations: "It is important to note that the IACHR's complaints largely concern cases that have been properly identified as involving common crimes and, in some cases, organized crime, but which the Commission is attempting to portray as violations of human rights."[240]

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[236] Communication from Rosalinda Cruz Sequeira de Williams, President of the Constitutional Chamber of the Supreme Court of Honduras, dated August 10, 2009. In the case file on the petition of *habeas corpus*, the National Bureau of Criminal Investigation reported that "there is no record of (Mr. Gerson Evenor Vilchez Almendares) having been detained or charged and no proceeding is pending." However the Chief Prosecutor General reported that Mr. Vilchez "was detained by the Preventive Police and handed over for investigation purposes to the National Bureau of Criminal Investigation in the city of El Paraíso on July 24 of this year, as he was found to be in possession of a small amount of marijuana; he was released the next day, July 27…" Information received by the IACHR during the second meeting with the Supreme Court in Tegucigalpa on August 21, 2009 (No. 474).

[237] Report of the CONADEH, *op. cit.,* p. 11.

[238] For example, on August 12, 2009, the Public Prosecutor's Office had allegedly barred attorney Karla Pinto from filing a complaint against two police officers for disobedience, as they had refused to release persons in custody despite an order from the executor judge ordering their immediate release.

[239] First Trial Judge of the Santa Rosa de Copán District, decision of October 5, 2009, Case file 401-2009. CEJIL, *Violaciones de derechos humanos [Violations of Human Rights], op. cit.*

[240] Observations made by the State of Honduras to the IACHR's Report, dated December 22, 2009 and signed by the Chief Justice of the Supreme Court, p. 18, paragraph 46.

234. The IACHR concludes that in the context of the *coup d'état*, the available judicial remedies do not currently afford efficient and effective protection against human rights violations. The situation described above deters the filing of complaints that would shed light on the facts and thus serves to intensify the climate of impunity that is conducive to the commission of even more human rights violations.[241] It is vital that the Public Prosecutor's Office perform its functions without regard to the views or political association of the beneficiaries of its services.

B. The Right to Life

235. Article 4 of the American Convention on Human Rights provides that:

> 1. Every person has the right to have his life respected. This right shall be protected by law and, in general, from the moment of conception. No one shall be arbitrarily deprived of his life.

236. The Commission has written that the right to life constitutes the essential basis for the exercise of all other rights. The Inter-American Court has held that the right to life plays a fundamental role in the American Convention as it is the corollary essential for the other rights to materialize. When the right to life is not respected, all other rights are meaningless.[242] Compliance with Article 4 of the American Convention, in combination with Article 1(1) thereof, requires not only that no person be arbitrarily deprived of his or her life (negative obligation), but also that the States adopt all appropriate measures to protect and preserve the right to life (positive obligation), under their duty to ensure full and free exercise of rights by all persons under their jurisdiction.[243] This active protection of the right to life by the State involves not just lawmakers, but the entire apparatus of the State and those responsible for protecting safety and security, whether they are police or military. States have an obligation to take the measures necessary not just to prevent, try and punish violations of the right to life that occur as a consequence of the commission of crimes in general, but also to prevent arbitrary executions by their own security agents.[244]

237. On the domestic front, Article 65 of the Honduran Constitution states that "the right to life shall be inviolate."

238. The Commission received information on the killing of at least 7 opponents of the *de facto* government, presumably attributable to agents of the state.[245]

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[241] I/A Court H. R., *"Mapiripán Massacre" v. Colombia Case*. *Preliminary Objections*. Judgment of March 7, 2005. Series C No. 122, paragraph 237; *Case of Maritza Urrutia v. Guatemala Case*. Judgment of November 27, 2003. Series C No. 103, paragraph 126; *Case of the Serrano Cruz Sisters v. El Salvador Case*. Judgment of March 1, 2005. Series C No. 120., paragraph 170.

[242] I/A Court H.R., *Indigenous Community Yakye Axa v. Paraguay Case*. Judgment of June 17, 2005. Series C No. 125, paragraph 161; *Gómez Paquiyauri Brothers v. Peru Case*. Judgment of July 8, 2004. Series C No. 110, paragraph 128; *"Juvenile Reeducation Institute" v. Paraguay Case*. Judgment of September 2, 2004. Series C No. 112, paragraph 156 and others.

[243] I/A Court H.R., *Huilca Tecse v. Peru Case*. Judgment of March 3, 2005. Series C No. 121, paragraph 66; *Myrna Mack Chang v. Guatemala Case*. Judgment of November 25, 2003. Series C No. 101, paragraph 153 and others.

[244] I/A Court H.R., *Gómez Paquiyauri Brothers, op. cit.,* paragraph 129. See also, UN, General Comment 6 (Sixteenth session, 1982), paragraph 3; Human Rights Committee, Case of *María Fanny Suárez de Guerrero vs. Colombia*, Communication 45/1979.

[245] The IACHR also received the following information on the violent deaths that occurred in the context of the *coup d'état*: On June 29, 2009, Vicky Hernández Castillo (Jhonny Emilson Hernández), a transvestite, was shot in the head and killed as she was plying the sex trade. The killing allegedly occurred during the police

Continued…

…continuation
roundups conducted during the hours of the curfew ordered by the *de fact* regime. The body showed signs of strangulation. On July 24, 2009, the IACHR requested information pursuant to Article 41 of the American Convention. CIPRODEH, *Reporte de Violaciones [Report on Violations]*, *op. cit.* In its observations, the Supreme Court reported that: "In the case of the death of Jonhy Emilson (Sonny Emilson) Hernández Martínez alias "Vicky Hernández Castillo," a member of the LGTTB community identification number 0501-1983-08333, a native and resident of the Sunsery neighborhood of San Pedro Sula, Cortés, age 26. The forensics report found that the cause of death was strangulation; the case is currently under investigation. Thus far, the motive for the crime is unknown although the most likely theory is that this was a crime of passion, according to case file 1057-2009. Observations made by the State of Honduras to the IACHR's Report, dated December 22, 2009 and signed by the Chief Justice of the Supreme Court, p. 13, paragraph 26.

On July 3, 2009, Gabriel Fino Noriega was leaving the Estelar broadcasting station in San Juan Pueblo, department of Atlántida, when unidentified persons shot him several times. The journalist, who was also a correspondent for Radio America, died shortly thereafter from his wounds. In the days leading up to his assassination, he had been reporting on the survey and on the coup d'état. Months prior to his death, Fino Noriega had received threats because of information he had made public in connection with massacres that occurred in the Atlantic coastal region of Honduras. In keeping with Article 41 of the American Convention, the IACHR had requested information on the journalist's death via a communication dated July 10, 2009. The Office of the Special Rapporteur for Freedom of Expression condemned the journalist's assassination and pointed out that in the context of the coup d'état and the interruption of the constitutional order, this crime was especially troubling and he called for an investigation to determine whether the crime had anything to do with his practice of journalism. In his report for the on-site visit, the National Commissioner on Human Rights of Honduras maintained that "pinning the blame on the security forces only allows the possible intellectual and material authors of the crime to escape unpunished." Finally, in a communication sent by the *de facto* Secretariat of Foreign Affairs of the Republic of Honduras, it was reported that "the Public Prosecutor's Office has the necessary investigations underway." Report of the National Commissioner of Human Rights of the Republic of Honduras, CONADEH, for the Inter-American Commission on Human Rights (IACHR), on-site visit in Honduras, August 17 to 21, 2009, p. 10. Information received by the IACHR in Tegucigalpa on August 18, 2009. *De facto* Secretariat of Foreign Affairs of Honduras, Memorandum 702-DGAE-09 of September 29, 2009. The Supreme Court reported the following in its observations: "The case of Fino Noriega, a native and resident of San Juan Pueblo, Atlántida and a journalist with Radio Estelar, who died as a result of seven bullet wounds on July 3, 2009, is under investigation, registered as number 0101-200900414". Observations made by the State of Honduras to the IACHR's Report, dated December 22, 2009 and signed by the Chief Justice of the Supreme Court, pp. 13-14, paragraph 27.

On July 6, 2009, Anastasio Barrera was allegedly abducted by four individuals wearing police vests, in San Juan Pueblo, municipality of La Másica, Atlántida. This was after his abductors had beaten his wife, María de Jesús Herrera, on the head. She and their two children had managed to escape. Mr. Barrera was affiliated with one of the five women's cooperatives operated by the Central Nacional de Trabajadores del Campo [National Farm Workers Union] CNTC. Anastasio Barrera's body was found 6 days later in the city of Tela. On July 24, 2009, the IACHR requested information pursuant to Article XIV of the Inter-American Convention on Forced Disappearance of Persons. CIDPRODEH, *Reporte de Violaciones [Report on Violations], op. cit.* CEJIL, *Violaciones de derechos humanos en Honduras [Human Rights Violations in Honduras]. State of affairs,* November 3, 2009. In its observations, the Supreme Court reported the following: "In the case of Anastasio Barrera, in San Juan Pueblo, La Masica, Atlántida, four individuals were allegedly wearing Police vests. According to the records of the National Bureau for Criminal Investigation, recorded as complaint number 950-09 for the crime of abduction, the case is under investigation." Observations made by the State of Honduras to the IACHR's Report, dated December 22, 2009 and signed by the Chief Justice of the Supreme Court, p. 14, paragraph 28.

In San Pedro Sula on July 11, 2009, Roger Iván Bados González was shot dead. His two sisters were seriously injured. Mr. Bados was a member of the organized social resistance against the *coup d'état* and a member of the left-leaning Democratic Unification Party and the Bloque Popular in San Pedro Sula. In keeping with Article 41 of the American Convention, in a communication dated July 15, 2009 the IACHR requested information on Mr. Bados' death. In the report he prepared for the IACHR's on-site visit, the National Commissioner of Human Rights of Honduras stated that "relatives picked up the casings of the two bullets there at the scene; even though these bullet casings were vital evidence, they did not turn them over to the competent authority. Instead, they handed them to a police officer from the National Bureau of Criminal Investigaiton (DNIC), a supposed friend of the family. His aunt did not give us his proper name and although another family member has promised to tell us what it is, he has not given us anything so that we still don't know who the police

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239. On July 5, Isis Obed Murillo Mencías,[246] age 19, died from a bullet wound to the head, which he received in a demonstration staged outside Toncontín Airport in Tegucigalpa. The

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officer was and what happened to the valuable evidence." In a communication sent by the *de facto* Secretariat of Foreign Affairs of the Republic of Honduras, it was reported that this homicide "is under investigation by the Homicide Unit of the Office of the San Pedro Sula Regional Prosecutor's Office, where various investigative procedures have been conducted …and the notion that the death was the result of political persecution has been discarded." Report of the CONADEH, *op. cit.,* p. 10. *De facto* Secretariat of Foreign Affairs of Honduras, Memorandum 702-DGAE-09, *op. cit.*

On July 12, 2009, Ramón García was shot and killed in the community of Callejones, Municipality of Macuelizo, Santa Bárbara. Unidentified men had dragged him off a bus by force and had shot him. Mr. García had allegedly been a member of the Democratic Unification Party and of the National Farm Workers Union. In keeping with Article 41 of the American Convention, by a communication dated July 15, 2009 the IACHR requested information on his death. In a communication from the *de facto* Secretariat of Foreign Affairs of Honduras, it was reported that "from the DNIC's investigation thus far, it is believed that this murder was not an act of political repression. The investigation has also established that the individual in question was neither a leader of the Farm Workers Union, and had not participated in the various demonstrations called by the so-called Popular Resistance." *De facto* Secretariat of Foreign Affairs of Honduras, Memorandum 702-DGAE-09, *op. cit.*

On July 26, 2009, Víctor Samuel Almendarez Fuentes has allegedly been shot in the right leg by the Preventive Police in the Tiburcio Carias Andino Stadium and has allegedly bled to death. Attorneys for the Center for the Prevention of Torture and the Treatment and Rehabilitation of Victims of Torture and Their Families had filed a complaint with the Office of the Special Prosecutor for Human Rights. Information that the CPTRT supplied to the IACHR during its on-site visit. (No. 471). In its observations, the Supreme Court reported that: "A complaint was received on July 26, 2009 in the case of Víctor Samuel Almendarez Fuentes, to the effect that the individual in question had been shot in the right leg by a member of the Preventive Police as he was leaving Tiburcio Carias Andino Stadium in Tegucigalpa; investigations established that this individual died in a clash between rival fans of the Motagua and Olimpia teams, after a game between the two clubs. When police intervened to stop the fighting and disperse the groups, the two rival factions joined forces against the police. The individual in question was shot and died instantly. The matter is therefore under investigation, but has nothing to do with the political situation in the country." Observations made by the State of Honduras to the IACHR's Report, dated December 22, 2009 and signed by the Chief Justice of the Supreme Court, p. 14, paragraph 29.

On August 8, 2009, Juan Gabriel Figueroa Tomé was found dead. He had been shot in the back of the neck and had a wound in his thorax. The previous day, he had alledgedly been kept under surveillance by two heavily armed subjects. At 2:00 a.m. on Saturday, August 8, 2009, neighbors in Colonia López had allegedly heard shots and someone screaming 'don't kill me, if you want the motorbike, take it." But his assailants had answered that they were not after his motorbike, they were after him. Juan Gabriel Figueroa Tomé was a building inspector for the Municipality of Choloma, a member of the Liberal Party and part of the Resistance against the *coup*. Pusuant to Article 41 of the American Convention, the IACHR requested information concerning his death via a communication dated September 4, 2009.

At 6:30 a.m. on September 10, 2009, Melvin Enrique Larios Cruz, a member of the "Unión Catracha" Farm Cooperative that is part of the El Aguan *Campesino* Movement (MCA) and his companion Oscar José Rodríguez Valdés were killed by persons unknown in the village of Honduras Aguán, municipality of Trujillo. According to the Farm Workers Union (CNTC), their deaths were the result of the ten days of harassment that *campesinos* who had settled on the premises of the former Regional Military Training Center had endured at the hands of the landowners who had appropriated those lands under the government of Rafael Callejas. FIAN Honduras, e-mail received by the IACHR on September 11, 2009.

[246] On July 10, 2009, the IACHR requested information pursuant to Article 41 of the American Convention. In a communication received from the *de facto* government on July 10, it stated the following: "we are able to report that as of now the only person confirmed dead as a result of the events that have occurred since June 28 of this year is the youth Isis Obed Murillo (19) who died from a bullet wound on Sunday, July 5 of this year. We are currently awaiting the Report of the Forensic Physician. The Office of the Special Prosecutor for Human Rights has taken the initiative of opening a case file for investigation of this matter to determine how the young man died, and who is responsible for his death." Memorandum No. 526-DGAE-09, received July 10, 2009.

Armed Forces broke up the demonstration, having stationed snipers on nearby buildings.[247] The young man's father was detained on July 9 by agents from the National Bureau of Criminal Investigation (DNIC) as he was leaving the offices of the Committee of Relatives of Detainees-Disappeared in Honduras after making statements about the events surrounding his son's death. The grounds for the arrest were a charge of an alleged attempted murder by Mr. Murillo Sánchez. According to reports, that charge had been dormant for a number of years. Mr. Murillo Sánchez was detained in the Juticalpa Penal Center, where he was said to have been held in a small isolation cell under inadequate detention conditions.[248] Family members complained that they have no information on the investigation and the young man's brothers have allegedly received threats by text messaging and have been followed.[249] In the report he prepared for the on-site visit, the National Commissioner on Human Rights stated that "the investigation continues, although there have been many problems due to mishandling of the crime scene, which the demonstrators did not leave intact, and the failure to conduct a proper reconstruction of events."[250] In a communication from the *de facto* Secretariat of Foreign Affairs of Honduras, the conclusions presented by CONADEH were reiterated; the communication also stated that owing to the importance "of this case, it has been declared confidential by the Office of the Special Prosecutor for Human Rights; every Monday, a meeting is held to share information."[251]

240. In its observations, the Supreme Court reported that: "Concerning the death of Isis Obeth Murillo (Isy Obed Murillo Mencia), a Honduran national, age 19, identification card # 1511-1990-00176 and a resident of Guayape, Department of Olancho who died on the afternoon of July 5, 2009, in the area around Toncontín Airport in the city of Tegucigalpa, as he was participating in a demonstration in support of former President Zelaya; the crime-scene investigation could not be completed owing to the threats from demonstrators who surrounded the area and made it imposible to process the crime scene. The case is now confidential and is being investigated by the Office of the Prosecutor for Human Rights."[252]

241. On July 24, Pedro Magdiel Muñoz[253] was arrested by the Police as he was on his way to El Paraíso, near the border with Nicaragua, to participate in the demonstrations in support of President Zelaya's return. The bus on which he was traveling had been unable to make any progress, which is why the passengers were said to have proceeded on foot and in other vehicles. At 4:30 p.m., Pedro Magdiel Muñoz and his companions arrived in Alauca. At around 5:00 p.m., as he was resting under a tree, he was arrested along with Gerson Evenor Vilches Almendarez.[254] At 6:45 a.m. on the following day, the persons taken into custody said that one person was dead. The body of Pedro

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[247] Preliminary Report of the Delegation of Guatemalan Human Rights Organizations in Honduras, July 3 to 6, 2009.

[248] COFADEH, *Informe preliminary [Preliminary report], op. cit.*

[249] Information that COFADEH supplied and which the IACHR received in Tegucigalpa on August 20, 2009 (No. 266).

[250] CONADEH Report, *op. cit.,* p. 9. Information received by the IACHR in Tegucigalpa on August 18, 2009.

[251] *De facto* Secretariat of Foreign Affairs of the Republic of Honduras, Memorandum 702-DGAE-09, *op. cit.*

[252] Observations made by the State of Honduras to the IACHR's Report, dated December 22, 2009 and signed by the Chief Justice of the Supreme Court, p. 12, paragraph 22.

[253] On July 30, 2009, the IACHR requested information pursuant to Article 41 of the American Convention.

[254] Testimony of G.A.A.P.,taken by the IACHR in Tegucigalpa on August 19, 2009 (No. 281).

Madgiel Muñoz was found on Saturday, July 25, in a vacant lot. He had 42 knife wounds, bullet wounds in the head, neck and back, and signs of torture.[255] His wounds were concealed under a clean shirt that had been put on him after he was already dead, since at the time he was taken into custody he was allegedly wearing no clothes.[256] The Police, on the other hand, claimed that the person detained was Gerson Wilchez Almendarez.[257] In the report he prepared for the on-site visit, the National Commissioner on Human Rights stated that the death of Pedro Madgiel Muñoz "has been blamed on the forces of law and order without any evidence other than the accusation made by those with him in the protest group, none of whom was willing to collaborate in the investigation conducted by the authorities and by the CONADEH itself; it was his congresswoman who worked relentlessly to have the episode properly investigated and prosecuted."[258] The Military High Command indicated that the armed forces do not use "knives, blades or anything" so that they discarded the Army's involvement in this case.[259] The *de facto* Secretariat of Foreign Affairs of the Republic sent the Commission a communication in which it stated that "the scene examined was totally compromised, so that a faithful reconstruction of events is completely out of the question." As for the investigative steps taken, it stated that "(t)hus far nothing has been found that would suggest that the forces of law and order had a hand in these events." They also reported that a case file would be on record with the Office of the Special Prosecutor for Human Rights in Tegucigalpa.[260]

242. The Supreme Court reported the following in its observations: "Concerning the death of Mr. Pedro Magdiel Muñoz: Mr. Magdiel was a Honduran citizen, age 22, identification # 0801-198615568 and a resident of Tegucigalpa, who likely died on July 24, 2009, between 19:00 and 20:00 hours; because of the group of demonstrators, the scene of his death could not be surveyed until 11:20, which meant that not every formality and procedure could be followed. In fact, only three members of the crime-scene investigation team were allowed access to the scene: the prosecutor from the Public Prosecutor's Office, the forensic physician and a crime-scene inspector. The investigative work found that the crowds of demonstrators had totally modified and altered the crime scene. In response to speculation that the victim had been arrested by the military and taken to one of the area police stations, a review was made of all the log books and records of detainees. No record of his detention was found. The Office of the Special Prosecutor for Human Rights and various human rights organizations also took up the investigation. The alteration of the crime scene and the manipulation of the body were so extensive that the body was found lying face up in the undergrowth, wrapped in a flag similar to the Honduran national flag and a sheet. The body bore wounds inflicted with blunt and bladed instruments over various parts of the body. *Rigor mortis* was complete. Another inspection made of the scene of the events uncovered a piece of wood presumably used against the victim. Various photographs were circulated on the internet that showed a soldier dragging the body of a person whom various human rights figures claimed was the body of Pedro Magdiel Muñoz Salvador. Non-commissioned

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[255] IACHR Press Release 52/09, "IACHR condemns murder in Honduras," July 27, 2009. Available at: http://www.cidh.oas.org/Comunicados/English/2009/52-09eng.htm. Testimony of F.N.M.G., taken by the IACHR in Tegucigalpa on August 19, 2009 (No. 270).

[256] Testimony of S.Z., taken by the IACHR in Tegucigalpa on August 19, 2009 (No. 282).

[257] "Hallan a joven muerto en frontera Las Manos" [Young Man Found Dead along border, Las Manos], La Tribuna, July 26, 2009.

[258] CONADEH Report, *op. cit.,* pp. 9-10. Information received by the IACHR in Tegucigalpa on August 18, 2009.

[259] Information received by the IACHR during its meeting with the Military High Command in Tegucigalpa on August 18, 2009.

[260] *De facto* Secretariat of Foreign Affairs of the Republic of Honduras, Memorandum 702-DGAE-09, *op. cit.*

Investigation Officer III Elmer Núñez and Human Rights Prosecutor Juan Carlos Griffin Ramírez examined and discarded those claims. An eyewitness statement was taken from Mrs. Amada de Jesús Fonseca, who identified herself as an active member of the Bloque Popular and who stated that between 19:00 and 20:00 hours, she was with a group of demonstrators when suddenly an unknown youth ran out among a group of persons yelling 'I killed him' and saying 'you haven't seen anything yet'. She also stated that neither the police nor the military had any involvement in the crime. Efforts have been made to contact this individual but she says she is in fear for her life. She has not, however, retracted her statement. Furthermore, the Office of the Special Prosecutor for Human Rights, headquartered in Tegucigalpa, has an active file on this case, which it currently has under investigation. It has had an autopsy done on the body and has requested immuno-microbiological testing on Mr. Pedro Magdiel's clothing and the blunt weapon found at the scene of the crime."[261]

243. On July 30, Roger Vallejos Soriano was shot in the head during the teachers' demonstrations that took place in Comayagüela. He died on August 1. The Commission received varying accounts of the teacher's death, one from the National Commissioner of Human Rights and another from the *de facto* government. The National Commissioner for Human Rights maintained that the "circumstances under which the killing occurred pointed to a private security guard, who seemed to have reacted when a group of protestors did not heed his request that they not enter the business he was guarding; this version of events came from an independent radio journalist and is subject to personal confirmation."[262] On the other hand, on September 17, the IACHR received a communication from the *de facto* government's Secretariat of Foreign Affairs where it reported that the preliminary conclusions on the killing were that "because the shot was fired at close range, the act was presumably committed by someone else who was participating in the demonstrations."[263] However, the Commission obtained testimony about this crime from the person who was at Professor Vallejos Soriano's side when he was shot in the head and who testified as follows:

> At around 1: 35 p.m. on July 30, 2009, -after violent repression at the El Durazno police post-, we embarked upon a peaceful march, ending up outside the Belén Area Market (…) The repeated provocations by the police, led by the Patrol from Preventive Police M-102 (…) ended in bloodshed, [including] the case of my friend Roger Abrahan Vallejo, who died two days later (…) I was the one who was with Roger when he fell; seven minutes after establishing the presence of vital signs, I got him to the Colonia Torocagua suburban emergency clinic, and from there he was sent by ambulance to the Escuela Hospital (…) Police and civilians were present during the surgery they performed on him; the police asked for the bullet. (…) My friend Roger was taken to IHSS, where he died at 11:45 on the night of August 1.[264]

244. In its observations the Supreme Court stated the following: "Mr. Roger Vallejos Soriano was killed on July 30 of this year, in a demonstration in support of Mr. Zelaya Rosales; when the demonstration was in the vicinity of the Belén Area Market, the demonstrators were attempting to

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[261] Observations made by the State of Honduras to the IACHR's Report, dated December 22, 2009 and signed by the Chief Justice of the Supreme Court, pp. 10-12, paragraph 20, where reference is made to the report sent to the IACHR via Memorandum No. 702 of September 29, 2009.

[262] CONADEH Report, *op. cit,.* p.10, Information received by the IACHR in Tegucigalpa on August 18, 2009.

[263] Note sent from the *de facto* Secretariat of Foreign Affairs to the Executive Secretary of the IACHR, received by the IACHR at its headquarters on September 16, 2009.

[264] Testimony of M.O.A.B., taken by the IACHR in Tegucigalpa on August 18, 2009 (No. 445).

loot various vendors' stalls when an unknown person fired a weapon and the bullet struck Mr. Vallejo Soriana, who was one of the demonstrators. He died on August 1, 2009. The cause of death was found to be an acute open encephalo-cranial trauma caused by a bullet. The manner of death was considered homicide. The wound to the head had an entry and exit orifice which meant that no bullet was found within the victim's body. The forensic physician found traces of gunpowder on the head, suggesting that the bullet was fired at close range. The Office of the Special Prosecutor for Human Rights classified this as a confidential case."[265]

245. On August 2, at the intersection of the turnoff to Jutiapa, Valle de Jamastrán, on the road from Danlí to Trojes, a roadblock of the IX Infantry Battalion was set up. At around 5:30 p.m., an agent of the security forces had allegedly ordered a vehicle to stop. When it did not respond immediately –the vehicle stopped some 15 meters away-,[266] the security agent fired off a burst of bullets, one of which hit Pedro Pablo Hernández in the head, killing him instantly. The agent responsible had allegedly been charged with murder[267] and was said to be in custody. The young man's body was not exhumed because the family did not trust the experts to be objective.[268]

246. The Supreme Court stated the following in its observations: "Pedro Pablo Hernández was killed at 5:30 p.m. at the intersection of the turnoff for Jutiapa, Valle de Jamastrán, when he failed to heed the signal that an agent made indicating that he was to stop the vehicle in which he was driving, whereupon the agents fired their weapons. Soldier Freddy Antonio Flores was taken into custody in this case and an order for his imprisonment was issued on August 7, 2009, for the crime of simple homicide. The trial is being prosecuted by the courts."[269]

247. As a result of the repressive tactics the security forces employed to disperse the crowds outside the Brazilian Embassy, Wendy Avila, an asthmatic, died on September 27 from inhaling tear gas.[270] The Supreme Court wrote the following in its observations: "University student Wendi Elizabeth Ávila died on September 26 of this year; it is reported that the clinical file indicates that her death was due to a crisis of pneumonia and asthma; the forensic physician indicated that the case of death was the A1N1 virus. No investigation was conducted as this was deemed a death due to natural

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[265] Observations made by the State of Honduras to the IACHR's Report, dated December 22, 2009 and signed by the Chief Justice of the Supreme Court, p. 14, paragraph 30.

[266] Testimony of I.H., taken by the IACHR in Tegucigalpa on August 19, 2009. (No. 280).

[267] Prosecutorial Request Seeking Indictment, issued August 7, 2009 by the First Trial Judge of the Danlí section, El Paraíso.

[268] Testimony of I.H., taken by the IACHR in Tegucigalpa on August 19, 2009. (No. 280).

[269] Furthermore, in its observations the Supreme Court reported that: "The roadblock put up on August 2 at the intersection of the Jutiapa turnoff, Valle de Jamastrán, was erected for enforcement of the curfews ordered by law and pursuant to the respective decrees. The episode in which Mr. Pedro Pablo Hernández died is before the courts and the respective trial is underway." Observations made by the State of Honduras to the IACHR's Report, dated December 22, 2009 and signed by the Chief Justice of the Supreme Court, p. 15, paragraphs 31 and 49.

[270] "Muere una mujer afectada por gases tóxicos en Honduras" [Woman poisoned by toxic gases dies in Honduras], TeleSUR, September 28, 2009. The *de facto* authorities claimed that there is a "clinical case record that shows that the cause of death was a crisis of pneumonia and asthma, supposedly triggered when her prescribed treatment was suspended because she was believed to be carrying the A1N1 virus. The Public Prosecutor's Office has the case file in its possession, and the case continues to be investigated." *De facto* Secretariat of Foreign Affairs of the Republic of Honduras, Memorandum 731-DGAE-09 of October 20, 2009.

causes. According to the records, prior to her death, the university student had been hospitalized at San Jorge Hospital, with a clinical history of chronic bronchial asthma."[271]

248. Francisco Alvarado, age 65, was killed when he was shot in the chest on Tuesday, September 22 in Comayagüela, in the course of a clash between the Resistance and the National Police. The victim was an innocent bystander.[272] In its observations the Supreme Court wrote the following: "An investigative case has been opened into the death of Mr. Francisco Alvarado, which happened on September 22 of this year. The investigation is currently in the hands of the National Bureau of Criminal Investigation and has established that the individual in question died in a clash that took place in Colonia Flor del Campo, Comayagüela, Municipality of the Central District, when a group of persons armed with rocks, sticks and machetes attempted to seize the facilities of the police post in that neighborhood. According to the forensic physician's preliminary report, the cause of death was injuries inflicted by a firearm; the prosecutor in charge of this case has declared it to be confidential inasmuch as members of the Preventive Police Force are under investigation and the witness protection system is being used, according to memorandum No 1265-09."[273]

249. Lastly, Elvis Jacobo Euceda Perdomo, age 18, was riding a bicycle when he was shot twice in different parts of his body "when he ignored a police roadblock" [274] after shouting "golpistas" at the police. He died in San Pedro Sula on September 22. According to what was reported, the police officer who shot him had allegedly been identified, but is reportedly a fugitive from justice.[275]. The Supreme Court reported the following in its observations: "Mr. Elvis Jacobo Euceda Perdomo died in the city of San Pedro Sula, Department of Cortés, at around 4:00 p.m. on September 22 of this year. The cause of death was a bullet wound to the head. Police officer Denis Omar Montoya Murillo has been named as the party responsible and is currently a fugitive from justice. A member of the Preventive Police was indicted in this case."[276]

250. The Commission concludes that the 7 deaths described in this report were a consequence of an excessive and disproportionate use of force by Army and Police personnel, who employed poison gases and bullets. The information the State supplied does not suggest that any significant headway has been made in the internal investigations intended to identify and punish those responsible for these events. Quite the contrary, the hypotheses being put forward by the *de facto* authorities place the blame for the murders on private citizens and other demonstrators; in some cases, the *de facto* government blames the families of the victims for the lack of progress made in the investigations, claiming that they are not cooperating.

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[271] Observations made by the State of Honduras to the IACHR's Report, dated December 22, 2009 and signed by the Chief Justice of the Supreme Court, p. 15, paragraph32.

[272] The *de facto* authorities reported that the National Bureau of Criminal Investigation was conducting the investigation into this case and had established that the death occurred in the Colonia Flor del Campo, Comayagüela, when a group of persons armed with stones, clubs and machetes tried to take over the police facilities in that area. The DNIC is "doing the investigative work to shed light on this event." *De facto* Secretariat of Foreign Affairs of the Republic of Honduras, Memorandum 731-DGAE-09 of October 20, 2009.

[273] Observations made by the State of Honduras to the IACHR's Report, dated December 22, 2009 and signed by the Chief Justice of the Supreme Court, p. 15, paragraph 33.

[274] *De facto* Secretariat of Foreign Affairs of the Republic of Honduras, Memorandum 712-DGAE-09 of October 13, 2009.

[275] *De facto* Secretariat of Foreign Affairs of the Republic of Honduras, Memorandum 731-DGAE-09 of October 20, 2009.

[276] Observations made by the State of Honduras to the IACHR's Report, dated December 22, 2009 and signed by the Chief Justice of the Supreme Court, p. 16, paragraph 34.

251. The IACHR must once again remind the State of its obligation to guarantee the right to life of all its inhabitants, and its obligation to conduct impartial, diligent and effective internal investigations to determine those responsible for the violations committed and to impose the punishments that the law prescribes.

C. The Right to Humane Treatment and Right of Assembly

252. Article 15 of the American Convention reads as follows:

> Right of assembly.
> The right of peaceful assembly, without arms, is recognized. No restrictions may be placed on the exercise of this right other than those imposed in conformity with the law and necessary in a democratic society in the interest of national security, public safety or public order, or to protect public health or morals or the rights or freedom of others.

253. Article 5 of the American Convention provides that:

> 1. Every person has the right to have his physical, mental, and moral integrity respected.
>
> 2. No one shall be subjected to torture or to cruel, inhuman, or degrading punishment or treatment. All persons deprived of their liberty shall be treated with respect for the inherent dignity of the human person.

254. The Inter-American Commission has written that Article 15 of the American Convention protects the right to peaceful assembly without arms, and stipulates that no restrictions may be placed on the exercise of this right other than those imposed in conformity with the law and those necessary in a democratic society in the interest of national security, or to protect public health or morals or the rights or freedom of others. Inherent to the sharing of ideas and social demands as a form of expression is the exercise of related rights, such as the right of citizens to assemble and demonstrate and the right to the free flow of ideas and information.[277] The Commission has deemed that detention of peaceful demonstrators is a violation of the right to freedom of assembly.[278]

255. The Commission has held that agents may impose reasonable restraints on demonstrators to ensure that they are peaceful or to contain those who are violent, as well as to disperse demonstrations that become violent and obstructive.[279] However, the actions of the security forces should protect, rather than discourage, the right to assembly and therefore, the reasons for dispersing the demonstration must be based upon the duty to protect people. The law enforcement officer deployed in such contexts must contemplate the safest and quickest methods of dispersal that cause the least harm to the demonstrators.[280]

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[277] IACHR, *Report on the Situation of Human Rights Defenders in the Americas*, op. *cit.,* paragraph 55.

[278] IACHR, *Report on the Situation of Human Rights Defenders in the Americas*, op. *cit.,* paragraph 56.

[279] IACHR, *Report on the Situation of Human Rights Defenders in the Americas*, *op. cit.,* paragraph 63, citing the United States Court of Appeals, *Washington Mobilization Committee v. Cullinane*, Judgment of April 12, 1977, 566 F.2d 107, 184 U.S.App.D.C. 215, p. 119.

[280] IACHR, *Report on the Situation of Human Rights Defenders in the Americas*, *op. cit.,* paragraph 63.

256. Concerning the right to humane treatment in the case of persons deprived of their liberty, the Commission has held that:

> [...] the State, by depriving a person of his liberty, places itself in the unique position of guarantor of his right to life and to humane treatment. [….] All this means that the act of imprisonment carries with it a specific and material commitment to protect the prisoner's human dignity so long as that individual is in the custody of the State, which includes protecting him from possible circumstances that could imperil his life, health and personal integrity, among other rights.[281]

257. For its part, the Inter-American Court has written that:

> Detention conditions where prison facilities are overcrowded, inmates are subject to isolation in a small cell, with no ventilation or natural light, without beds for resting and without adequate hygiene, and suffering lack of communication or restrictions to visits, constitute a violation of the right to humane treatment.[282]

258. The European Court, too, has held that:

> the State must ensure that a person is detained in conditions which are compatible with respect for her human dignity, that the manner and method of the execution of the measure do not subject her to distress or hardship of an intensity exceeding the unavoidable level of suffering inherent in detention and that, given the practical demands of imprisonment, her health and well-being are adequately secured.[283]

259. The Inter-American Court has written the following about the effects of *incommunicado* detention on the persons so held:

> Prolonged isolation and deprivation of communication are in themselves cruel and inhuman treatment, harmful to the psychological and moral integrity of the person and a violation of the right of any detainee to respect for his inherent dignity as a human being. Such treatment, therefore, violates Article 5 of the Convention, which recognizes the right to the integrity of the person.[284]

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[281] IACHR, Report No. 41/99 (Merits), Case 11,491, *Detained Minors* (Honduras), March 10, 1999, paragraphs 135 and 136.

[282] I/A Court H.R., *García Asto and Ramírez Rojas v. Peru Case*. Judgment of November 25, 2005. Series C No. 137; *Raxcacó Reyes v. Guatemala Case*. Judgment of September 15, 2005. Series C No. 133, paragraph 95; *Fermín Ramírez v. Guatemala Case*. Judgment of June 20, 2005. Series C No. 126, paragraph 118. See also, Standard Minimum Rules for the Treatment of Prisoners, adopted at the First United Nations Conference on the Prevention of Crime and the Treatment of Offenders, held in Geneva in 1955; rules approved by the Economic and Social Council in resolutions 663C (XXIV) of July 31, 1957 and 2076 (LXII) of May 13, 1977, Rules 10 and 11.

[283] ECHR, *Case of McGlinchey and Others vs the United Kingdom*, Judgment of April 29, 2004.

[284] I/A Court H.R., *Velásquez Rodríguez v. Honduras Case.* Judgment of July 29, 1988. Series C No. 4, paragraph 156.

260. Article 79 of the Constitution of the Republic of Honduras states that:

> Every person has the right to assemble with others, peacefully and unarmed, in public demonstrations and in transitory assemblies that concern their common interests, no matter what their nature, and without having to file a notification or obtain special permission.
>
> Open-air assemblies and those of a political nature may require a special permit, solely for purposes of ensuring public order.

261. Finally, Article 68 of the Constitution of Honduras provides that "everyone has the right to have his physical, mental and moral integrity respected."

262. The information that the Commission has in its possession shows that since the *coup d'état*, the primacy of military power over civilian power manifested itself in the heightened military presence both in border areas and in Honduras' interior, the establishment of military and police roadblocks on the country's main arteries, and the active intervention of the Army in controlling and suppressing public demonstrations.[285]

1. Military and Police Roadblocks

263. According to the information the Commission has in its possession, in the wake of the *coup d'état* 51 military and police roadblocks were set up across the Honduran territory for the purpose of restricting the movement of persons. These roadblocks were reinforced in response to demonstrations organized in support of President Zelaya.[286]

264. Thus, with people traveling toward the border with Nicaragua, approximately 18 military and police roadblocks were erected on the road from Tegucigalpa to the department of El Paraíso, all for the purpose of restricting the demonstrators' movements.[287] In the days following the *coup d'état*, the Army and the Police were also posted along the main access roads to Tegucigalpa.[288]

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[285] CIPRODEH representatives reported this information to the IACHR's Executive Secretariat on July 20, 2009.

[286] Villa Vieja, Tegucialpa; El Durazno, Tegucigalpa; Cerro de Hula, Francisco Morazán; Río Hondo, Tegucigalpa; Zambrano, Francisco Morazán; Guaymaca, Francisco Morazán; Talanga, Francisco Morazán, Ojo de Agua, El Paraíso; Jacaleapa, El Paraíso; Las Crucitas, El Paraíso; Arenales, El Paraíso; El Paraíso, El Paraíso; Alauca, El Paraíso; Las Limas, El Paraíso; Tocoa, Colón; Planes, Colón; El Prado, Colón; Danto Bridge, Atlántida; Tela exit, Atlántida; Guaymitas, Yoro; La Democracia Bridge, Yoro; Chamelecón, Cortés; Potrerillos, Cortés; Villa Nueva, Cortés; Choloma, Cortés; in the Port Authority area, Cortés; FESITRANH toll road, Cortés; exit toll road for Lima, Cortés; Ceibita, Santa Bárbara; Pito Solo, Santa Bárbara; Colinas, Santa Bárbara; Los Naranjos, Santa Bárbara; Limones, Olancho, Catacamas exit, Olancho; Telica, Olancho; village of Las Delicias, Olancho; Jesús de Otoro, Intibucá; entrance to La Esperanza, Intibucá; turnoff for La Esperanza in Siguatepeque, Comayagua; Cuesta de la Virgen, Comayagua; Santa Elena, La Paz; San José, La Paz; turnoff for Gracia, Copán; El Rosario turnoff, Copán; entrance to Santa Rosa de Copán, Copán, Ocotepeque exit, Ocotepeque; Duyure, Choluteca; Choluteca exit, Choluteca; Santa Elena station, Choluteca; Jicaro Galán, Valle; Gracias, Lempira. COFADEH, *Segundo informe. Violaciones a derechos humanos en el marco del golpe de Estado en Honduras. Cifras y Rostros de la Represión [Second Report. Human Rights Violations in the context of the* coup d'état *in Honduras. Figures and Faces of Repression].*

[287] Testimony of O.H.V., taken by the IACHR in Tegucigalpa on August 20, 2009 (No. 112). Testimony of M.U., taken by the IACHR in Tegucigalpa on August 21, 2009 (No. 222). According to the information provided, military roadblocks were set up at Villa Vieja, Tegucigalpa; Ojo de Agua, El Paraíso; Jacaleapa, El Paraíso; Las Crucitas, El Paraíso; Arenales, El Paraíso; El Paraíso, El Paraíso; Alauca, El Paraíso; Las Limas, El Paraíso; El Durazno,

Continued…

265. According to the information supplied, at these roadblocks hundreds of persons were subjected to degrading searches. This was particularly grave for women.[289] The testimony reveals that these people were interrogated and had their identification papers taken away. [290] They had no access to water or sanitation services,[291] and were repressed using bullets and tear gas. Many were injured and dozens were detained:[292]

> Five military trucks were at the entrance. They decided who could pass. The military forced us to get off the bus and humiliated us, especially the gays. At 12 a military aircraft began to fly over the area at very low altitude: a Police and Air Force helicopter. The Army trucks were constantly on the move and at night they hurled tear gas.[293]

266. The IACHR also received testimony recounting the disproportionate use of force on July 24, at a military and police roadblock set up at the Alauca turnoff, department of El Paraíso[294]:

> On Friday, July 24, 2009, I was in Alauca, El Paraíso. I came upon a roadblock manned with Army soldiers and police. That was around noon […] we named [a] commission to speak with the police chief. Just as the commission was speaking with him, the soldiers began hurling gas. I was standing in front of the roadblock. They fired a tear gas grenade at me that hit me in the left leg, around the knee. I fell down […] when I took off running they fired another tear gas grenade at me.

…continuation
Francisco Morazán; and other roadblocks in the northern part of the country. Document delivered to the IACHR in El Paraíso on August 20, 2009 (No. 519).

[288] Document delivered to the IACHR in El Paraíso on August 20, 2009 (No. 519).

[289] Testimony of T.J.R. cited in CIPRODEH, *Reporte de violaciones [Report on violations], op. cit.*

[290] Testimony of T.J.R. cited in CIPRODEH, *Reporte de violaciones [Report on violations], op. cit.*

[291] Testimony of I.G.P, cited in CIPRODEH, *Reporte de violaciones [Report on violations], op. cit.;*Testimony of S.Z. and M.N.C.E., taken by the IACHR in El Paraíso on August 20, 2009.

[292] Testimony of T.J.R. cited in CIPRODEH, *Reporte de violaciones [Report on violations], op. cit.* Testimony of O.H.V., taken by the IACHR in Tegucicalpa on August 20, 2009 (No. 112). Testimony of M.U., taken by the IACHR in Tegucigalpa on August 21, 2009 (No. 222). Testimony of R.P., taken by the IACHR in El Paraíso on August 20, 2009.

One of the Red Cross physicians reported that a number of people had been seriously injured; one had been shot in the ear; others had been savagely beaten with batons. Testimony of P.H. and M.M.S., taken by the IACHR in El Paraíso on August 20, 2009. Testimony of E.V., taken by the IACHR at the meeting with community leaders in Tegucigalpa on August 17, 2009.

[293] Testimony of S.Z., taken by the IACHR in El Paraíso on August 20, 2009.

[294] In the disturbances that occurred on July 24, 2009, in the Las Manos border area, dozens of people were reportedly detained, among them those identified as follows: A.L., L.E.C., M.L., J.E., A.S., O.M., M.G., M.G., P.A., I.E.S.P., C.A.B., C.G.S., E.L.C., G.S., L.D.V., J.B., D.P., E.U., S.S., R.R.D., M.A.O., C.Z., M.Z., N.O., F.M.Z., A.C., Y.G., H.A.S., M.C.P.V., F.J.A., B.A.R., B.S.O., L.S., O.E.S., S.Z.R., J.P.M., R.A., K.M., J.J.C., M.O., C.S., J.A.T., D.S., L.A.F., C.R., O.A.A., J.A.Z., A.D.R., F.F.S.A., A.M.G.R., G.P., C.S., V.B., J.P., G.O.M., E.M.D., A.B., D.P.B., M.S., N.M., O.B., L.B., S.C., I.Y.R.A., M.A.G., E.B., P.B., M.E.S., J.H.M., and J.E.B. The IACHR also received information to the effect that M.H.V. had allegedly been shot when a member of the Honduran Armed Forces discharged a 9 mm weapon. Testimony of G.A.E.M., taken by the IACHR in Tegucigalpa on August 19, 2009 (No. 311).

This one hit me below and behind the left knee, which was just where the first grenade had landed...[295].

267. On July 25, a group of persons were heading for the border with Nicaragua when they were stopped by military roadblocks and forced to get out of the vehicle in which they were traveling. The police then allegedly began firing their weapons.[296]

268. The IACHR has information indicating that while the curfew was in effect in the community of Tocoa, department of Colón, Army personnel threatened the population warning them not to come out of their homes. It detained individuals without a court order and, for lack of space, held them inside the patio area at the Tocoa police station, exposed to the elements. [297] In Trujillo, department of Colón, troops with the Infantry Battalion and from the Puerto Castillo Naval Base allegedly surrounded the Matilde Córdova de Suazo Normal School to intimidate the teachers from the area who were assembled there for a meeting.[298]

269. The *de facto* Secretariat of Foreign Affairs sent the IACHR a communication in which it said that on July 24, "the Office of the Special Prosecutor for Human Rights sent a group of prosecutors to the area; representatives of the Secretariat of Health were also sent to provide health care to the persons who had congregated in that area. When they reached the border with Nicaragua, they proceeded to inspect the various detention centers and requested the immediate release of persons if there was no good cause to continue to hold them in custody."[299]

270. The Supreme Court stated the following in its observations: "Under Article 54 of the Police and Social Coexistence Act, when deemed necessary members of the National Police are authorized to take measures to limit or restrict and to permit circulation of persons and vehicles for the sake of guaranteeing security or peaceful coexistence."[300]

2. Supression of Demonstrations

271. From the moment the news of the interruption of constitutional order broke, a powerful wave of public reaction spread across the Honduran territory, both in condemnation of the *coup d'état* and in support of the *de facto* government. From the information that the Commission has in its possession, which will be described below, it appears that obstacles were systematically put in place to deter participation in the demonstrations protesting against the *coup d'état* and that frequently those demonstrations were violently suppressed by the National Police, the Army and the Cobra Special Strike Force.

272. On June 28, a crowd gathered in front of the Presidential Residence in Tegucigalpa to protest against the *coup d'état* and was violently dispersed by members of the Army

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[295] Testimony of N.l.C.G., taken by the IACHR in Tegucigalpa on August 17 and 20, 2009 (No. 444).

[296] Testimony of L.F., taken by the IACHR in Tegucigalpa on August 21, 2009 (No. 253).

[297] Testimony of E.E.B.A., taken by the IACHR in Tegucigalpa on August 21, 2009 (No. 171).

[298] CIPRODEH, *Reporte de violaciones [Report of violations], op.cit*, p. 23.

[299] *De facto* Secretariat of Foreign Affairs of the Republic of Honduras, Memorandum 702-DGAE-09, op. *cit.*

[300] Observations made by the State of Honduras to the IACHR's Report, dated December 22, 2009 and signed by the Chief Justice of the Supreme Court, p. 16, paragraph 38.

who used helicopters to fly over the area, fired shots in the air, some of which hit buildings nearby, and beat some 30 people using batons and weapons. Many of the victims were teachers.[301]

273. On June 29, a group of people gathered in front of HONDUTEL's offices in Tegucigalpa. A military vehicle then sped towards the crowd, leaving one person seriously injured.[302]

274. That same day, a group of President Zelaya's followers met in front of the Presidential Residence in Tegucigalpa. That afternoon a combined police and military combined operation was deployed, which included snipers[303] and a helicopter that dropped tear gas bombs. The security forces, armed with heavy caliber weapons,[304] surrounded the demonstrators, goaded them –while pointing their weapons at them- and hurled tear gas grenades,[305] some of which hit the demonstrators directly.[306] The demonstrators were then dragged by the hair[307] and men and women[308] alike were kicked[309] and beaten with batons, clubs and steel tubes[310] in the spinal column, chest,[311] forearms,[312] head and feet.[313]

275. These beatings caused injuries, and around 25 demonstrators were taken to the Escuela Hospital, where a group of soldiers remained posted to detain them.[314] Police officers attempted to enter the hospital's emergency room by force and threw tear gas grenades inside. The hospital director, who objected to the tactics, was mistreated by the police.[315] Some people testified that there was staff from the public prosecutor's office inside the hospital, dressed as doctors, taking

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[301] CIPRODEH, *Reporte de violaciones [Report on violations], op. cit*. Testimony of B.A.C.S., taken by the IACHR in Tegucigalpa on August 20, 2009 (No. 101). Testimony of E.C., taken by the IACHR at the meeting of community leaders in Tegucigalpa on August 17, 2009.

[302] CIPRODEH, *Reporte de Violaciones a Derechos Humanos [Report on Human Rights Violations], op. cit*. Testimony of R.U.P., taken by the IACHR in Tegucigalpa on August 18, 2009 (No. 449).

[303] Testimony of C.A.O., taken by the IACHR in Tegucigalpa on August 20, 2009 (No. 70).

[304] Testimony of J.A.M., taken by the IACHR in Tegucigalpa on August 21, 2009 (No. 258).

[305] Testimony of J.B.A., taken by the IACHR in Tegucigalpa on August 18, 2009 (No. 52). Testimony of F.W.C.R., taken by the IACHR in Tegucigalpa on August 18, 2009 (No. 294). Testimony of R.H., taken by the IACHR in Tegucigalpa on August 19, 2009 (No. 286).

[306] Testimony of J.M.M.E., taken by the IACHR in Tegucigalpa on August 19, 2009 (No. 299).

[307] Testimony of V.C.M.D., taken by the IACHR in Tegucigalpa on August 20, 2009 (No. 249).

[308] Testimony of O.P.C., taken by the IACHR in Tegucigalpa on August 17, 2009 (No. 218).

[309] Testimony of L.M.J.P., taken by the IACHR in Tegucigalpa on August 21, 2009 (No. 225). The beatings had split his right ear open.

[310] Testimony of R.H.B., taken by the IACHR in Tegucigalpa on August 19, 2009 (No. 291). Testimony of B.A.C.S., taken by the IACHR in Tegucigalpa on August 20, 2009 (No. 101).

[311] Testimony of W.E.M., taken by the IACHR in Tegucigalpa on August 21, 2009 (No. 236).

[312] Testimony of J.A.O.R., taken by the IACHR in Tegucigalpa on August 21, 2009 (No. 167).

[313] Testimony of H.S.P., taken by the IACHR in Tegucigalpa on August 17, 2009 (No. 450).

[314] Testimony of D.O., taken by the IACHR in Tegucigalpa on August 18, 2009 (No. 51). Testimony of J.B.A., taken by the IACHR in Tegucigalpa on August 18, 2009 (No. 52).

[315] Testimony of G.M.M.A., taken by the IACHR in Tegucigalpa on August 20, 2009 (No. 94). Testimony of V.C.M.D., taken by the IACHR in Tegucigalpa on August 20, 2009 (No. 249).

information from the individuals who required medical attention,[316] in order to bring criminal charges.[317]

276. Similarly, some people who wanted to join the demonstrations were forced into military vehicles while being insulted, beaten and threatened;[318] another group of people was pursued by police, trapped on a bridge and then beaten with batons on the buttocks, legs and head, and then detained in the Manchen police station.[319]

277. On June 30, in the city of El Progreso, Department of Yoro, demonstrators from the resistance to the *coup d'état* gathered in the city's central park, called "Las Mercedes," to stage a sit down protest in front of the City Hall and then march to La Amistad bridge,[320] located on the main access road to San Pedro Sula.[321] Before they arrived at the meeting point, the demonstrators noticed a large contingent of police, backed up by members of the Cobra strike force. They therefore did not advance any further and instead tried to engage the security forces in dialogue. Nevertheless, the police hurled tear gas grenades,[322] even directly at the demonstrators,[323] and began wielding their clubs indiscriminately,[324] which is why the demonstrators fled and tried to hide in the houses nearby. The demonstrators were beaten[325] and kicked, hit on the head, back and hips with batons[326] and were trodden on.[327] One of the demonstrators was beaten unconscious and had a bullet wound in his right leg.[328]

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[316] Testimony of M.G.E.P., taken by the IACHR in Tegucigalpa on August 20, 2009 (No. 113).

[317] Cf. Testimony of M.G.E.P., taken by the IACHR in Tegucigalpa on August 20, 2009 (No. 113).

[318] Testimony of C.A.O., taken by the IACHR in Tegucigalpa on August 20, 2009 (No. 70).

[319] Testimony of Y.D.C.Z., taken by the IACHR in Tegucigalpa on August 20, 2009 (No. 85). The owner of the bus that had allegedly been used to broadcast at the protest had reportedly been forced off and the vehicle had been confiscated. The police claimed to have found rounds of ammunition inside the bus, which the owner says are not his property. Testimony of J.A.E.P., taken by the IACHR in Tegucigalpa on August 21, 2009 (No. 245).

[320] Jesuit Ministries' Team of Reflection, Research and Communication in Honduras [Equipo de Reflexión, Investigación y Comunicación de la Compañía de Jesús en Honduras] (ERIC), Preliminary Report. *Violación a los derechos humanos fundamentales [*Violation of basic human rights], El Progreso, Department of Yoro, received by the IACHR on August 17, 2009.

[321] CIPRODEH, *Reporte de Violaciones a Derechos Humanos [Report on Human Rights Violations], op. cit*, p. 14.

[322] CIPRODEH, *Reporte de Violaciones a Derechos Humanos [Report on Human Rights Violations], op. cit,* p. 14. Testimony of R.G.N., cited in ERIC, *Violación a los derechos humanos fundamentales [Violation of basic human rights], op. cit*.

[323] Testimony of R.G.N., cited in ERIC, *Violación a los derechos humanos fundamentales [Violation of basic human rights], op. cit*.

[324] Testimony of C.A.Z., cited in ERIC, *Violación a los derechos humanos fundamentales [Violation of basic human rights], op., cit*.

[325] Testimony of R.G.N., taken by the IACHR in Tegucigalpa on August 21, 2009 (No. 9). "Disparos y gases dejar 6 heridos en El Progreso" ["Bullets and gas leave 6 injured in El Progreso], *El País*, July 1, 2009.

[326] Testimony of E.I.M.M. and A.B., cited in ERIC, *Violación a los derechos humanos fundamentales [Violation of basic human rights], op. cit*.

[327] Testimony of S.E.P.M., cited in ERIC, *Violación a los derechos humanos fundamentales [Violation of basic human rights], op. cit*. The demonstrators who went to the city's public hospital to have their wounds treated were allegedly not given satisfactory care.

[328] Testimony of F.L., cited in ERIC, *Violación a los derechos humanos fundamentales [Violation of basic human rights], op. cit.*

278. Some demonstrators who testified to the Commission said that during the police persecution, they entered the facilities of HONDUTEL for safety. But the manager called the police, claiming that the offices had been taken over. With that, the police entered the HONDUTEL building and detained and beat the demonstrators,[329] even though the authorities already had them in hand.[330] The Public Prosecutor's Office filed a request with the Trial Court of the El Progress District, in the department of Yoro, seeking indictment of 6 demonstrators on charges of rebellion, but the judge ordered the case dismissed.[331]

279. On July 1, Army troops broke up a demonstration in front of the Presidential Residence in Tegucigalpa to protest against the *coup d'état*. A helicopter was used to launch tear gas grenades while pepper spray was launched from a tank.[332]

280. On July 2, police and military forces in San Pedro Sula threw tear gas and pepper spray at a group of demonstrators and fired bullets, rubber bullets and warning shots.[333]

281. In the early hours of July 3, in the community of Limones, Army troops fired on a march of some four thousand *campesinos* from the department of Olancho and allegedly detained 20 demonstrators.[334]

282. That same day in Tegucigalpa, a demonstration was held in front of the Presidential Residence to protest the *coup d'état*. It was violently dispersed by the military and police who arrested a number of demonstrators.[335]

283. On July 5, as crowds of people had converged on Toncontín Airport to welcome President Zelaya, around a dozen people were shot and seriously wounded.[336] The mother of one of the injured gave the following testimony to the Commission:

> My son was also there watching when he suddenly felt something hit him in the right thigh. He collapsed. Nearby was a taxi-like vehicle and the driver got out to help my son. When he saw that he was losing blood and there was a large gaping hole on his thigh that exposed the tissue mass underneath, he immediately

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[329] Testimony of M.M. cited in CIPRODEH, Reporte de violaciones [Report on violations], op. cit.

[330] CIPRODEH, *Reporte de Violaciones a Derechos Humanos [Report on Human Rights Violations], op. cit*.

[331] Case file 174-09 with the El Progreso District Trial Court, department of Yoro, received by the IACHR in Tegucigalpa on August 21, 2009 (No. 518).

[332] Testimony of A.R.C.S., taken by the IACHR in Tegucigalpa on August 19, 2009 (No. 287).

[333] CIPRODEH, *Reporte de Violaciones a Derechos Humanos [Report on Human Rights Violations], op. cit.* In a communication dated July 3, 2009, the IACHR requested information from the State about this situation.

[334] International Holistic Forum, e-mail received by the IACHR on July 4, 2009. Pursuant to Article 41 of the American Convention, in a communication dated July 10, 2009, the IACHR requested information from the State in connection with this matter.

[335] E-mail received on July 3, 2009, by the managing editor of Channel La Cumbre in Bonito Oriental in the Department of Colón. By a communication dated July 10, 2009, the IACHR requested information concerning this event, pursuant to Article 41 of the American Convention.

[336] Testimony of L.R.A. (who had allegedly been shot in the head), taken by the IACHR in Tegucigalpa on August 21, 2009 (No. 147). Testimony of D.D.S., taken by the IACHR in Tegucigalpa on August 21, 2009 (No. 146).

> applied a tourniquet and loaded him into his taxi. He sped off, driving against the traffic. He then crossed the median strip to take him to the Honduran medical center in La Granja. As he arrived he shouted that he had someone who needed urgent attention; they later called the vascular and orthopedic surgeons because my son was in hyperbolic shock (with just about two grams of hemoglobin). They couldn't get an IV into him because his veins had collapsed ….[337]

284. Police remained throughout the night to guard the Escuela Hospital, where the wounded had been taken, and would not allow journalists to interview them.[338] The Office of the Special Prosecutor for Human Rights inspected the scene of the events the next day and found 170 shells from military-issue weapons.[339] Even so, officials at the Military High Command denied that the weapons were loaded and said that the military were only carrying rubber bullets, protective shields and tear gas.[340]

285. On July 29, a group of demonstrators assembled in front of the Presidential Residence in Tegucigalpa to protest against the *coup d'état*. Police agents, members of the Cobra Special Strike Force, and snipers opened fire and chased down and beat the demonstrators, some of whom were taken to the Escuela Hospital. The hospital was then surrounded by Army and Police personnel.[341]

286. On July 30, in the department of Comayagua, the Resistance Front and residents of the departments of Comayagua and La Paz staged a demonstration on the road to San Pedro Sula. The precise location was at a place known as Cuesta de la Virgen, near the village of Ojo de Agua. The demonstrators had reportedly decided to suspend the demonstration at 2:00 p.m. Even so, at 12:30 p.m. around 50 troops from the Siguatepeque Engineers Battalion, 100 agents of the Siguatepeque Preventive Police and Preventive Police from Comayagua and troops from the Army at Zambrano arrived on the scene threatening to break up the demonstration. At 12:45 p.m. they ordered that the demonstration was to stop at 1:00 p.m. A yellow plane from Palmerola Base was flying over the area constantly.

287. But before the agreed upon hour and without any warning, the security forces formed two fronts to surround the demonstrators.[342] They then fired bullets[343] and threw tear gas grenades and stones. They chased, hit and beat around one hundred demonstrators, striking them with their police truncheons, and forcibly removed those who had taken refuge in nearby houses.[344]

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[337] Testimony of I.C.G.P. and A.R.S.L. concerning their son, received by the IACHR in Honduras on August 17, 2009 (No. 21).

[338] Testimony of L.R.A., taken by the IACHR in Tegucigalpa on August 21, 2009 (No. 147).

[339] CIPRODEH, *Reporte de Violaciones a Derechos Humanos [Report on Human Rights Violations], op. cit.*

[340] Information received by the IACHR during the meeting with the Military High Command in Tegucigalpa on August 18, 2009.

[341] Testimony of D.K.D., taken by the IACHR in Tegucigalpa on August 21, 2009 (No. 144).

[342] Testimony of R.A.B.L., taken by the IACHR in Comayagua on August 21, 2009 (No. 152).

[343] Testimony of J.T.G., C.A.G.B. and O.E.G.M., taken by the IACHR en Comayagua on August 20, 2009 (Nos. 63, 69 and 140).

[344] Testimony of O.T.G.F., taken by the IACHR in Comayagua on August 20, 2009 (No. 67*);* Testimony of J.F.M.M., G.M.O., R.F.R., A.P.C., M.A.C., L.E.G., O.A.M.C., L.A.B.I and R.E.E.C., taken by the IACHR in Tegucigalpa on August 17, 2009 (No. 8*);* Testimony of L.Z.A. and J.R.O., taken by the IACHR in Tegucigalpa on August 17, 2009 (No. 19*);* Testimony of V.E.A., taken by the IACHR in Comayagua on August 17, 2009 (No. 23*);* Testimony of X.E.S.C.,

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288. A group of people taken to the Santa Teresa Hospital for treatment of injuries, bleeding and wounds inflicted by the security forces,[345] were detained by police[346] even though they were under observation at the hospital, and had not been released by the hospital.[347] The testimony received by the IACHR indicated that the level of aggression and violence shown by the members of the security forces during the attacks could only be attributed to the use of narcotic drugs.[348]

289. The IACHR received various statements describing how, in order to break up the demonstration, some 40 persons were loaded into a military truck, with very small windows; the truck's backdoor was closed and a soldier threw a tear gas grenade inside the vehicle, which caused those inside to cough and choke. In their desperation, some people tried to jump out of the vehicle,

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taken by the IACHR in Comayagua on August 20, 2009 (No. 28*);* Testimony of M.P.P.P., taken by the IACHR in Comayagua on August 20, 2009 (No. 57*);* Testimony of M.I.M.R., taken by the IACHR in Comayagua on August 20, 2009 (No. 58*);* Testimony of J.A.R., taken by the IACHR in Comayagua on August 20, 2009 (No. 59*);* Testimony of R.L.C., taken by the IACHR in Comayagua on August 20, 2009 (No. 60*);* Testimony of A.M.M.P., taken by the IACHR in Comayagua on August 20, 2009 (No. 62*);* Testimony of R.O.F.A., taken by the IACHR in Comayagua on August 20, 2009 (No. 64*);* Testimony of M.L.G.C., taken by the IACHR in Comayagua on August 20, 2009 (No. 65*);* Testimony of C.A.G.B., taken by the IACHR in Comayagua on August 20, 2009 (No. 69*);* Testimony of S.A.F.G., taken by the IACHR in Comayagua on August 20, 2009 (No. 71*);* Testimony of D.I.C.R., taken by the IACHR in Comayagua on August 20, 2009 (No. 77*);* Testimony of O.C.D., taken by the IACHR in Comayagua on August 20, 2009 (No. 79*);* Testimony of J.D.C., taken by the IACHR in Comayagua on August 20, 2009 (No. 80*);* Testimony of N.G.D.G. (No. 81) and E.R.D.G., taken by the IACHR in Comayagua on August 20, 2009 (No. 82*);* Testimony of R.G.M., taken by the IACHR in Comayagua on August 20, 2009 (No. 83*);* Testimony of N.G.B., taken by the IACHR in Comayagua on August 20, 2009 (No. 87*);* Testimony of L.A.A.G., taken by the IACHR in Comayagua on August 20, 2009 (No. 89*);* Testimony of E.L.M.G., taken by the IACHR in Comayagua on August 20, 2009 (No. 90*);* Testimony of A.C.R., taken by the IACHR in Comayagua on August 20, 2009 (No. 91*);* Testimony of R.J.R.R., taken by the IACHR in Comayagua on August 20, 2009 (No. 92*);* Testimony of D.P.B., taken by the IACHR in Comayagua on August 20, 2009 (No. 93*);* Testimony of M.L.C.O., taken by the IACHR in Comayagua on August 20, 2009 (No. 97*);* Testimony of J.D.F., taken by the IACHR in Comayagua on August 20, 2009 (No. 98*);* Testimony of M.M.M., taken by the IACHR in Comayagua on August 20, 2009 (No. 99*);* Testimony of N.G.V., taken by the IACHR in Comayagua on August 20, 2009 (No. 100*);* Testimony of R.D.G., taken by the IACHR in Comayagua on August 20, 2009 (No. 103*);* Testimony of A.S.A., taken by the IACHR in Comayagua on August 20, 2009 (No. 104*);* Testimony of M.A.B.B., taken by the IACHR in Comayagua on August 20, 2009 (No. 105*);* Testimony of L.F.G., taken by the IACHR in Comayagua on August 20, 2009 (No. 106*);* Testimony of S.E.S.L., taken by the IACHR in Comayagua on August 20, 2009 (No. 107*);* Testimony of E.T.G.G., taken by the IACHR in Tegucigalpa on August 21, 2009 (No. 151*);* Testimony of D.L.B., taken by the IACHR in Tegucigalpa on August 21, 2009 (No. 154*);* Testimony of M.I.M.R., taken by the IACHR in Tegucigalpa on August 17, 2009 (No. 209*);* Testimony of O.C.P., taken by the IACHR in Tegucigalpa on August 21, 2009 (No. 223*);* Testimony of A.V.O., taken by the IACHR in Tegucigalpa on August 21, 2009 (No. 243*);* Testimony of C.L.P.R., taken by the IACHR in Tegucigalpa on August 21, 2009 (No. 243*);* Testimony of F.P.C.S., taken by the IACHR in Tegucigalpa on August 21, 2009 (No. 243*);* Testimony of M.L.G.C., taken by the IACHR in Comayagua on August 20, 2009 (No. 65).

[345] Testimony of R.G.M., taken by the IACHR in Comayagua on August 20, 2009 (No. 83).

[346] Testimony of J.F.M.M., G.M.O., R.F.R., A.P.C., M.A.C., L.E.G., O.A.M.C., L.A.B.I. and R.E.E.C., taken by the IACHR in Tegucigalpa on August 17, 2009 (No. 8*);* Testimony of M.I.M.R., taken by the IACHR in Comayagua on August 20, 2009 (No. 58*);* Testimony of R.O.F.A., taken by the IACHR in Comayagua on August 20, 2009 (No. 64*);* Testimony of L.F.G., taken by the IACHR in Comayagua on August 20, 2009 (No. 106*);* Testimony of A.I.L., taken by the IACHR in Tegucigalpa on August 21, 2009 (No. 243).

[347] Testimony of G.A., E.R.D.G., M.I.M.R., N.G.D.G., R.G.M., R.O.F.A., P.R., B.A., S.H.F.G., J.T., A.B., M.M., L.F., M.L.G., O.A.C.V., L.A.A.G., A.I.L.A., L.A.A., E.L.M., R.T.P., M.A.L., R.G.D., E.C., N.G.B., D.B., A.V.M., M.C., E.C., E.G. and R.B., cited in COFADEH, *Informe sobre el deterioro de los Derechos Humanos en Honduras en el marco del golpe de Estado [Report on the deterioration of the human rights situation in Honduras in the context of the* coup d'état*]*, document delivered to the IACHR during its visit.

[348] Testimony of S.C.C.E., taken by the IACHR in Tegucigalpa on August 19, 2009 (No. 111).

while others stuck their heads through the windows to breathe. But the police beat them on the head to force them back inside.[349] This tactic was allegedly repeated 5 times.

290. That same day, a group of demonstrators in Comayagüela were on the road leading to Tamara, in the community of El Durazno, to protest the *coup d'état*. Military trucks, agents of the National Police and of the Cobra Special Strike Force arrived on the scene. They threw tear gas grenades and beat the demonstrators with their batons on the head, face, back, buttocks, the bottoms of the feet and arms.[350] Then, highway patrol police allegedly cleared away any evidence in the form of bullet catridges and tear gas grenades. During this demonstration, Professor Roger Abraham Vallejo Soriano received a gunshot wound from which he died two days later.[351]

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[349] Testimony of N.G.D.G., E.R.D.G., O.C.D., R.A.L.A., R.G.D., F.P.U., P.A.C., L.G., S.E.G.D., R.T., L.A.R.P., F.P., J.S., M.S., L.C.R., J.C., J.R.U.U., M.T.A., V.C.M., M.A.U.B., J.R.M., B.V., M.J.M., A.S.A., H.C., M.P.P., D.Y.I., J.E.C., D.I.C.R., O.E.G.M., M.B., S.C., E.S., R.A.B.L., P.C., O.C., C.R.V., M.S., G.N.J., J.R.U., M.A.A., J.A.A., C.R.M., F.A.C., I.S.E., D.F.B., W.R., N.G.V., L.F., M.B., R.F., S.C., J.M.S.M., S.G.G.C., W.A.S.S., E.L.M., R.D., O.D.O.B., D.G., R.O.B.G., D.A.F., E.G.S., A.I.O., R.C., A.L.V., V.C., O.T.F.G., M.L.G.C., S.A.V., R.I.C., V.G., C.F.A., E.S., R.N., A.M.M., D.P., A.C., M.G.B., D.M.A., M.G., F.A.S.F., M.E.V., N.H., M.E.S., M.E.V., S.A.C.C., E.C.I., R.C.V., M.R.C., A.M.O.M., H.B.A., J.R.F.M., F.V.A., F.V., R.D.G., S.G.G.C., E.M.F., N.R., A.G.G.G., C.R.V.S., R.E.C., J.C.C., I.C.M., S.M.C., R.G.R., B.M.R., R.H.N., B.G.L., E.F.G.E., E.V.M., M.K.G.C., R.H., R.A.R, F.J.V.B., S.L.A., M.L.C., A.P.C. I.C.G., P.V., M.R.L., M.E.M., L.B., J.C, L.G.C, R.C.V., O.C.P., O.M.O., S.E.H., D.D., O.A.C.V., A.A.G, G.A.L.T., E.R.V., J.S.V.C., M.S., M.R.R.P., J.L.H.M.U, and C.A.G.B., in COFADEH, *Informe sobre el deterioro de los Derechos Humanos en Honduras en el marco del golpe de Estado [Report on the deterioration of the human rights situation in Honduras in the context of the* coup d'état*], op. cit.* See also, Testimony of F.E.A.F., taken by the IACHR in Comayagua on August 20, 2009 (No. 68*);* Testimony of J.R.E.S., taken by the IACHR in Comayagua on August 20, 2009 (No. 61*);* Testimony of M.L.G.C., taken by the IACHR in Comayagua on August 20, 2009 (No. 65*);* Testimony of F.V., taken by the IACHR in Comayagua on August 20, 2009 (No. 66*);* Testimony of N.A.M.D., taken by the IACHR in Comayagua on August 20, 2009 (No. 73*);* Testimony of M.E.S.H., taken by the IACHR in Comayagua on August 20, 2009 (No. 75*);* Testimony of N.G.D.G. (No. 81) and of E.R.D.G., taken by the IACHR in Comayagua on August 20, 2009 (No. 82*);* Testimony of E.L.M.G., taken by the IACHR on August 20, 2009 (No. 90*);* Testimony of R.J.R.R., taken by the IACHR in Comayagua on August 20, 2009 (No. 92*);* Testimony of M.L.C.O., taken by the IACHR in Comayagua on August 20, 2009 (No. 97*);* Testimony of J.D.F., taken by the IACHR in Comayagua on August 20, 2009 (No. 98*);* Testimony of A.S., taken by the IACHR in Comayagua on August 20, 2009 (No. 108*);* Testimony of E.T.G.G., taken in Tegucigalpa on August 21, 2009 (No. 151*);* Testimony of D.L.B., taken by the IACHR in Tegucigalpa on August 21, 2009 (No. 154*);* Testimony of E.L.M.G., taken by the IACHR in Comayagua on August 20, 2009 (No. 90*);* Testimony of N.G.B., taken by the IACHR in Comayagua on August 20, 2009 (No. 87).

[350] Testimony of C.H.R.B., taken by the IACHR in Tegucigalpa on August 20, 2009 (No. 128*);* Testimony of H.M.H.M., taken by the IACHR in Tegucigalpa on August 21, 2009 (No. 149*);* Testimony of I.R.A., taken by the IACHR in Tegucigalpa on August 21, 2009 (No. 150*);* Testimony of O.M.R., taken by the IACHR in Tegucigalpa on August 17, 2009 (No. 208*);* Testimony of C.B.D., taken by the IACHR in Tegucigalpa on August 20, 2009 (No. 246*);* Testimony of X.Z.M.Z., taken by the IACHR in Tegucigalpa on August 20, 2009 (No. 248*);* Testimony of E.F.L., taken by the IACHR in Tegucigalpa on August 20, 2009 (No. 254*);* Testimony of E.L.C.F., taken by the IACHR in Tegucigalpa on August 21, 2009 (No. 155*);* Testimony of J.A.R.R., taken by the IACHR in Tegucigalpa on August 20, 2009 (No. 263*);* Testimony of J.M.F., taken by the IACHR in Tegucigalpa on August 21, 2009 (No. 234*);* Testimony of V.M.V.G., taken by the IACHR in Tegucigalpa on August 20, 2009 (No. 39*);* Testimony of C.M.L.B., taken by the IACHR in Tegucigalpa on August 21, 2009 (No. 235*);* Testimony of D.D.P.O., taken by the IACHR in Tegucigalpa on August 20, 2009 (No. 35*);* Testimony of B.G.P.A., taken by the IACHR in Comayagua on August 20, 2009 (No. 42*);* Testimony of A.D.O.A. and O.M.R.F., taken by the IACHR in Tegucigalpa on August 17, 2009 (No. 208). The Supreme Court stated the following in its observations: "36. As for the persons who were hit in the face or on the buttocks and arms when they were dispersed by Police after they blocked the road leading into Tegucigalpa in the village of Durazno, the Commission is informed that the Police proceeded to disperse these demonstrators in the proper manner and in exercise of the legal authority they are given in their Organic Statute." Observations made by the State of Honduras to the IACHR's Report, dated December 22, 2009 and signed by the Chief Justice of the Supreme Court, p. 16.

[351] According to the testimony of D.C., "a patrol vehicle went by carrying detained persons; when it lurched, one policeman fell off. When he got up he started firing shots into the air. We were frightened and ran off. A couple of minutes later three shots were fired. I heard that one of our companions had been injured. It was Roger Abraham Vallejo. We called the Red Cross but they never responded. CIPRODEH, *Reporte de*

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291. That same day, July 30, a group of police officers and members of the Cobra Special Strike Force chased, kicked and beat a group of demonstrators returning from the town of El Lolo in the department of Francisco Morazán. The demonstrators were hit on the legs, head and back, even when they had already been subdued. The police then detained the demonstrators and threatened them:[352]

> They then had all of us lie face down on the ground. They hit us, hurled insults and shouted things like "sons of b------, because of you we've been away from home for over a month.[353]

292. On July 31, a number of demonstrators gathered at El Puma gas station, on the western highway near the new crossroads at Gracias, Lempira, in the department of Santa Rosa de Copán to protest the *coup d'état*. At around 10:00 a.m., National Police personnel surrounded the demonstrators, launched tear gas and beat women, the elderly and children with their batons.[354] The Police also detained around 54 demonstrators[355] and confiscated vehicles without a court order.[356]

293. On August 5, students, members and sympathizers of the Revolutionary University Force, administrative personnel and members of the Sindicato de Trabajadores de la Universidad Autónoma de Honduras [Union of Employees of the Autonomous University of Honduras] started a peaceful protest in front of the university campus in Tegucigalpa. The demonstration was scheduled for 12:00 p.m. However, at 11:00 a.m., a group of agents from the Cobra Special Strike Force arrived on the scene with a water cannon and dispersed the demonstrators using tear gas, pepper spray, pressurized jets of water[357] and warning shots. The students responded with a shower of stones.[358] Military and police personnel then entered the grounds of the university, in violation of university autonomy. There they hurled tear gas, fired rubber bullets[359] and beat around a hundred students.[360]

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violaciones [Report on Violations], op. cit. Testimony of M.O.A.B., taken by the IACHR in Honduras on August 18, 2009 (No. 445). For its part, pursuant to Article 41 of the American Convention, the IACHR sent a letter in which it requested information regarding police supression of the demonstration on July 30, 2009. In that note, the IACHR singled out the situation of Roger Vallejos Soriano. Finally, when it learned of Vallejo's death on August 1, 2009, it requested information again, this time in a communication dated August 7, 2009.

[352] Testimony of M.K.M.M., taken by the IACHR in Tegucigalpa on August 20, 2009 (No. 22*);* Testimony of T.G.L., taken by the IACHR in Tegucigalpa on August 20, 2009 (No. 24*);* Testimony of D.I.R.H., taken by the IACHR in Tegucigalpa on August 20, 2009 (No. 25*);* Testimony of C.D.H.A., taken by the IACHR in Tegucigalpa on August 20, 2009 (No. 34*);* Testimony of O.J.E.V.C. and E.A.B.C., taken by the IACHR in Tegucigalpa on August 20, 2009 (No. 47).

[353] Testimony of M.C., cited in CIPRODEH, *Reporte de violaciones [Report on Violations], op. cit.*

[354] Testimony of J.O.R.C., taken by the IACHR in Tegucigalpa on August 19, 2009 (No. 204).

[355] Testimony of M.V.P., taken by the IACHR in Tegucigalpa on August 19, 2009 (No. 203*);* Testimony of D.A.M.G., taken by the IACHR in Tegucigalpa on August 19, 2009 (No. 207).

[356] Testimony of D.A.M.G., taken by the IACHR in Tegucigalpa on August 19, 2009 (No. 207).

[357] Testimony of J.L.C.E., cited in CIPRODEH, *Reporte de violaciones [Report on Violations], op. cit*. Testimony of J.L.R.O., taken by the IACHR in Tegucigalpa on August 21, 2009 (No. 157).

[358] CIPRODEH, *Reporte de violaciones [Report on violations], op. cit*. Testimony of S.D.N., taken by the IACHR in Tegucigalpa on August 21, 2009 (No. 242).

[359] Testimony of J.L.C.E. cited in CIPRODEH, *Reporte de violaciones [Report on violations], op. cit*. Testimony of A.R.A., taken by the IACHR in Tegucigalpa on August 20, 2009 (No. 297*);* Testimony of T.G.L., taken

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294. When the students hurled stones and threw back the tear gas grenades that the police had launched, the latter spread out into the fast-food restaurants adjacent to Suyapa Boulevard, which runs along the university campus. In the process, they damaged a number of businesses. The same thing happened on the campus of the University, where the Little Caesars and Expresso Americano fast-food restaurants were damaged.[361]

295. Because of the disturbances underway in the front part of the university campus, the Dean of the University, Julieta Castellanos, who was in a meeting with the University's Board of Directors, spoke by phone with police authorities to demand that the police immediately withdraw from the university grounds. When the police remained inside the campus, a group of authorities headed by the Dean and the Principal of the University's Board, Olvin Rodríguez, arrived on the scene to speak with the security forces. When they did, however, they were attacked.[362]

296. On August 11, following a demonstration held in Tegucigalpa to protest against the *coup d'état*, police threw tear gas, chased down the demonstrators, beat them with batons[363] and fired on them.[364] Snipers had allegedly been posted, hidden behind trees.[365]

297. The testimony taken by the IACHR indicates that on the night of August 11, a white, dual-cabin pickup was circulating in the vicinity of the Universidad Pedagógica Nacional Francisco Morazán, even though a curfew was then in effect from 10:00 p.m. to 5:00 a.m. The people inside the pickup threw tear gas grenades and Molotov cocktails, which were picked up by people inside the University grounds.[366]

298. On August 12, these people contacted the prosecutors at the Public Prosecutor's Office to report the tear gas grenades and Molotov cocktails as evidence. When the prosecutors left

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by the IACHR in Tegucigalpa on August 20, 2009 (No. 24*);* Testimony of K.P.A.B., taken by the IACHR in Tegucigalpa on August 20, 2009 (No. 27).

[360] Testimony of C.R.R.F., taken by the IACHR in Tegucigalpa on August 20, 2009 (No. 26*);* Testimony of R.A.M.O., taken in Tegucigalpa on August 20, 2009 (No. 431). The Supreme Court stated the following in its observations: "Concerning the alleged violation of university autonomy said to have occurred in Tegucigalpa on August 5, when members of the police force and the Cobra special strike force entered university grounds, the authorities took this action in order to pursue various demonstrators who had committed acts of vandalism to private property in the area and had set fire to a vehicle in the university. The National Police acted in accordance with Article 52 of the Police and Social Coexistence Act." Observations made by the State of Honduras to the IACHR's Report, dated December 22, 2009 and signed by the Chief Justice of the Supreme Court, p. 16, paragraph 37.

[361] CIPRODEH, *Reporte de violaciones [Report on Violations], op. cit.*

[362] Testimony of M.P., taken by the IACHR in Tegucigalpa on August 19, 2009 (No. 283*);* Testimony of E.G.R., D.M., C.D.R., F.P. and A.L., taken by the IACHR in Tegucigalpa on August 19, 2009 (No. 273*).* Pursuant to Article 41 of the American Convention, in an August 7, 2009 communication the IACHR requested information concerning the events described here.

[363] Testimony of C.S.S.G., taken by the IACHR in Tegucigalpa on August 20, 2009 (No. 36*);* Testimony of J.N.P., taken by the IACHR in Tegucigalpa on August 21, 2009 (No. 224*);* Testimony of G.Y.C.E., taken by the IACHR in Tegucigalpa on August 20, 2009 (No. 29*);* Testimony of A.R.B.R., taken by the IACHR in Tegucigalpa on August 20, 2009 (No. 40).

[364] Testimony of S.A. cited in CIPRODEH, *Reporte de violaciones [Report on violations], op. cit*.

[365] Testimony of O.E.G., taken by the IACHR in Tegucigalpa on August 20, 2009 (No. 296).

[366] Testimony of A.D.O.A., taken by the IACHR in Tegucigalpa on August 20, 2009 (No. 440).

the grounds of the university, it was invaded by police and Army personnel, in violation of university autonomy. They threw tear gas grenades and beat up the students.[367] Ten people who were on the grounds of the university at the time were held for several hours at gunpoint.[368] They robbed them of their belongings, hit them with batons,[369] took their photographs in order to identify them,[370] and threatened to "disappear" them.[371] For the hours that they were in custody, these people had no access to water or food, and were not given medical attention, even though the Red Cross and the Green Cross were inside the University. They were finally released when representatives of human rights organizations arrived on the scene, as did prosecutors from the Public Prosecutor's Office and the Office of the Special Prosecutor for Human Rights.[372] According to newspaper articles, the police launched investigations and questioned people who were on the campus because the police suspected them of having manufactured the tear gas grenades and Molotov cocktails.[373]

299. That same day, a peaceful march took place in Tegucigalpa to protest against the *coup d'état*. The police and Army deployed helicopters and water canons, threw tear gas grenades, kicked the demonstrators and beat them with their batons.[374] They threw pepper spray into the demonstrators' eyes,[375] took them into custody[376] and transported them to the columned patio area ["Los Bajos"] of the National Congress building[377] and to the facilities of the Cobra Special Strike Force.[378]

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[367] Testimony of C.R.R.F., taken by the IACHR in Tegucigalpa on August 20, 2009 (No. 26*);* Testimony of K.P.A.B., taken by the IACHR in Tegucigalpa on August 20, 2009 (No. 27*);* Testimony of P.E.V.M., taken by the IACHR in Tegucigalpa on August 20, 2009 (No. 45*);* Testimony of D.F.C.R., taken by the IACHR in Tegucigalpa on August 20, 2009 (No. 41).

[368] Testimony of N.L.C.G., taken by the IACHR in Tegucigalpa on August 20, 2009 (No. 444).

[369] Testimony of L.M.O.O., taken by the IACHR in Tegucigalpa on August 20, 2009 (No. 44*);* Testimony of P.E.V.M., taken by the IACHR in Tegucigalpa on August 20, 2009 (No. 45*);* Testimony of N.L.C.G., V.Y.M. and D.C.R.T., taken by the IACHR en Tegucigalpa on August 20, 2009.

[370] Testimony of L.M.O.O., taken by the IACHR in Tegucigalpa on August 20, 2009 (No. 44).

[371] Testimony N.L.C.G., taken by the IACHR in Tegucigalpa on August 20, 2009 (No. 444).

[372] Testimony of K.P., taken by the IACHR in Tegucigalpa on August 21, 2009 (No. 158*);* Testimony of R.E.T.G., taken by the IACHR in Tegucigalpa on August 18, 2009 (No. 50*);* Testimony of C.A.E., taken by the IACHR in Tegucigalpa on August 18, 2009 (No. 288*);* Testimony of F.D.R.S., taken by the IACHR in Tegucigalpa on August 20, 2009 (No. 264*);* Testimony of G.G.R., taken by the IACHR on August 18, 2009 (No. 292).

[373] "13 bombas molotov y 6 candelas explosivas hallan en la Pedagógica" [13 Molotov cocktails and 6 other explosive devices found on campus of teachers' university], *Diario* La Tribuna, August 13, 2009; "Hallan bombas molotov en la Pedagógica" [Molotov cocktails found at Teachers' University], *Diario* El Heraldo, August 12, 2009 (No. 517).

[374] Testimony of D.A. and J.N.P.L., N.G.R.L., taken in Tegucigalpa on August 17, 2009 (No. 123*);* Testimony of J.L.R.O., taken by the IACHR in Tegucigalpa on August 21, 2009 (No. 157*);* Testimony of C.M.R., taken by the IACHR in Tegucigalpa on August 21, 2009 (No. 231*);* Testimony of G.B.A. and A.J.A.G., taken by the IACHR on August 19, 2009 (No. 216*);* Testimony of J.M.V., taken by the IACHR in Tegucigalpa on August 19, 2009 (No. 290).

[375] Testimony of A.D.C.M., taken by the IACHR in Tegucigalpa on August 21, 2009 (No. 54).

[376] Testimony of R.E.T.G., taken by the IACHR in Tegucigalpa on August 18, 2009 (No. 50).

[377] Testimony of M.R.A.B., J.P.M.A., D.A., N.G.R.L., A.L.O.C., O.D.G.C., A.S.C.H., M.C.L. and G.A.F.B., taken by the IACHR in Tegucigalpa on August 17, 2009 (No. 213).

[378] Testimony of J.P.M.A., taken by the IACHR in Tegucigalpa on August 17, 2009 (No. 123).

300. Some people were severely beaten on the street before[379] and after the march.[380] The IACHR received the following testimony from a person who was beaten when the march had already ended:

> I was on the ground when a policeman came up to me and immediately started beating me on the head with a club. He struck me several times. Then, two other police officers joined in, and continued to hit me. Then yet another police officer unbuttoned his vest; underneath the vest was a chain. He took it out and looked around to make certain no one was looking. Wielding the chain, he beat me on my back repeatedly, leaving me badly beaten. The other policemen beat me everywhere on my body (…) When we got to Escuela Hospital, I felt bad and was unable to breathe (…) I thought I was going to die, because I couldn't breathe. Just then several nurses came up and told the police to leave and that I was in no condition to go back to jail. The policemen protested, but the nurses told them "you already have him just about dead, you're going to kill him again.[381]

301. The same thing happened in Barrio El Chile, Comayagüela, as the following testimony recounts:

> I was leaving my house at the end of the bridge in Barrio El Chile when I encountered a cordon of around 40 soldiers. I asked the officer what was happening. He answered "Screw you" and ordered them to arrest me. I resisted. He then ordered them to beat me with a tube; they then took me by the neck and tore my shirt….[382]

302. Another demonstration was harshly suppressed by the security forces in San Pedro Sula on August 12.[383]

303. On August 14, a group of approximately 1200 people in the city of Choloma, Department of Cortés, staged a demonstration to protest against the *coup d'état*. They used the highway as the demonstration route. As agreed with the Police, the march would end at 12:00 p.m. At around 10:15 a.m., however, the police began to disperse the demonstrators with approximately 200 tear gas grenades. They beat them with batons, metal bats and construction rods.[384] Later, the demonstrators assembled around the police station to get information about the persons in custody

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[379] Testimony of E.Z.A., taken by the IACHR in Tegucigalpa on August 19, 2009 (No. 1*);* Testimony of D.R.P.M., taken by the IACHR on August 21, 2009 (No. 247).

[380] Testimony of E.N.V., taken by the IACHR in Tegucigalpa during the meeting with community leaders on August 17, 2009 (No. 155).

[381] Testimony of E.N.V., taken by the IACHR in Tegucigalpa during the meeting with community leaders on August 17, 2009 (No. 155*);* for their part, W.S.L and M.I.F. stated in their testimony, taken by the IACHR in Tegucigalpa on August 21, 2009 that they had been witnesses to the repression that the individual in question suffered (No. 267).

[382] Testimony of S.A.O.R., taken by the IACHR in Tegucigalpa on August 21, 2009 (No. 227).

[383] Testimony of E.E.R.H., taken by the IACHR in Tegucigalpa on August 19, 2009 (No. 216).

[384] Testimony of H.M.M., taken by the IACHR in Tegucigalpa on August 19, 2009 (No. 16*);* Testimony of M.M.V.Q., taken by the IACHR in Tegucigalpa on August 19, 2009 (No. 111*);* Testimony of S.C.C.E. and E.C.V., taken by the IACHR in Tegucigalpa on August 19, 2009 (No. 111*);* Testimony of H.M.V. and J.E.C., cited in ERIC, *Violación a los derechos humanos fundamentales [Violation of basic human rights], op. cit.*

there. The police, however, hurled tear gas, used a water canon and beat the demonstrators with batons inflicting serious injuries:[385]

> It looked like a pitched battle. They hurled grenades at us. The cruelty was terrible, as the elderly, women, defenseless demonstrators were bloodied and dragged. The police chief was right there, watching it all. Very few lawyers came. Only two. (…) When the policeman saw me he turned around and said to me "what the hell do you want, what's the matter." I told him that I was an attorney and he said to me "around here lawyers are worth s---." He hit me once in the chest and several times on my back.[386]

304. Some demonstrators also reported the presence of undercover agents,[387] striker-breakers and troublemakers,[388] as well as armed members of the security forces in civilian dress.[389] A number of people who participated in the marches to protest against the *coup d'état* reported having been threatened and followed by police.[390]

305. More recently, at a thematic hearing held during its 137th regular session, the Commission received information to the effect that at a press conference held on October 20, the National Police had announced that a permit was required for any public demonstrations, in the form of a written notification 24 hours in advance, stating the reason for the demonstration, the organizers, the times the demonstration would start and finish, and an explanation of how the demonstration would not disrupt freedom of movement. It was reported that in the week of October 26 to 30, two applications seeking permits for demonstrations that would begin at the Universidad Pedagógica Nacional had been denied. It was also reported that while a permit had been issued for a demonstration on October 29, the security forces had nonetheless suppressed the demonstration.

306. The Commission has deemed that requiring a police permit for any public event, assembly, election, conference, parade, congress or sports-related, cultural, artistic or family event to be disproportionately restrictive.[391] Although the Honduran Constitution provides for the possibility that special permits may be required for demonstrations held in the open air or those that are political in nature, from the facts and circumstances described it is apparent that the *de facto*

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[385] Testimony of H.T., taken by the IACHR in Tegucigalpa on August 19, 2009 (No. 10*;* Testimony of D.O.Z.F. and R.U., taken by the IACHR in Tegucigalpa on August 19, 2009 (No. 14).

[386] Testimony of S.E., taken by the IACHR at the meeting with human rights defenders in San Pedro Sula on August 19, 2009.

[387] Testimony of O.E.G., taken by the IACHR in Tegucigalpa on August 20, 2009 (No. 296).

[388] Testimony of J.E.E.A., taken by the IACHR in Tegucigalpa on August 21, 2009 (No. 166).

[389] Testimony of I.C.M., taken by the IACHR in Tegucigalpa on August 20, 2009 (No. 78).

[390] The Coordinator of the Revolutionary University Force told the IACHR that police agents in disguise were on university campuses on July 8, 2009; that students were followed on August 14, 2009, and that threatening notes were found at the FUR headquarters on August 19, 2009 (No. 269). Furthermore, a member of the Revolutionary Motorcyclists Club said that because of his participation in the marches protesting against the coup, he was harassed and followed on July 15, 2009; on June 18, 2009, they tapped his telephone and on July 21 police had tried to enter his home with a supposed search warrant. He also reported the presence of of undercover agents inside the motorcyclists' club. Testimony of J.M.O.P., taken by the IACHR in Tegucigalpa on August 21, 2009 (No. 161*;* Testimony of G.A.A.P., taken by the IACHR in Tegucigalpa on August 19, 2009 (No. 281).

[391] IACHR, *Report on the situation of human rights defenders in the Americas, op. cit.,* paragraph 56.

government has been demanding permits as a way of restricting, controlling and criminalizing demonstrations against the *coup d'état*.[392]

307. Furthermore, the alternative measures imposed on some of those detained on September 22, prohibited them from "attending demonstrations in support of Mr. Manuel Zelaya Rosales"[393] or from "attending political demonstrations or being present at places where members of the so-called resistance are assembled."[394]

308. As for the control of demonstrations, the Secretary of Defense stated that the Armed Forces were operating solely as backup to the Police, and that the Police Force was running the operations.[395] The Police authorities reported that the National Constitution gives the President the authority to mobilize the armed forces whenever he or she deems that the situation at hand is more than the Police are equipped to handle.[396] However, the Commission received information indicating that from the very outset the Army partnered the police to control demonstrations, as happened for example at the demonstration held in Comayagua on July 30.

309. The Supreme Court wrote the following in its observations: "No peaceful demonstration was suppressed; however, those demonstrations that turned violent were lawfully supressed by the use of reasonable force by the National Police, assisted by the Armed Forces."[397]

310. The Commission has written that the use of force is a last resort that is to be limited both qualitatively and quantitatively, employed solely to prevent a more serious occurrence than the one that prompted the State to intervene. Law enforcement officials may not, under any circumstances, resort to illegal practices to obtain the objectives entrusted to them. The Commission has stated categorically that the means that the State may employ to protect its security or that of its citizens are not without limits.[398]

311. The Commission has also written that the legitimate use of public force implies, *inter alia,* that it must be both necessary and proportional to the situation; in order words, that it must be exercised with moderation and in proportion to the legitimate end being sought, while at the same time endeavoring to keep personal injury and loss of human life to an absolute minimum.[399] In

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[392] For example, Executive Decree 016-2009 contained a provision that made authorization from the police or Army a prerequisite for holding public assemblies.

[393] Tegucigalpa Criminal Trial Court, Record of order for precautionary measures in the case of Agustina Flores López, dated October 12, 2009. Case file 39641-09. CEJIL, *Violaciones de derechos humanos [Violations of human rights], op.cit.*

[394] Court No.7, Record of the order for Precautionary Measures, Case File 39633-09. Information received by the IACHR on November 3, 2009.

[395] Information received by the IACHR during the meeting with the Secretariat of Defense in Tegucigalpa on August 18, 2009.

[396] Information received by the IACHR during the meeting with Police officials in Tegucigalpa on August 18, 2009.

[397] Observations made by the State of Honduras to the IACHR's Report, dated December 22, 2009 and signed by the Chief Justice of the Supreme Court, p. 19, paragraph 50.

[398] IACHR, Report No. 57/02 (Merits), Case 11,382, *Finca La Exacta* (Guatemala), October 21, 2002, paragraphs 35 et seq.; IACHR, Report No. 32/04 (Merits), Case 11,556, *Corumbiara Massacre* (Brazil), March 11, 2004, paragraphs 164 *et seq*.

[399] IACHR, *Report on the situation of human rights defenders in the Americas, op. cit,* paragraph 65, citing from ECHR, *Case Ribitsch v. Austria*, Judgment of 4 December 1995, Series A No. 336, paragraph 38.

order to be considered within international parameters, the degree of force exercised by state agents must not exceed what is "absolutely necessary." The State must not use force disproportionately and immoderately against individuals who, because they are under its control, do not represent a threat; in such cases, the use of force is disproportional.[400]

312. The Commission observes with concern that the Army, partnering with the National Police, is playing an active role in controlling demonstrations. While in states of emergency the armed forces can be called upon to participate in crowd control at demonstrations, this practice must be limited to the maximum because soldiers are trained to defeat an enemy; they do not receive the training that police receive for their job, which is to protect and control civilians.[401] As the Commission observed:

> in a democratic system it is essential to make a clear and precise distinction between internal security as a function for the police and national defense as a function for the armed forces, since they are two substantively different institutions insofar as the purposes for which they were created and their training and preparation are concerned. The history of the hemisphere shows that, broadly speaking, the intervention of armed forces in internal security matters is accompanied by violations of human rights in violent circumstances. Therefore, practice teaches us that it is advisable to avoid the intervention of the armed forces in matters of internal security since it carries a risk of human rights violations.[402]

313. As both the Inter-American Commission and the Inter-American Court have said, the use of force by state security forces must be regarded as the exception and not the rule, and must be planned and proportional to the situation. Force or other means of coercion should only be used when all other means have been exhausted and failed.[403]

314. Specifically, the Inter-American Court wrote that:

> When subduing public disturbances the State must do so in accordance with and in application of domestic law in an effort to restore public order, provided the law and the actions taken in application of it also conform to the applicable standards for the protection of human rights.[404] "Nevertheless, the power of the State in this matter is not unlimited; its actions must respect the fundamental rights of individuals under its jurisdiction and observe legal procedure.[405]

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[400] IACHR, *Report on the situation of human rights defenders in the Americas, op. cit.,* paragraph 65.

[401] IACHR, *Justicia e Inclusion Social: los desafíos de la democracia en Guatemala* [*Justice and social inclusion: the challenges of democracy in Guatemala*], in Spanish only, OEA/Ser.L/V/II.118, December 29, 2003, paragraph 113.

[402] IACHR, *Report on the situation of human rights in Venezuela*, OEA/Ser.L/V/II.118, October 24, 2003, paragraph 272.

[403] IACHR, *Report on the situation of human rights defenders in the Americas, op. cit.,* paragraph 66. I/A Court H.R., *Montero Aranguren et al. (Detention Center of Catia) v. Venezuela Case*. Judgment of July 5, 2006. Series C No. 150, paragraph 67.

[404] I/A Court H.R., *Hilaire, Constantine and Benjamin et al. v. Trinidad and Tobago Case*. Judgment of June 21, 2002. Series C No. 94, paragraph 217.

[405] I/A Court H.R., *Bulacio v. Argentina Case*. Judgment of September 18, 2003. Series C No. 100, paragraph 124; *Miguel Castro-Castro Prison v. Peru Case*. Merits, Reparations and Costs. Judgment of November 25, 2006. Series C No. 160, paragraph 240.

315. The reports received by the Commission during the visit are mutually corroborating in that they recount how the public mobilized to protest against the *coup d'état* and to express support for the mechanisms that would restore democracy in the country. Those demonstrations, however, were forcibly dispersed by police and military. On more than one occasion, the forces of law and order did not wait until the hour agreed upon with the demonstrators for the demonstrations to conclude and instead broke them up early, without any type of warning, using tear gas and pepper spray and deploying helicopters and water cannons. The Commission is deeply disturbed by the security forces' use of snipers and by the fact that under domestic law, police officers are authorized to carry and use tear gas (spray).[406]

316. The police authorities, for their part, said that they use dialogue to disperse demonstrations. They argue, however, that under domestic law, it is a crime to take over roads and bridges, which means that even when dialogue fails, the demonstrations still have to be dispersed.[407] The military authorities also asserted that Army soldiers do not use bayonets; instead, they use rifles with rubber bullets and devices such as tear gas. They denied the accusations that the Army was detaining and torturing people.[408]

317. The Supreme Court stated the following in its observations: "Concerning the conduct of the National Police, with the support of the Armed Forces, and the use of tear gas grenades, water cannons, bullets and beatings with batons or "toletes" [truncheons], Article 39 of the Police and Social Coexistence Act provides that the Police may use coercive force or instruments when other non-violent means have been exhausted or failed, in order to prevent the imminent or actual commission of crimes or misdemeanors, all for the sake of ensuring that public order and peaceful co-existence are preserved and restored, defending others from a physical or psychological violation, etc. Principle 2, under General Provisions of the United Nations Basic Principles on the Use of Force and Firearms by Law Enforcement Officials states that "Governments and law enforcement agencies should develop a range of … non-lethal incapacitating weapons for use in appropriate situations, with a view to increasingly restraining the application of means capable of causing death or injury to persons." Article 34 of the Organic Police Statute provides that "when the National Police are unable to deal with special situations on their own, such as unforeseeable circumstances or force majeure or the commission of a crime against the security of the State, it may request the support of

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[406] Article 5 of the Manual on the Use of Force for Honduran Law Enforcement Institutions provides that: "The appropriate levels of non-lethal force shall be applied in the following order: persuasion; physical restraint; preventive custody; use of irritant sprays that do not cause permanent injury; use of batons; use of police flashlights, use of police vehicles."

Article 9: "If tear gas spray is available, it may be used if it is necessary to physically subdue a criminal and thus avoid the use of batons or firearms. In this case, the following steps must be followed: 1. Spray a short burst in the direction of the subject's face to physically disable him, but keep his face and skin exposed to the air. Whenever possible the subject's face and affected skin should be washed with water. 2. If the tear gas causes some injury, the subject is to be given medical treatment. 3. A verbal report is to be filed with one's immediate superior and a written report is to be drafted as soon as possible."

Article 11: "Peaceful resistance by a person is not sufficient cause to justify the use of batons. In such a situation, the police officer should endeavor to find some other means to restrain the subject before resorting to batons." Article 12: "The following use of the police stick shall be prohibited: 1. - Striking the person on the head, spinal column, sternum, kidneys and genitalia; 2. - Strangling a person. 3. - Putting a person in a restraining lock that can dislocate joints or break bones."

[407] Information received during the IACHR's meeting with high-ranking police officials in Tegucigalpa on August 18, 2009.

[408] Information received during the IACHR's meeting with the Military High Command in Tegucigalpa on August 18, 2009.

the Municipal Police Force or the military authority, who shall supply that support with the diligence and urgency that the situation demands."[409]

318. The testimony, photographs, video, testing and copies of court records obtained by the Commission show that the security forces did use violence against the demonstrators, verbally abusing them, spraying them, kicking them and beating them on the head, feet, thorax, back, stomach and genitals with batons, shields, metal rods, chains and other instruments, even when the demonstrators were offering no resistance and despite the fact that the police stick is a last resort and its use on those parts of the body is prohibited. As a result of these actions, hundreds of demonstrators, many of whom were children, were seriously wounded; a number were left with some temporary or permanent disability.[410] The Commission is particularly troubled by the events of July 30, when around 40 people were locked up in the back of a military truck and a tear gas grenade was thrown inside.

319. The very same practices were used at the military and police roadblocks where the persons detained were physically and verbally assaulted, were subjected to interrogation and harassment, and dispersed through the use of tear gas grenades, bullets and beatings with batons and other instruments.

320. What is more, the injuries and deaths that occurred suggest that despite their claims to the contrary, the security forces were carrying and used firearms. The "Basic Principles on the Use of Force and Firearms by Law Enforcement Officials" provide that intentional "lethal use of firearms may only be made when strictly unavoidable in order to protect life" and when less extreme means are insufficient to achieve the objectives.[411]

321. Finally, the persons detained stated that there were unable to communicate with family, were held in overcrowded conditions –given the large numbers of persons crowded into small cells with no ventilation despite the high temperatures- and had no access to food, drinking water, sanitary services, or proper medical care. And although women, men and children were detained, the cells were not segregated by sex or age.

322. No matter the circumstances, the right to humane treatment is, like the right to life, non-derogable. The Commission believes that the operations implemented by the security forces to break up the demonstrations through excessive and disproportionate use of force, affected the physical and mental integrity of the demonstrators, who were subjected to cruel, inhuman and degrading treatment. These tactics, coupled with the state of emergency, were calculated to prevent those who opposed the *de facto* government from freely exercising their right of assembly. Furthermore, from the detailed information obtained, it is clear that the conditions under which persons deprived of their liberty were held also constituted violations of the right to humane treatment.

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[409] Observations made by the State of Honduras to the IACHR's Report, dated December 22, 2009 and signed by the Chief Justice of the Supreme Court, pp. 12-13, paragraph 23.

[410] According to the information presented during the IACHR's 137th regular session, 133 people were subjected to cruel, inhuman and degrading treatment, 211 were assaulted with unconventional weapons, 453 were injured or beaten, and 21 suffered serious injuries. COFADEH, *Segundo informe [Second report], op. cit.* p. 11.

[411] United Nations, "*Basic Principles on the Use of Force and Firearms by Law Enforcement Officials,*" adopted at the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders, Havana, Cuba, August 27 to September 7, 1990, principles 4 and 9. See also, Courte HR, *Miguel Castro-Castro Prison v. Peru Case*. Merits, Reparations and Costs. Judgment of November 25, 2006. Series C No. 160, paragraph 239.

3. Compulsory Military Service

323. The IACHR received information on a draft legislative decree that the Secretary of National Defense has introduced to amend the existing military service laws to bring them in line with the amendments introduced in the Constitution in 1994, in which Military Service was made voluntary.

324. Article 276 of the Constitution of the Republic reads as follows:

> Citizens between the ages of eighteen (18) and thirty (30) shall provide military service voluntarily in peace time, under the modality of an educational, social, humanistic and democratic system. Under the Military Service Act, the State has conscription authority.
>
> In time of international war, all Hondurans capable of defending and rendering service to the country are soldiers.

325. The IACHR has been told that under this amendment, which is being fast-tracked by Congress, the circumstances under which the State could draft citizens into military service –in other words, that military service would be compulsory- are not clearly spelled out.[412]

326. The Supreme Court reported the following in its observations: "Military service is voluntary under Article 276 of the Constitution of the Republic. The draft Decree which the administration of Mr. Zelaya Rosales submitted to Congress and which the latter had under consideration does not violate any provision of the Constitution or the human rights of the inter-American system; nevertheless, discussion of that draft has been temporarily suspended. The Government flatly denies the assertion that some branches of the Armed Forces, the Army in particular, have attempted to recruit youth."[413]

327. The Commission does not have much information about this possible legislative amendment. However, the Commission would like to point out that any amendment to the Military Service Act must conform to the provisions of the Constitution of the Republic and those human rights instruments of the Inter-American System to which Honduras is party. Having said this, the Commission is of the view that in the context of the *coup d'état* and militarization, a law of this kind has no legitimacy whatsoever, especially when one considers that any law emanating from a *de facto* government is illegitimate *ab initio.*

4. Complaints from the INTUR Group

328. During its visit, the Commission received testimony and complaints against demonstrators supporting President Zelaya, who on at least 9 occasions had looted and destroyed local businesses.[414] Reference will be made to the three episodes that gained the most notoriety.

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[412] Article 40 of the draft Decree received by the IACHR on August 21, 2009, reads as follows: "Conscription. Citizens shall be conscripted into military service when any of the following conditions are present: 1) when the Armed Forces' operational preparedness is below seventy percent (70%); 2) when a public calamity or emergency occurs that requires the use of state resources to mitigate its effects; and 3) when indicia confirm the presence of external threats of invasion or an attack on the national territory. Reserves shall be mobilized for the reasons specified in this law."

[413] Observations made by the State of Honduras to the IACHR's Report, dated December 22, 2009 and signed by the Chief Justice of the Supreme Court, p. 19, paragraph 51.

[414] Testimony of H.M., taken by the IACHR in Tegucigalpa on August 19, 2009 (No. 313).

329. On August 5, between 12:00 a.m. and 1:00 p.m., employees and customers of the *Pollo Campero*[415], *Dunkin Donuts*[416] *and Burger King*[417] restaurants, all of which are part of the INTUR group, were, according to their complaints, the victims of acts of vandalism, threats, damage and destruction of machinery and facilities, perpetrated by the Bloque Popular, the Frente de Reforma Universitario, the *Frente Universitario Revolucionarios*, teachers and leaders who were protesting against the *coup d'état* as part of the movement on the campus of the UNAH.[418]

330. That same day, in the area Juan Pablo Segundo Boulevard, specifically at the *Burger King, Pollo Campero, Chili's, Dunkin Donuts* and *Little Caesar's* restaurants, also part of the INTUR group, a group of demonstrators belonging to the Bloque Popular, the Frente de Reforma Universitaria and the *Frente Universitario Revolucionario* had allegedly made death threats against the employees and had damaged the facilities.[419]

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[415] Testimony of M.R.N.M.; taken by the IACHR in Tegucigalpa on August 20, 2009 (No. 315); Testimony of C.J.T., taken by the IACHR in Tegucigalpa on August 20, 2009 (No. 399); Testimony of J.V.C.G., taken by the IACHR in Tegucigalpa on August 20, 2009 (No. 400).

[416] Testimony of M.R.N.M., taken by the IACHR in Tegucigalpa on August 20, 2009 (No. 315)

[417] Testimony of M.R.N.M., taken by the IACHR in Tegucigalpa on August 20, 2009 (No. 315); Testimony of M.A.M., taken by the IACHR in Tegucigalpa on August 20, 2009 (No. 391); Testimony of J.C.M., taken by the IACHR in Tegucigalpa on August 20, 2009 (No. 392); Testimony of N.S., taken by the IACHR in Tegucigalpa on August 20, 2009 (No. 393); Testimony of C.A.D.Z., taken by the IACHR in Tegucigalpa on August 20, 2009 (No. 395); Testimony of D.L., taken by the IACHR in Tegucigalpa on August 20, 2009 (No. 396); Testimony of A.Y.S., taken by the IACHR in Tegucigalpa on August 20, 2009 (No. 398); Testimony of I.P.H., taken by the IACHR in Tegucigalpa on August 20, 2009 (No. 401); Testimony of D.S., taken by the IACHR in Tegucigalpa on August 20, 2009 (No. 402); Testimony of J.D.L.H., taken by the IACHR in Tegucigalpa on August 20, 2009 (No. 404).

[418] Testimony of D.A.B., taken by the IACHR in Tegucigalpa on August 20, 2009 (No. 325); Testimony of J.C.A.G., taken by the IACHR in Tegucigalpa on August 20, 2009 (No. 326); Testimony of O.E.R.M., taken by the IACHR in Tegucigalpa on August 20, 2009 (No. 327); Testimony of J.O.F., taken by the IACHR in Tegucigalpa on August 20, 2009 (No. 328); Testimony of L.R.A.R., taken by the IACHR in Tegucigalpa on August 20, 2009 (No. 329); Testimony of J.H.V., taken by the IACHR in Tegucigalpa on August 20, 2009 (No. 330); Testimony of S.L., taken by the IACHR in Tegucigalpa on August 20, 2009 (No. 331); Testimony of E.H., taken by the IACHR in Tegucigalpa on August 20, 2009 (No. 332); Testimony of L.G.A.C., taken by the IACHR in Tegucigalpa on August 20, 2009 (No. 333); Testimony of E.J.M.F., taken by the IACHR in Tegucigalpa on August 21, 2009 (No. 353).

[419] Testimony of A.R.M.C., taken by the IACHR in Tegucigalpa on August 21, 2009 (No. 355); Testimony of M.E.E.R., taken by the IACHR in Tegucigalpa on August 21, 2009 (No. 356); Testimony of J.R.A.M., taken by the IACHR in Tegucigalpa on August 21, 2009 (No. 357); Testimony of J.D.H., taken by the IACHR in Tegucigalpa on August 21, 2009 (No. 358). Testimony of E.G.A., taken by the IACHR in Tegucigalpa on August 21, 2009 (No. 359); Testimony of M.A., taken by the IACHR in Tegucigalpa on August 21, 2009 (No. 360); Testimony of E.J.E.R., taken by the IACHR in Tegucigalpa on August 21, 2009 (No. 361); Testimony of M.C., taken by the IACHR in Tegucigalpa on August 21, 2009 (No. 362); Testimony of H.J.I.R.P., taken by the IACHR in Tegucigalpa on August 21, 2009 (No. 363); Testimony of J.E.A.Q., taken by the IACHR in Tegucigalpa on August 21, 2009 (No. 364); Testimony of W.R.A.S., taken by the IACHR in Tegucigalpa on August 21, 2009 (No. 365); Testimony of C.Y.H.L., taken by the IACHR in Tegucigalpa on August 21, 2009 (No. 367); Testimony of F.G.A., taken by the IACHR in Tegucigalpa on August 21, 2009 (No. 368); Testimony of G.A.A.S., taken by the IACHR in Tegucigalpa on August 21, 2009 (No. 378); Testimony of J.M.C.B., taken by the IACHR in Tegucigalpa on August 21, 2009 (No. 379); Testimony of D.A.A., taken by the IACHR in Tegucigalpa on August 21, 2009 (No. 388); Testimony of W.P.M.H., taken by the IACHR in Tegucigalpa on August 21, 2009 (No. 389); Testimony of A.Y.G., taken by the IACHR in Tegucigalpa on August 21, 2009 (No. 390); Testimony of D.A.A.P., taken by the IACHR in Tegucigalpa on August 20, 2009 (No. 403); Testimony of V.M.C.G., taken by the IACHR in Tegucigalpa on August 20, 2009 (No. 405); Testimony of M.E.L., taken by the IACHR in Tegucigalpa on August 20, 2009 (No. 406); Testimony of A.S.G.M., taken by the IACHR in Tegucigalpa on August 20, 2009 (No. 407); Testimony of L.E.M., taken by the IACHR in Tegucigalpa on August 20, 2009 (No. 408); Testimony of D.I.B.R., taken by the IACHR in Tegucigalpa on August 20, 2009 (No. 409*;* Testimony of K.Y.R., taken by the IACHR in Tegucigalpa on August 20, 2009 (No. 410*;* Testimony of J.P.F.P., taken by the IACHR in Tegucigalpa on August 20, 2009 (No. 411*;* Testimony of A.V.V., taken by the IACHR in Tegucigalpa on August 20,

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331. At around 3:00 p.m. on August 12, a group of demonstrators –some of whom had their faces covered- threatened employees at the *Burger King* and *Dunkin Donuts* restaurants in the Midence Soto building, the *Pollo Campero* and *Churs Chicken* on the Paseo Liquidámber and the *Little Caesar's* restaurant located adjacent to Tegucigalpa's central park. They threatened to burn down the restaurants unless the restaurants closed their doors. They also vandalized the facilities and took money from the cash registers.[420] It was also reported that the Popeye's restaurant and a school bus on Miraflores Boulevard were set on fire.

332. As was said at the press conference held at the end of the Commission's on-site visit, the Commission again condemns any act of violence, whatever its form. Nevertheless, in the case of the complaints made specifically by the employees of the INTUR group, the Commission observes that these are charges against private parties, in which the State's international responsibility is not being alleged.[421]

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2009 (No. 412*);* Testimony of D.E., taken by the IACHR in Tegucigalpa on August 20, 2009 (No. 413*);* Testimony of J.C.A.A., taken by the IACHR in Tegucigalpa on August 20, 2009 (No. 414*);* Testimony of W.C.F., taken by the IACHR in Tegucigalpa on August 20, 2009 (No. 416*);* Testimony of I.M.L., taken by the IACHR in Tegucigalpa on August 20, 2009 (No. 417*);* Testimony of D.S.I.C., taken by the IACHR in Tegucigalpa on August 20, 2009 (No. 418*);* Testimony of H.A.D.V., taken by the IACHR in Tegucigalpa on August 20, 2009 (No. 419*);* Testimony of J.R.E., taken by the IACHR in Tegucigalpa on August 20, 2009 (No. 420*);* Testimony of J.R.R., taken by the IACHR in Tegucigalpa on August 20, 2009 (No. 421*);* Testimony of O.A.C.C., taken by the IACHR in Tegucigalpa on August 20, 2009 (No. 422*);* Testimony of E.A.V., taken by the IACHR in Tegucigalpa on August 20, 2009 (No. 423*);* Testimony of S.Y.H.Z., taken by the IACHR in Tegucigalpa on August 20, 2009 (No. 424*);* Testimony of Y.A.L.D., taken by the IACHR in Tegucigalpa on August 20, 2009 (No. 425*);* Testimony of N.R.C.S., taken by the IACHR in Tegucigalpa on August 20, 2009 (No. 426*);* Testimony of M.J.A.V., taken by the IACHR in Tegucigalpa on August 20, 2009 (No. 427).

[420] Testimony of D.E.P.E, taken by the IACHR in Tegucigalpa on August 17, 2009 (No. 334*);* Testimony of N.N.F., taken by the IACHR in Tegucigalpa on August 17, 2009 (No. 335*);* Testimony of R.L.L., taken by the IACHR in Tegucigalpa on August 21, 2009 (No. 336*);* Testimony of M.G.C., taken by the IACHR in Tegucigalpa on August 21, 2009 (No. 337*);* Testimony of A.M.S., taken by the IACHR in Tegucigalpa on August 21, 2009 (No. 338*);* Testimony of L.C.V., taken by the IACHR in Tegucigalpa on August 21, 2009 (No. 339*);* Testimony of N.Y.G.C., taken by the IACHR in Tegucigalpa on August 21, 2009 (No. 340*);* Testimony of D.M., taken by the IACHR in Tegucigalpa on August 21, 2009 (No. 341*);* Testimony of M.S.F., taken by the IACHR in Tegucigalpa on August 21, 2009 (No. 342*);* Testimony of M.A.M.M., taken by the IACHR in Tegucigalpa on August 21, 2009 (No. 343*);* Testimony of R.R.R., taken by the IACHR in Tegucigalpa on August 21, 2009 (No. 344*);* Testimony of V.J.H.C., taken by the IACHR in Tegucigalpa on August 21, 2009 (No. 345*);* Testimony of M.D.M., taken by the IACHR in Tegucigalpa on August 21, 2009 (No. 346*);* Testimony of N.R.R., taken by the IACHR in Tegucigalpa on August 21, 2009 (No. 347*);* Testimony of D.M.O.P., taken by the IACHR in Tegucigalpa on August 21, 2009 (No. 348*);* Testimony of A.A.F.R., taken by the IACHR in Tegucigalpa on August 21, 2009 (No. 349*);* Testimony of P.M.M., taken by the IACHR in Tegucigalpa on August 21, 2009 (No. 350*);* Testimony of C.J.C.A., taken by the IACHR in Tegucigalpa on August 21, 2009 (No. 351*);* Testimony of P.R.C., taken by the IACHR in Tegucigalpa on August 21, 2009 (No. 352*);* Testimony of R.O.L., taken by the IACHR in Tegucigalpa on August 21, 2009 (No. 366*);* Testimony of R.A.B., taken by the IACHR in Tegucigalpa on August 21, 2009 (No. 369*);* Testimony of I.E., taken by the IACHR in Tegucigalpa on August 21, 2009 (No. 370*);* Testimony of M.C.T., taken by the IACHR in Tegucigalpa on August 21, 2009 (No. 371*);* Testimony of L.A.H.M., taken by the IACHR in Tegucigalpa on August 21, 2009 (No. 372*);* Testimony of Z.E.P., taken by the IACHR in Tegucigalpa on August 21, 2009 (No. 373*);* Testimony of G.Y.V., taken by the IACHR in Tegucigalpa on August 21, 2009 (No. 374*);* Testimony of V.M.M., taken by the IACHR in Tegucigalpa on August 21, 2009 (No. 375*);* Testimony of J.F.R., taken by the IACHR in Tegucigalpa on August 21, 2009 (No. 376*);* Testimony of J.R.A., taken by the IACHR in Tegucigalpa on August 21, 2009 (No. 377*);* Testimony of I.V., taken by the IACHR in Tegucigalpa on August 20, 2009 (No. 397*);* Testimony of D.M.S.M., taken by the IACHR in Tegucigalpa on August 20, 2009 (No. 428*);* Testimony of J.R.A., taken by the IACHR in Tegucigalpa on August 20, 2009 (No. 429*);* Testimony of D.J.G.G., taken by the IACHR in Tegucigalpa on August 20, 2009 (No. 430).

[421] Article 44 of the American Convention on Human Rights reads as follows: "Any person or group of persons, or any nongovernmental entity legally recognized in one or more member states of the Organization, may lodge petitions with the Commission containing denunciations or complaints of violation of this Convention by a State Party".

333. The IACHR has held that:

> The international protection provided by the supervisory bodies of the Convention is of a subsidiary nature. The Preamble to the Convention is clear in this respect, when it refers to the reinforcement or complementing of the protection provided by the domestic law of the American states. The rule of prior exhaustion of domestic remedies is based on the principle that a defendant state must be allowed to provide redress on its own and within the framework of its internal legal system. The effect of this rule is to assign to the jurisdiction of the Commission an essentially subsidiary role.[422]

334. Under these circumstances, it is the responsibility of the domestic courts, to which the affected parties have already turned, to determine who is responsible, the penalties they should face and the reparations owed to the injured parties, all in accordance with the principles of due process.

D. Right to Personal Liberty

335. Article 7 of the American Convention on Human Rights reads as follows:

> 1. Every person has the right to personal liberty and security.
>
> 2. No one shall be deprived of his physical liberty except for the reasons and under the conditions established beforehand by the constitution of the State Party concerned or by a law established pursuant thereto.
>
> 3. No one shall be subject to arbitrary arrest or imprisonment.
>
> 4. Anyone who is detained shall be informed of the reasons for his detention and shall be promptly notified of the charge or charges against him.
>
> 5. Any person detained shall be brought promptly before a judge or other officer authorized by law to exercise judicial power and shall be entitled to trial within a reasonable time or to be released without prejudice to the continuation of the proceedings. His release may be subject to guarantees to assure his appearance for trial.
>
> 6. Anyone who is deprived of his liberty shall be entitled to recourse to a competent court, in order that the court may decide without delay on the lawfulness of his arrest or detention and order his release if the arrest or detention is unlawful. In States Parties whose laws provide that anyone who believes himself to be threatened with deprivation of his liberty is entitled to recourse to a competent court in order that it may decide on the lawfulness of such threat, this remedy may not be restricted or abolished. The interested party or another person in his behalf is entitled to seek these remedies.
>
> 7. No one shall be detained for debt. This principle shall not limit the orders of a competent judicial authority issued for non-fulfillment of duties of support.

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[422] IACHR, Report No. 39/96 (Inadmissibility), Case 11.673, *Marzioni* (Argentina), October 15, 1996, paragraphs 48 and 49.

336. The Commission has written the following in connection with this article:

> The analysis of the compatibility of the deprivation of liberty with the provisions of Article 7.2 and 3, of the American Convention should be done in three phases. The first consists of determining the legality of the detention from a material and formal standpoint. To do so, it must be determined whether this action is compatible with the domestic legislation of the State in question. The second step involves the analysis of these domestic provisions within the context of the guarantees established by the American Convention, in order to determine whether they are arbitrary. Finally, if the detention meets the requirements of a domestic legal provision that is compatible with the American Convention, it should be determined whether the application of this law in this specific case was arbitrary.[423]

337. The Inter-American Court, for its part, has on several occasions held that Article 7 of the Convention regulates the guarantees essential to protect personal liberty. Specifically with reference to clauses 2 and 3 it has held that:

> according to the first of these regulatory provisions [Article 7(2) of the Convention], no one shall be deprived of his personal liberty except for reasons, cases or circumstances specifically established by law (material aspect) but, also, under strict conditions established beforehand by law (formal aspect). … [under] the second provision [Article 7(2) of the Convention], … no one shall be subject to arrest or imprisonment for causes or methods that – although qualified as legal – may be considered incompatible with respect for the fundamental rights of the individual, because they are, *inter alia*, unreasonable, unforeseeable or out of proportion.[424]

338. The Court has written that the protection of personal liberty safeguards "both the physical liberty of the individual and his personal safety, in a context where the absence of guarantees may result in the subversion of the rule of law and deprive those detained of the minimum legal protection."[425] Article 7 of the Convention is a guarantee against arbitrary arrest and detention, and strictly provides that the grounds and procedures for arrest and detention shall be those defined by law. It is also a guarantee of prompt and effective judicial oversight of the conditions at detention facilities in order to protect the wellbeing of those being detained at a time when they are entirely under the State's control and, therefore, particularly vulnerable to abuses of authority.[426] It has been observed in this respect that where detention is not ordered or promptly supervised by a competent judicial authority, where the detainee may not fully understand the reason for the detention or have access to legal counsel, and where the detainee's family may not

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[423] IACHR, Report No. 53/01 (Merits), Case 11,565, *Ana, Beatriz and Celia González Pérez* (Mexico), April 4, 2001, paragraph 23.

[424] I/A Court H.R., *Acosta Calderón v. Ecuador Case*. Judgment of June 24, 2005. Series C No. 129, paragraph 57; I/A Court H.R., *Tibi v. Ecuador Case*. Judgment of September 7, 2004. Series C No. 114, paragraph 98.

[425] I/A Court H.R., *Acosta Calderón vs. Ecuador Case, op. cit.,* paragraph 74; *Tibi vs. Ecuador Case, op. cit.,* paragraph 97; *Gómez Paquiyauri Brothers vs. Peru Case, op. cit.,* paragraph 82.

[426] As the Court has held on several occasions, "the State, which is responsible for detention facilities, is the guarantor of these rights of detainees."" I/A Court H.R., *Neira Alegría et al. v. Peru Case*. Judgment of January 19, 1995. Series C No. 20 paragraph 60; *Cantoral Benavides v. Peru Case.* Judgment of August 18, 2000. Series C No. 69, paragraph 87.

have been able to locate him or her promptly, there is clear risk, not just to the legal rights of the detainee, but also to his or her personal integrity.[427]

339. As for domestic law, Article 69 of the Constitution of Honduras states the following: "Personal liberty is inviolate and may only be restricted or temporarily suspended by the means and under the circumstances that the law prescribes."

340. Thousands of unlawful and arbitrary detentions have been made since the *coup d'état*, both in enforcing the curfew and during the demonstrations in support of President Zelaya. Specifically, the Commission has received information regarding detentions in which the requirements stipulated in domestic and international law were not observed.

341. According to the information received, in the days following the *coup d'état* – specifically, the period from June 28 to July 12- 1029 detentions were made;[428] the total number of detentions for the period from June 28 to October 10 was 3033.[429] According to information from COFADEH, the following illegal detention centers were established: the municipal gymnasium in San Marcos de Colón, Choluteca; military tents in the Verdugo sector of the municipality of El Paraíso, department of El Paraíso; the base of the Cobra Special Strike Force in Colonia 21 de octubre, Tegucigalpa; the columned patio area ["Los Bajos"] of the National Congress building and the basement of the Congress building.

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[427] IACHR, *Report on Terrorism and Human Rights*, OEA/Ser.L/V/ll.116, Doc. 5 rev. 1 corr., October 22, 2002, paragraph 121.

[428] The following were detained at the fourth police station in the Belén Section: i) on June 28, 2009, 22 detainees for breach of the peace; ii) June 29, 2009, 75 detainees for breach of the peace and 26 for curfew violation; iii) June 30, 2009, 46 persons detained for breach of the peace and 14 for curfew violation; iv) on July 1, 2009, 16 detainees for breach of the peace and 14 for curfew violation; v) July 2, 2009, 18 persons detained for breach of the peace and 26 for curfew violation; vi) July 3, 2009, 14 persons detained for breach of the peace and 74 for curfew violation; vii) July 4, 2009 (as of 11:00 a.m.) 9 persons detained for breach of the peace, including seven minors.

At the district 1-3 police post, Colonia San Miguel, the following were detained for breach of the peace and curfew violation; i) on June 28, 2009, 19 adults, 1 minor; ii) July 29, 10 adults, 5 minors; iii) July 2, 10 adults.

At the district 3-3 police post, Barrio La Granja, the following were detained for breach of the peace and curfew violation: i) June 29, 17 adults, 5 minors; ii) June 30, 6 adults, 2 minors; iii) July 1, 4 adults, 1 minor; iv) July 2, 7 adults and 3 minors; v) July 4, 8 adults and 6 minors; vi) July 5, 8 adults and 2 minors; vii) July 6, 28 adults and 17 minors.

At district 1-4 police post, Colonia Kennedy, the following were detained for breach of the peace and curfew violation: i) June 28, 1 adult; ii) June 29, 1 adult; iii) June 30, 5 adults; iv) July 2, 6 adults and 3 minors; v) July 3, 11 adults; vi) July 4, 17 adults; vii) July 5, 13 adults and 7 minors; viii) July 8, 1 adult; ix) July 9, 1 adult; x) July 10, 24 adults and 6 minors.

At the police post serving the El Manchén Barrio, the following were detained for breach of the peace and curfew violation: i) June 28, 34 adults and 3 minors; ii) July 4, 66 adults; iii) July 6, 25 adults; iv) July 7, 13 adults; v) July 8, 8 adults; vi) July 9 8 adults, vii) July 10, 22 adults; viii) July 11, 31 adults, and ix) July 12, 11 adults.

As of August 14, 2009, 1046 persons had been detained in the Central District; 104 persons in Tocoa, Department of Colón; 233 persons in San Pedro Sula, department of Cortés; 60 persons in Santa Bárbara; 9 persons in Trujillo, department of Colón; 7 persons in El Progreso, department of Yoro; 1 person in Marcala, La Paz, and 241 persons in the department of El Paraíso. COFADEH, *Informe preliminary [Preliminary report], op. cit*.

[429] COFADEH, *Segundo informe. Violaciones a derechos humanos en el marco del golpe de Estado en Honduras. Cifras y Rostros de la Represión [Second Report. Human Rights Violations in the context of the* coup d'état *in Honduras. Figures and Faces of Repression]*. Available [in Spanish] at: http://www.cofadeh.org7html/documentos/segundo_informe_situacionl_resumen_violaciones_ddhh_golpe_estado.pdf.

342. According to the Secretariat of Security, between June 29 and August 15, 213 people were detained for crimes and misdemeanors, and 3430 for violating the curfew. The total number of foreign nationals detained during that period was 150; 113 of these were Nicaraguans.[430]

343. During the June 29 demonstration in Tegucigalpa, 92 persons were detained – among them nine children and six women. These people were taken to police cells where the conditions of detention were not adequate and those detained were not segregated by sex and age. They were also denied medical treatment and were not allowed to make phone calls to family members. They were ultimately released thanks to the efforts of the Office of the Special Prosecutor for Human Rights and nongovernmental human rights organizations, among them the Center for Research and Promotion of Human Rights (CIPRODEH), the Committee of Relatives of Detainees – Disappeared in Honduras (COFADEH) and the Center for the Prevention of Torture and Treatment and Rehabilitation of Its Victims and Their Families (CPTRT).[431]

344. On July 2, between 150 and 200 demonstrators –including nine children- were detained in San Pedro Sula. Reportedly, only 78 detentions were registered.[432] That same day, 31 persons were detained for vandalism. They were released because the Prosecutor's Office allegedly did not have sufficient evidence to bring criminal charges.[433]

345. On July 4, a group of 25 persons on a bus traveling from Trujillo to Tegucigalpa was detained by the Army at the La Esperanza turnoff in the city of Siguatepeque, department of Comayagua. They were held from 3:00 p.m. to 5:30 p.m. and were released thanks to the steps taken by the Siguatepeque Human Rights Commission.[434]

346. On July 8, a group of demonstrators was detained at the El Durazno police station in Comayagüela. No record was made of their detention. They were released thanks to the steps taken by COFADEH attorneys.[435]

347. On July 12, in the city of Trujillo, department of Colón, in the sector know as "El Triángulo," where a police and military roadblock had been set up, police detained two individuals who were on their to Guadalupe Carney and beat them for no reason.[436]

348. According to CONADEH's report, between June 29 and July 7 CONADEH personnel visited police stations nationwide, both in the morning and in the evening. Not one of the people

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[430] Information supplied to the IACHR during the meeting with the Secretariat of Security in Tegucigalpa on August 18, 2009 (No. 524).

[431] CIPRODEH, *Reporte de Violaciones a Derechos Humanos [Report on Human Rights Violations], op. cit*. Testimony of F.W.C.R., taken by the IACHR in Tegucigalpa on August 18, 2009 (No. 294).

[432] CIPRODEH, *Reporte de Violaciones a Derechos Humanos [Report on Human Violations], op. cit*. Case file on Petition of *Habeas Corpus* No. 62-09 filed on behalf of Ernesto Bardales, Darlyn García Rodríguez, Joel Elio Vásquez, Luis Cruz, Elvin Espinoza, Ever Jeovanny Flores, Cristian Isabel Sánchez, Miguel Angel Chavarria, José David Barahona, José Manuel Pacheco and Germán Danilo Amaya. In her report, the executor judge denied the petition alleging that the detention "*had been lawful*." Information received by the IACHR on August 19, 2009 (No. 211).

[433] Case file 61-09 on writ of *habeas corpus* filed on behalf of Ernesto Bardales and Abrahan Pavón Zalasar. Information received by the IACHR on August 19, 2009 (No. 212).

[434] Testimony of J.L.C.C., taken by the IACHR in Tegucigalpa on August 19, 2009 (No. 304).

[435] Testimony of J.E.E.A., taken by the IACHR in Tegucigalpa on August 21, 2009 (No. 166).

[436] Testimony of O.A.P.C., taken by the IACHR in Tegucigalpa on August 19, 2009 (No. 306).

they found there had been lawfully detained. The CONADEH staff assured those detained during the curfews that they would be released when the curfews were over.[437]

349. On July 29, the preventive police in Tegucigalpa detained a number of individuals –women and children among them. These detainees were beaten, threatened and taken to the San Miguel police station, where they were incarcerated in small cells. The only woman detained was taken to the El Manchén police station. These detentions were not recorded. The detainees were not informed of the reasons why they had been detained and were not read their rights. Two hours later, a human rights organization intervened to secure their release.[438]

350. During the July 30 demonstration in Ojo de Agua, around a hundred people,[439] children included,[440] were detained and taken to the Comayagua police station. They were not told the reasons for their detention and no record of their detention was made.[441] Attorneys from COFADEH filed a petition of *habeas corpus* at 2:00 p.m., with the First Trial Court of the Comayagua district. The complaint was filed against the Commissioner in charge of the Comayagua Preventive Police Headquarters.[442] The attorneys succeeded in securing the release of 86 detainees at 1:00 a.m. the following day. The other 12 persons remained in custody until 4:00 p.m. on July 31 and were released for lack of evidence to substantiate the charges.[443] Some of these people were released while the curfew was in force, which meant that they were unable to leave the police station until the curfew was over.[444]

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[437] CONADEH Report, *op. cit.,* p. 11.

[438] Testimony of C.G.D.S. and C.A.P.R., taken by the IACHR in Tegucigalpa on August 21, 2009 (No. 145).

[439] Testimony of R.B.L., taken by the IACHR in Tegucigalpa on August 21, 2009 (No. 152). Testimony of D.L.B., taken by the IACHR in Tegucigalpa on August 21, 2009 (No. 154). Testimony of O.T.F.G., taken by the IACHR in Tegucigalpa on August 20, 2009 (No. 67).

[440] Testimony of M.P.P., taken by the IACHR in Tegucigalpa on August 20, 2009 (No. 57).

[441] Testimony of J.F.M.M., G.M.O., R.F.R., A.P.C., M.A.C., L.E.G., O.A.M.C., L.A.B.I. and R.E.E.C., taken by the IACHR in Tegucigalpa on August 17, 2009 (No. 8). Testimony of R.O.F.A., taken by the IACHR in Comayagua on August 20, 2009 (No. 64). Testimony of C.A.G.B., taken by the IACHR in Comayagua on August 20, 2009 (No. 69). Testimony of N.A.M.D., taken by the IACHR in Comayagua on August 20, 2009 (No. 73). Testimony of M.E.S.H., taken by the IACHR in Comayagua on August 20, 2009 (No. 75). Testimony of J.C., taken by the IACHR in Comayagua on August 20, 2009 (No. 80). Testimony of J.J.M.M., taken by the IACHR in Comayagua on August 20, 2009 (No. 84). Testimony of E.L.M.G., taken by the IACHR in Comayagua on August 20, 2009 (No. 90). Testimony of A.C.R., taken by the IACHR in Comayagua on August 20, 2009 (No. 91). Testimony of D.P.B., taken by the IACHR in Comayagua on August 20, 2009 (No. 93). Testimony of M.L.C.O., taken by the IACHR in Comayagua on August 20, 2009 (No. 97). Testimony of J.D.F., taken by the IACHR in Comayagua on August 20, 2009 (No. 98). Testimony of N.G.V., taken by the IACHR in Comayagua on August 20, 2009 (No. 100). Testimony of R.D.G., taken by the IACHR in Comayagua on August 20, 2009 (No. 103). Testimony of A.S.A., taken by the IACHR in Comayagua on August 20, 2009 (No. 104). Testimony of Leocadio Fiallos Gonzales, taken by the IACHR in Comayagua on August 20, 2009 (No. 106). Testimony of O.T.F.G., taken by the IACHR in Comayagua on August 20, 2009 (No. 67). Testimony of N.A.M.D., taken by the IACHR in Comayagua on August 20, 2009 (No. 73). Testimony of R.B.L., taken by the IACHR in Tegucigalpa on August 21, 2009 (No. 152). Testimony of J.E.C.R., taken by the IACHR in Tegucigalpa on August 19, 2009 (No. 219).Testimony of D.L.B., taken by the IACHR in Tegucigalpa on August 21, 2009 (No. 154).

[442] Testimony of J.F.M.M., G.M.O., R.F.R., A.P.C., M.A.C., L.E.G., O.A.M.C., L.A.B.I. and R.E.E.C., taken by the IACHR in Tegucigalpa on August 17, 2009 (No. 8). Testimony of J.R.E.S., taken by the IACHR in Comayagua on August 20, 2009 (No. 61).

[443] Testimony of A.V.O., taken by the IACHR in Tegucigalpa on August 21, 2009 (No. 243). Testimony of M.A.B.B., taken by the IACHR in Comayagua on August 20, 2009 (No. 105).

[444] Testimony of N.G.D., taken by the IACHR in Comayagua on August 20, 2009 (No. 81).

351. That same day, July 30, a number of patrol cars transporting persons detained in connection with demonstrations held in El Durazno and at the Belén area market in Comayagüela, arrived at the Belén Police Station.[445] However, the security forces would not allow CIPRODEH attorneys inside the station. That day, police detained around 200 persons[446] and only the minors were released.[447] The detentions were conducted without an order from a competent authority and the persons detained were not informed of the reasons for their detention.[448] Some of these people had been injured. CIPRODEH transported them to various medical facilities for treatment.[449]

352. Around 54 demonstrators were detained in Santa Rosa de Copán on July 31.[450]

353. On August 3, 31 people were detained and mistreated at the facilities of the First Police Station in San Pedro Sula's Barrio Lempira. They were not shown any order from a competent authority setting out the grounds for their detention and were not read their rights. These people were jailed in small cells, virtually unable to breathe given the high temperatures.[451] The executor judge was allegedly denied access to the facilities, although he had requested access on three different occasions. He was even subjected to physical mistreatment and verbal abuse.[452]

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[445] Testimony of D.I.R.H., taken by the IACHR in Comayagua on August 20, 2009 (No. 25). Testimony of C.H.R.B., taken by the IACHR in Tegucigalpa on August 20, 2009 (No. 128). Testimony of C.B.D., taken by the IACHR in Tegucigalpa on August 20, 2009 (No. 246). Testimony of Ronnie Huete, taken by the IACHR in Tegucigalpa on August 19, 2009 (No. 286).

[446] CIPRODEH, *Reporte de violaciones [Report on violations], op. cit*.

[447] Testimony of H.M.H.M., taken by the IACHR in Tegucigalpa on August 21, 2009 (No. 149).

[448] Pursuant to Article 41 of the American Convention, the IACHR requested information concerning the injured persons and the 45 detainees at the Barrio Belén police station.

[449] Testimony of O.M., M.C., L.R.F., C.H.R., E.A.B.C., V.M.V., P.P., C.B.D., L.A.B., L.C., C.H.R. and J.B., cited in CIPRODEH, *Reporte de Violaciones [Report on Violations], op. cit.*

[450] Testimony of M.V.P., taken by the IACHR in San Pedro Sula on August 19, 2009 (No. 203). Testimony of D.A.M.G., taken by the IACHR in San Pedro Sula on August 19, 2009 (No. 207).

[451] Testimony in the Petition of *Habeas Corpus* Case File No. 67-09. Information received by the IACHR in San Pedro Sula on August 19, 2009 (No. 124).

[452] In the *habeas corpus* case, it was determined that the detention was unlawful and arbitrary and the immediate release of the detainees was ordered. Information received by the IACHR in San Pedro Sula on August 19, 2009 (No. 219). Testimony of W.A.R.G., P.D.G.C.A., E.C.M., H.R.L. Case file No. 68-09 on a petition of *habeas corpus*. Information received by the IACHR in San Pedro Sula on August 19, 2009 (No. 212). Testimony of P.D.C.A., taken by the IACHR in Tegucigalpa on August 21, 2009 (No. 11).

Case file No. 67-09 on the petition of *habeas corpus* filed on behalf of Gustavo Mejía, Edgardo Castro, Porfirio Casco, Evangelina Aguilar Carvajal, José Leonel Gonzáles Márquez, José Luis Argueta, Eva Aguilar, José Germán Martínez, Gustavo Henriquez, Maritza Morales Paz, Manuel de Jesús Ríos, Nancy Ondina Ponce Rosales (who was pregnant), José Natividad Vásquez, Wilmer Rodríguez García, Nelly Marcela Rosales Gonzales, Juan Ramón Urbina Reyes, Miriam Palacios, Eugenio Castro Mendoza, Valdemar García Moran, Gustavo Antonio Mejía Escobar, Carlos Roberto Muñoz, Roberto Carlos Mejía, Cristóbal Rolando Mejía, Martín de Jesús Antúnez, José Luis Aguilar Castillo, Jony Alexis Ramos, Gerardo Moisés Morel, Walter Geovany Córdoba and Oscar López. In *habeas corpus* case file No. 69-09, another executor judge appeared at the detention center and granted the petition of *habeas corpus,* even though the detainees had already been released by order of another executor judge. Information received by the IACHR in San Pedro Sula on August 19, 2009 (No. 124). Testimony of C.O.M.V.B., taken by the IACHR in San Pedro Sula prior to August 19, 2009 (No. 13).

354. That same day, six persons were in custody at the Chamelecón Police Station.[453] No record was made of their detention, of their having been read their rights, or of their having been advised of the reasons for their detention. Two other people were in custody at the facilities of the Río Blanco Substation, under the same circumstances. The police officer apparently felt that no order of detention was necessary, and there was no need to inform the detainees of the reason for their detention.[454]

355. One individual recounted how, on that day, he was detained at the entrance to Colonia San Ignacio by a police officer in civilian dress. The police officer did not advise him of the reason why he was being detained; instead, he simply said that he had received complaints. While en route to the Colonia Kennedy police station, that same police officer had allegedly picked up another youth, put him in handcuffs and beat him up in a back street before arriving at the police station. They were standing there, in the sun, for 45 minutes. He was then taken to the station at Colonia Villa Nueva, where he was asked if he had participated in the march. They then took him back to the Colonia Kennedy station, where they left him in a hallway with two other youths. After that, they took him to what he believes was the Edén police station, and finally to CORE VII. In his testimony, this person said the following:

> …I was put in a cell with 5 other people. We were talking and one of them seemed friendly. He offered me water, cigarettes –I told him I didn't smoke. We talked about things in general. He started asking me whether I had visited the rural parts of the country and whether I had ever been to the Valle de Jamastrán. I told him that I had been almost everywhere in Honduras. I was struck by his question, however, because I had coordinated the organizational effort for the fourth ballot box in that region of the country. Then he asked me, "What do you know about Nicaragua" and "What were you doing in Ocotal?" I didn't answer him. Then he said that there were five Cubans, five Venezuelans and two Honduras in the marches. He was critical of the demonstrations. (…) At around 5:30 they took everyone out, but told me that I wasn't leaving. This man who had asked me so many questions was coming in and out. When I was left alone, he came in the cell and said to me, "Today, you're going to answer everything I asked you. [455]

356. Subsequently, this agent of the security forces questioned the young man and hit him in the head with the handle of a pistol. He was verbally abusive, using foul language, and applied lit cigarettes to the young man's skin, burning him on the left arm, chest, hands and feet. He put his knee on the young man's body and then brought up a white liquid in a plastic container; he tried to force the young man to drink the liquid and when he didn't succeed, he emptied the contents of the bottle on the young man's head. He then ignited a cigarette lighter and held it up to the young man's testicles for a time, since the young man was wearing trousers. He then moved the lighter near the young man's neck, so close that his shirt was partially burned. According to the analysis done at the CPTRT, the young man's physical condition was consistent with his account of what happened.[456]

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[453] *Habeas corpus* case file No. 69-09 on behalf of Manuel Santos, José Orlando Quiroz, Alexis Lexander Cuéllar, Sergio Danilo Turcios, José Rolando Licona and Miguel Armando López Madrid. Information received by the IACHR in San Pedro Sula on August 19, 2009 (No. 124).

[454] The judge granted the writ of *habeas corpus* and ordered the detainees' release. Case File No. 69-09 on the Petition of *Habeas Corpus* entered on behalf of Blass Gilberto Gómez and Enrique Girón. Information received by the IACHR in San Pedro Sula on August 19, 2009 (No. 124).

[455] Testimony of O.E.P.B., taken by the IACHR in Tegucigalpa on August 21, 2009 (No. 295).

[456] Testimony of O.E.P.B., taken by the IACHR in Tegucigalpa on August 21, 2009 (No. 295).

357. On August 11, during a protest march in Tegucigalpa, security forces detained 42 persons, who were taken to Metropolitan Police Headquarters No. 1 in Tegucigalpa –also known as CORE VII-, to police station No. 14 in Colonia Kennedy and to the El Manchén police post.[457] One of those detained was a human rights defender who, despite having shown his credentials and having shown that he was doing his job, was held in custody until the next day.

358. At 3:00 p.m. on August 12, 28 persons (27 adults and one minor) were detained near Tegucigalpa's Central Park and the National Congress building. After being taken into custody, these individuals were transported to and held inside the National Congress building, in an area known as "Los Bajos" [a columned patio area].[458] There, the detainees were beaten on the arms, head, legs, back and chest and were ordered to remove their shirts and lie face-down on the hot asphalt.[459] One of the individuals detained suffered a fractured clavicle as a result of the police abuse.[460] Furthermore, Congressmen were allegedly watching these events and laughing, and reportedly goading the security police to hit the detainees even harder; civil servants working at the Congressional building had allegedly kicked the detainees.[461] The detainees were later taken to the facilities of the Cobra Special Strike Force in Colonia 21 de Octubre, where they were held incommunicado, beaten and never informed of the reasons for their detention. No record was made of these detentions.[462] Of the total number detained in that episode, 11 sustained injuries and were taken by Red Cross ambulances to the Escuela Hospital at around 10:00 p.m. After receiving medical treatment, they were taken back to the facilities of the Cobra Special Strike Force at around 1:00 a.m. on August 13. In order to enable the injured to be treated at the hospital, their identification documents were returned to them.

359. At 3:00 a.m. on August 13, the detainees were transported to Metropolitan Police Headquarters No. 1 and placed in small, unventilated cells. They had no access to either sanitary facilities or drinking water.[463] Some 10 minutes before the 24-hour period of detention[464] was set to expire –after which the detainees would have had to be released-, the Office of the Prosecutor for Common Crimes filed the charging documents, in which 24 persons were accused of the crimes of robbery, unlawful demonstration, vandalism and sedition;[465] another three were charged with the crime of terrorism.

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[457] By a communication dated September 4, 2009, the IACHR requested information concerning the detention of these persons.

[458] Testimony of M.R.A.B., J.P.M.A., D.A., N.G.R.L., A.L.O.C., O.D.G.C., A.S.C.H. and M.C.L., taken by the IACHR in Tegucigalpa on August 17, 2009 (No. 123*;* Testimony of G.A.F.B., taken by the IACHR in Tegucigalpa on August 17, 2009 (No. 213*);* Testimony of M.A.R.L., taken by the IACHR in Tegucigalpa on August 17, 2009 (No. 455).

[459] Testimony of G.A.F.B., taken by the IACHR in Tegucigalpa on August 17, 2009 (No. 213). Testimony of A.L.O.C., taken by the IACHR in Tegucigalpa on August 21, 2009 (No. 221).

[460] Testimony of J.N.P.L., taken by the IACHR in Tegucigalpa on August 17, 2009 (No. 123).

[461] Testimony of A.S.C.H., taken by the IACHR in Tegucigalpa on August 17, 2009 (No. 123).

[462] Testimony of M.R.A.B., taken by the IACHR in Tegucigalpa on August 17, 2009 (No. 123). Testimony of J.D.F.C., taken by the IACHR in Tegucigalpa on August 21, 2009 (No. 220).

[463] Testimony of M.R.A.B., taken by the IACHR in Tegucigalpa on August 17, 2009 (No. 123).

[464] Testimony of M.R.A.B., taken by the IACHR in Tegucigalpa on August 17, 2009 (No. 123).

[465] CIPRODEH, Reporte de detención de manifestantes a inmediaciones del Parque Central y el Congreso Nacional [Report on the detention of demonstrators in the vicinity of the Central Park and the National Congress building]. Information received by the IACHR in Tegucigalpa on August 17, 2009. Testimony of L.E.D.L., taken by the IACHR in Tegucigalpa on August 21, 2009 (No. 259).

360. At 2:00 p.m. on August 13, despite the fact that two Judges to execute writs of *habeas corpus* were present, the detainees were not released. They were not read their rights until 5:00 p.m.[466] while the crime with which they were being charged was still not filled on the papers. The Prosecutor allegedly maintained that the detainees were read their rights at 2:00 p.m.[467] At 7:00 p.m. that day, a group hearing was held in a meeting room on the third floor of Metropolitan Police Headquarters No. 1, where the Judge, Public Defender Janneth Gómez, the attorneys for the defense Karol Cárdenas of COFADEH, two other lawyers, three prosecutors for common crimes, representatives of human rights organizations, attorneys from the Resistance, attorneys from COLPROSUMAH and the Consul for Colombia were all present. During the hearing, 8 police officers and elements of the Cobra Special Strike Force were inside the room. The Prosecutor was allegedly against seeking nullification of the case, arguing that the detainees' rights had been observed and that theirs was a special situation.[468] It was only then that the detainees were informed of the reason for their detention and were able to speak with their attorneys. At 1:00 a.m. on August 14, eleven persons were transferred to the National Penitentiary on the grounds that they were unable to prove domicile.[469] During its on-site visit, the Commission visited the 11 persons who were still incarcerated in the National Penitentiary. They were all released on different dates in the period from August 14 and 20. As for the 24 persons originally charged with the crimes of robbery, unlawful demonstration, vandalism and sedition, 18 were acquitted and the other six were tried for unlawful demonstration.[470]

361. One of the persons detained that day gave the following testimony at the trial hearing:

> They put me in the columned patio area ["los bajos'] of the National Congress building; they threw me on the floor. Some police women came up to me and one of them said, 'What are you hiding there? Give it to me! If you don't…' I was

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[466] Testimony of J.P.M.A., taken by the IACHR in Tegucigalpa on August 17, 2009 (No. 123).

[467] Testimony of N.G.R.L. and A.L.O.C., taken by the IACHR en Tegucigalpa on August 17, 2009 (No. 123).

[468] Testimony of A.L.O.C., taken by the IACHR in Tegucigalpa on August 17, 2009 (No. 123).

[469] Testimony of M.R.A.B. and A.L.O.C., taken by the IACHR in Tegucigalpa on August 17, 2009 (No. 123).

[470] Article 60 of the Police and Social Coexistence Act provides that: "When exercising one's right to assemble and demonstrate in public, a person may assemble with others or parade in public places to express one's political, religious, economic, social, or any other lawful interest, and shall not require any notice or special permit. However, such demonstrations shall be prohibited when it is deemed that they will affect other people's freedom of movement and rights. In the political realm, the Law on Elections and Political Organizations must be observed."

Article 331 of the Honduran Criminal Code reads as follows: "Anyone who unlawfully calls for or leads any assembly or demonstration shall face a penalty of imprisonment for a period of two (2) to four (4) years and a fine of thirty thousand (30,000) to sixty thousand (60,000) lempiras. All assemblies attended by persons bearing arms or carrying explosive devices or other explosive or dangerous materials for the purpose of committing a crime shall be deemed to be unlawful. Those attending an unlawful meeting or demonstration bearing arms or carrying explosive devices or other explosive or dangerous materials or objects shall face the same penalty as those who call or lead the assembly or demonstration. Mere attendance at such an assembly shall carry half the penalties indicated above. Persons who, on the occasion of an unlawful assembly or demonstration, commit acts of violence against the authority, its agents, persons or public or private property shall face the penalty described in the first paragraph of this article, in addition to any penalties he or she may face for other crimes committed. Anyone who, on his or her own initiative, attends a lawful assembly or demonstration bearing arms, explosives devices or other explosives or dangerous materials for the purpose of committing a crime, shall face the same penalty as those who call or lead an unlawful assembly or demonstration."

> on the floor. She hit me with a steel rod, causing my hand to bleed. After that, two more police officers walked up […] I was protecting the camera; it was my proof, my way of defending myself. I took film; everything was on film in my camera. I don't trust the police. They didn't return one of the phones to me. I have bruises all over my body. You're not going to see it again. I could see the floor of the Congress building. The Congressmen were laughing and goading the police. We saw a number of civilians, too. The Congress became a police encampment. The floor was very hot. They took us to the basement. We think it is a garage. They took us to the basement because they were beating us, making fun of us, calling us dogs, they beat us […] Then Madrid arrives and says, 'I want you to sign this statement. If you don't, you'll lose your rights.' By then it was around four or five in the afternoon. He left. We had had no telephone communication or medical treatment. We were all beaten up. At around six that evening, they let a few human rights people come in…[471]

362. Other people, including children, were also detained on August 12 and held at the El Manchen police post for five hours before being released thanks to the intervention of the attorneys from COFADEH.[472] Another 47 persons –seven of whom were women— were detained while taking part in an informational meeting outside the *Universidad Pedagógica Nacional Francisco Morazán*. They were held for two days, accused of participating in the fire started at the Popeye's Restaurant and the burning of a bus on Miraflores Boulevard.[473]

363. According to CONADEH, staff of that institution prepared a special report on the physical condition and legal status of the persons detained as a result of the disturbances caused by the demonstrators' violence on August 11 and 12, "in the area of the Miraflores Plaza Commercial Center in Colonia Miraflores and in the downtown area of the capital city, respectively." According to the annex attached to the report, on August 11, 38 persons were allegedly in custody at the Metropolitan Police Headquarters No. 1 in Barrio Los Dolores, for the crimes of robbery, vandalism, holding unlawful assemblies, sedition, and arson; on August 12, 25 persons were in custody for the crimes of robbery, unlawful demonstrations, vandalism, and sedition threatening the domestic security of the State of Honduras. Nevertheless, when "the cells at that Police Headquarters were inspected, (it was found that) none of the aforementioned persons was present; the majority had been released and others were brought before the competent authorities for the filing of the respective prosecutorial request seeking indictment".[474]

364. On August 12, a judge in domestic violence cases in San Pedro Sula, who had allegedly asked Police why they were attacking the demonstrators, was arrested by police for no reason and finally released when a second writ of *habeas corpus* was filed on his behalf.[475] That same day, a number of persons were detained in San Pedro Sula and incarcerated at the First Police Station. There were no warrants issued by a competent authority, the detentions were not recorded, the detainees were not read their rights, they were not allowed to make calls, and were not advised of the reasons for their detention. The persons detained suffered physical, verbal and mental abuse; a number of them had lesions on their heads. The officer in charge of the station had allegedly told

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[471] Court 17, Record of the initial hearing, August 18, 2009. Case File 33054-09. Information received by the IACHR on November 3, 2009.

[472] Testimony of J.L.R.O., taken by the IACHR in Tegucigalpa on August 21, 2009 (No. 157).

[473] Testimony of J.A.Z.Y., taken by the IACHR in Tegucigalpa on August 21, 2009 (No. 160).

[474] CONADEH Report, *op. cit.,* Annex 13.

[475] Testimony of L.A.C., taken by the IACHR in San Pedro Sula on August 19, 2009 (No. 20).

the Executor Judge that the persons were not being detained; instead, they were being evaluated by a forensic physician. All the same, the Executor Judge declared the detentions unlawful and ordered the detainees immediate release.[476] Something similar occurred in the case of the individuals detained at the Barrio Suncery police station.[477]

365. On August 14, during a demonstration in Choloma,[478] around 35 demonstrators were detained and held in the facilities of the National Preventive Police of Choloma. They were locked up in fetid cells and beaten and mentally mistreated by the police.[479] No order was issued by a competent authority for their detention and they were not read their rights. Because of the injuries they had sustained, some were transported to Hospital[480] and to the Honduran Social Security Institute:[481]

> I was reporting what was happing in the clash between the police and the demonstrators, broadcasting live for Radio Progreso. Because of that I was standing somewhat apart from the scene of the clash. Suddenly, however, a policeman nearby drew his weapon. When I saw this, I started running. Five police came after me. I couldn't run anymore because of the tear gas, and that was when they caught up with me. I told them I was a journalist for Radio Progreso and was broadcasting live. They told me I was under arrest and took away my cell phone, which I was using at the time to broadcast. Then they put me in a patrol car. They piled more detainees on top of me. They were beating us, but because I was at the bottom of the pile, they beat those on top of me

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[476] Case file No. 71-09 in the petition of *habeas corpus* entered on behalf of Josué Samuel Hernández Hernández, Ramón Rodríguez Ruiz, Santos Geovanny Perdomo, Luis Gerardo Alvarado Cruz, Luis Alonso Chevez de la Rocha *et al.* Information received by the IACHR in San Pedro Sula on August 19, 2009 (No. 124).

[477] Case file No. 72-09 in the petition of *habeas corpus* entered on behalf of Emin Omar Bajurto, Allan Josué Alvarado, Gerardo Enrique Caballero, José Adin Zaldívar, Elder Adonay Mejía Leiva, Ernesto Sarmiento Ayala and Karla Quiroz. Information received by the IACHR in San Pedro Sula on August 19, 2009 (No. 124).

[478] That same day, 7 petitions of *habeas corpus* were filed, Case Files Nos. 74-09, 75-09, 76-09, 77-09, 78-09, 79-09, and 80-09. Information received by the IACHR in San Pedro Sula on August 19, 2009 (No. 124).

[479] Testimony of B.R.C.V., E.E.C.C., O.J.A.L. and H.J.M., taken by the IACHR in San Pedro Sula on August 19, 2009 (No. 303). Public complaint from the Federación de Organizaciones Magisteriales de Bonito Oriental [Federation of Teachers Organizations of Bonito Oriental], Colón. Information received by the IACHR in San Pedro Sula on August 19, 2009 (No. 302).

[480] Testimony of J.E.C., R.E., C.A.L., M.H. and J.F. Case file No. 76-09 in the petition of *habeas corpus* entered on behalf of Justo Pastor Reyes, Jubentino Bonilla Orellana, Paulino Flores, Enrique Villatoro, Eldin Eledio Argueta, Edwin Castillo, Jesús Adalberto Fajardo García, Gustavo Adolfo Cardoza, José Santiago Rivera Escobar, Luis Antonio Álvarez, Marin René Moreno Lemus, José Julio Umaña, Enrique Emenelio Cáceres Castillo, Ever Eleaquin Torres López, Olvin Javier Lainez, Héctor Geovani Marais, Enrique Cáceres Castillo, Bertilio Cabrera, Wilmer Alfredo Cardoza Mendoza, Nery Sanchez Perdomo, Kelin Danelia Vásquez, Greicy Judith Rivera, José Geobani Chávez Amador, Carlos Alberto Linares, Marcial Hernández, Jesús Adalberto Fajardo, Rogelio Mejía Espinoza, and Héctor Manuel Vásquez. Information received by the IACHR in San Pedro Sula on August 19, 2009 (No. 124).

[481] Testimony of M.V., E.C. and S.C.C. Case file No. 76-09 in the petition of *habeas corpus* entered on behalf of Justo Pastor Reyes, Jubentino Bonilla Orellana, Paulino Flores, Enrique Villatoro, Eldin Eledio Argueta, Edwin Castillo, Jesús Adalberto Fajardo García, Gustavo Adolfo Cardoza, José Santiago Rivera Escobar, Luis Antonio Álvarez, Marin René Moreno Lemus, José Julio Umaña, Enrique Emenelio Cáceres Castillo, Ever Eleaquin Torres López, Olvin Javier Lainez, Héctor Geovani Marais, Enrique Cáceres Castillo, Bertilio Cabrera, Wilmer Alfredo Cardoza Mendoza, Nery Sánchez Perdomo, Kelin Danelia Vásquez, Greicy Judith Rivera, José Geobani Chávez Amador, Carlos Alberto Linares, Marcial Hernández, Jesús Adalberto Fajardo, Rogelio Mejía Espinoza, and Héctor Manuel Vásquez. Information received by the IACHR in San Pedro Sula on August 19, 2009 (No. 124).

> more. They insulted us and paraded us everywhere. When we arrived at the police station, the very same police officers who transported us there started hitting us again. In the patrol car, they gave me back my cell phone but told me not to answer it. I was unable to take calls from the Radio Station. While they were bringing me in, they were kicking me in the head. They did not read us our rights, did not let us make or take calls and never told us why they took us into custody.[482]

366. The Executor Judge granted the writ of *habeas corpus* and ordered the release of these persons on the grounds that the legal requirements necessary to detain them had not been observed.[483] The physicians who treated the detainees said that four were in serious condition and that the physicians themselves were struck by Police when they attempted to treat the injured.[484]

367. According to the CONADEH report, CONADEH personnel had executed a writ of *habeas corpus* "on behalf of persons detained in a violent demonstration in Choloma, Cortés, which had involved vandalism. The idea was to get the detainees released to receive proper medical treatment, and apply alternative measures in their case." According to the reports which are attached as an annex, the *habeas corpus* proceedings established that no order for their detention had been issued, that they were not read their rights and that there was no evidence suggesting that they were guilty of any crime.[485]

368. More recently, as the electoral process unfolded, the Commission was told that on August 30, September 6 and October 25, a number of persons were detained and accused of voicing their rejection of the electoral candidates.[486]

369. Unlawful detentions were also practiced at the military and police roadblocks set up on the highways. From July 23 to 28, various people were detained in the El Paraíso region and taken to police stations in the cities of El Paraíso and Danlí. They were held *incommunicado*, were not told the reasons for their detention and had no access to sanitary facilities.[487]

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[482] Testimony of G.A.D.C., as told to the National Commissioner of Human Rights. Information received by the IACHR in San Pedro Sula on August 19, 2009 (No. 124).

[483] Case file No. 76-09 in the petition of *habeas corpus* entered on behalf of Justo Pastor Reyes, Jubentino Bonilla Orellana, Paulino Flores, Enrique Villatoro, Eldin Eledio Argueta, Edwin Castillo, Jesús Adalberto Fajardo García, Gustavo Adolfo Cardoza, José Santiago Rivera Escobar, Luis Antonio Álvarez, Marin René Moreno Lemus, José Julio Umaña, Enrique Emenelio Cáceres Castillo, Ever Eleaquin Torres Lopez, Olvin Javier Lainez, Héctor Geovani Marais, Enrique Cáceres Castillo, Bertilio Cabrera, Wilmer Alfredo Cardoza Mendoza, Nery Sánchez Perdomo, Kelin Danelia Vásquez, Greicy Judith Rivera, José Geobani Chávez Amador, Carlos Alberto Linares, Marcial Hernández, Jesús Adalberto Fajardo, Rogelio Mejía Espinoza, and Héctor Manuel Vásquez (No. 124). That same day, two other people were allegedly detained at the Río Blanco Police Post. Information received by the IACHR in San Pedro Sula on August 19, 2009.

[484] Testimony of F.C.R., taken by the IACHR in San Pedro Sula on August 19, 2009 (No. 451).

[485] CONADEH Report, *op. cit.,* Annex 14.

[486] Information that COFADEH supplied to the IACHR on November 5, 2009. In the detentions at the San Miguel Police Post on October 25 in the Colonia 30 de Noviembre, security forces had allegedly put tear gas in the toilet paper inside the cells.

[487] Testimony of T.J.R., cited in CIPRODEH, *Reporte de violaciones [Report on violations], op. cit.* By a communication dated July 30, 2009, the IACHR requested information concerning the detainees in cells in El Paraíso and other military roadblocks along the highway leading to the border with Nicaragua. In that communication the IACHR listed 86 detained persons by name.

370. At 6:00 a.m. on July 24, other people were detained at the Santa María turnoff at the entrance to Danlí. They were taken to the departmental police station in that municipality. There, they were not told the reasons why they had been detained and were physically mistreated by police. The detainees initially thought that they were detained because of the curfew that had been imposed in that area and whose hours were indefinite; however, they then noticed other people who, even when the curfew was still in effect, had allegedly been permitted to move about at will.[488]

371. On July 24, in the San Marcos de Colón border region in the department of Choluteca, a group of persons, some of them authorities of the administration of President Zelaya, were detained by members of the preventive police for being out during the curfew. The Police asked for their papers, inspected their identifications, bags, vehicles, and luggage. Although they found nothing irregular, the police detained them nonetheless. Even though the executor judge for the habeas corpus ordered their release, these people were unable to leave the police station until the curfew was finally over at 4:30 a.m.[489]

372. According to the CONADEH report, in the period from July 23 to 27, 242 Hondurans were taken into custody for curfew violations and held in custody at the Departmental Police Headquarters No. 7 in Danlí. At El Paraíso Municipal Police Headquarters, seven Nicaraguan nationals and 38 Hondurans were also held for curfew violations.[490]

373. On July 28, CIPRODEH human rights defenders went to the eastern sector of the country in response to reports that a group of demonstrators were being transported in a container truck that had been at the Alauca turnoff in the department of El Paraíso for several days. The demonstrators had allegedly been forced into the container truck when police threatened them with tear gas. During the time that these people were in custody, they had no access to food or medical attention, even though a number of them were sick.[491] Another 76 persons had been detained under the same circumstances on July 27.

374. More recently, when President Zelaya entered the Brazilian Embassy, State security forces continued to detain hundreds of people. The *de facto* authorities told the Commission that on September 22, a number of people were being detained at the "Chochi Sosa" Stadium in the Olympic Village -41 adults and 2 children- for disorderly conduct during the demonstrations; 113 adults and 41 children were being held for violation of the curfew; 21 adults were being held there for miscellaneous reasons, 14 of whom were Nicaraguan nationals.

375. As for the criminal cases instituted against the persons detained, the Secretariat of Security reported that eight individuals, including a woman, had been detained for the crime of sedition and were granted bail. Three men were detained for crimes of terrorism and aggravated arson; they, too, had also been granted bail. In connection with the August 12 arson attack on a restaurant, 15 men, one woman and one child were detained for sedition, unlawful demonstration, vandalism and robbery prejudicial to the internal security of the State of Honduras. The child was granted bail, under parental supervision; five adults were granted bail under the supervision of

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[488] Testimony of T.J.R., V.B., K.S.S.P., P.R., L.M.P., M.S.B., C.B., J.G.G., H.A.M.R., S.H.S., J.F.S. and R.B., cited in CIPRODEH, *Reporte de Violaciones [Report on Violations], op. cit.*

[489] Testimony of M.J.M., taken by the IACHR in Tegucigalpa on August 21, 2009 (No. 148).

[490] CONADEH Report, *op. cit.* On July 27, 2009, the IACHR received a communication reporting that 39 adults and 13 minors had been taken into custody.

[491] CIPRODEH, *Reporte de manifestantes trasladados en rastra [Report of demonstrators being transported in a container truck]*, July 28, 2009. Information received by the IACHR in Tegucigalpa on August 17, 2009. The list describes the situation of 37 persons, 6 of whom were minors.

COFADEH; eleven adults remained in custody at the National Penitentiary. Nine arrest warrants were also issued in connection with unspecified charges and were pending enforcement.

376. In its observations, the Supreme Court wrote the following: "Based on the Transparency and Access to Information Act, state security institutions allow access to information to all persons who, having properly identified themselves, are performing procedures on behalf of detained persons; human rights organizations are able to attest to this fact, as they obtain information from the log books at the various security facilities. A request was filed with the First Trial Court of Santa Rosa de Copan, as shown in court record 401-2009, seeking indictment of six police officers for the crimes of abuse of authority, unlawful detention and excessive use of force. (…) The National Police faithfully complied with those clauses of the Constitution of the Republic that hold that no person may be detained or held *incommunicado* for more than twenty-four (24) hours without being brought before the competent authority, and that every person detained shall be read his or her rights in accordance with Article 101 of the Code of Criminal Procedure."[492]

377. On the subject of detentions made during a state of emergency, the Commission held that:

> detention is arbitrary and illegal when not carried out for the reasons and according to the formalities established by law; when carried out without adherence to the standards established by law; and when it involves misuse of the authority to arrest--in other words, when carried out for purposes other than those envisaged and stipulated by law. The Commission has also pointed out that detention for improper ends is, in itself, a form of penalty without due process, or extralegal punishment, which violates the guarantee of a fair trial.[493] Furthermore, '[t]he suspension of the right to personal liberty authorized in Article 27 of the American Convention on Human Rights can never be absolute. There are basic principles at the heart of any democratic society that the security forces must respect in order to carry out a detention, even in a state of emergency. The legal prerequisites for detention are obligations that State authorities must respect, in keeping with their international commitment under the Convention to protect and respect human rights."[494]

378. The IACHR observes that the detention of thousands of people, many of them foreign nationals, has been one of the tactics used by the *de facto* government, and carried out by the security forces, both police and military alike. The Commission observes that arbitrary detentions in Honduras, police abuse and lack of judicial oversight of detentions are problems that predate June 28. In the context of the *coup d'état,* however, they have taken on a new and much more serious significance because they have allowed the security forces to conduct detentions on a mass scale, and with a specific political purpose. The detentions carried out by the *de facto* government were unlawful and arbitrary inasmuch as they were pursued without a court order and the detainees were not brought before a judge for verification of the lawfulness of their detention. Furthermore, the detentions were not reported to the Public Prosecutor's Office nor to the competent authority in the case of detained children.

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[492] Observations made by the State of Honduras to the IACHR's Report, dated December 22, 2009 and signed by the Chief Justice of the Supreme Court, p. 13, paragraphs 24, 25, and 40.

[493] IACHR, Report No.45/00 (Merits), Case 10,826, *Manuel Mónago Carhuaricra and Eleazar Mónago Laura*, Peru, April 13, 2000, paragraph 29.

[494] IACHR, Report No. 45/00 (Merits), Case 10.826, *Manuel Mónago Carhuaricra*, *cit.,* paragraph 33.

379. The security forces have tried to justify the detentions by citing curfew violations. The Commission has already stated that the suspension of guarantees has no basis in law and is an improper restriction of the rights of the inhabitants of Honduras. The alternative justification for the detentions was the alleged commission of offenses by the demonstrators. It was reported that very few detainees were actually charged with unlawful association and vandalism when the demonstrations were over.[495] However, there is no information as to the total number -or even a rough estimate- of the arrest warrants issued for the crime of sedition.[496] Nevertheless, the few cases that did come to the attention of the Public Prosecutor's Office were dismissed for lack of sufficient evidence to justify indictment for some of the offenses provided for in the Criminal Code. As a result, the detainees were released. This pattern also reveals how the *de facto* government resorted to practices intended to criminalize public protest, all in order to control and deter the opposition to the *coup d'état*.

380. The detainees were held incommunicado, were not informed of the reason for their detention, and were not read their rights. In some cases, the police denied habeas corpus judges and family members any access to the detainees. At times, police denied that the persons were in custody; they even claimed that arrest warrants from a competent authority were unnecessary and that they did not have to read detainees their rights. These problems were uncovered repeatedly by the numerous writs of *habeas corpus*, which were granted because legal procedure was not followed when the detainees were taken into custody. The Commission notes with concern that on a number of occasions children were taken into custody and incarcerated with adults.

381. The IACHR is also troubled by the fact that many of those detained in the context of the demonstrations were charged with the offense of "unlawful demonstration."[497] The description of this offense under Honduran criminal law is vague, thus allowing the competent authorities ample interpretative latitude and, therefore, broad discretionary authority as to what constitutes "unlawful demonstration."

382. A review of the information compiled reveals not only that legal procedure was not followed in making the detentions, but also that detainees were held in the National Congress building and at the facilities of the Cobra Strike Force, and other facilities not equipped for that purpose. In one particular case, the first hearing was conducted at CORE VII police headquarters, rather than in the proper court.

E. The Right to Vote and Participate in Government

383. Article 23 of the American Convention provides that:

1. Every citizen shall enjoy the following rights and opportunities:

a. to take part in the conduct of public affairs, directly or through freely chosen representatives;

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[495] Preliminary Report of the Delegation of Guatemalan Human Rights Organizations in Honduras, July 3 – 6, 2009, July 8, 2009.

[496] CIPRODEH, *Reporte de Violaciones a Derechos Humanos [Report on Human Rights Violations], op. cit*.

[497] Article 331 of the Honduran Criminal Code reads as follows: "All assemblies attended by persons bearing arms or carrying explosive devices or other explosive or dangerous materials for the purpose of committing a crime shall be deemed to be unlawful."

b. to vote and to be elected in genuine periodic elections, which shall be by universal and equal suffrage and by secret ballot that guarantees the free expression of the will of the voters; and

c. to have access, under general conditions of equality, to the public service of his country.

2. The law may regulate the exercise of the rights and opportunities referred to in the preceding paragraph only on the basis of age, nationality, residence, language, education, civil and mental capacity, or sentencing by a competent court in criminal proceedings.

384. Under Article 27 of the Convention, the right to participate in government is one of the rights that cannot be suspended in a state of emergency.

385. For its part, Article 3 of the Inter-American Democratic Charter provides that "[e]ssential elements of representative democracy include, *inter alia*, respect for human rights and fundamental freedoms, access to and the exercise of power in accordance with the rule of law, the holding of periodic, free, and fair elections based on secret balloting and universal suffrage as an expression of the sovereignty of the people, the pluralistic system of political parties and organizations, and the separation of powers and independence of the branches of government."[498]

386. The Commission must underscore the fact that political rights, defined as those that recognize and protect the right and duty of every citizen to participate in his or her country's political life, are by nature the rights that serve to strengthen democracy and political pluralism,[499] and that human rights cannot be fully guaranteed without the effective and unrestricted recognition of political rights.[500]

387. In its jurisprudence, the Inter-American Court has written that "[p]olitical rights are human rights of fundamental importance within the Inter-American system and they are closely related to other rights embodied in the American Convention, such as freedom of expression and freedom of association and assembly; together, they make democracy possible."[501] It has therefore held that "effective exercise of political rights constitutes an end in itself and also a fundamental means that democratic societies possess to guarantee the other human rights established in the Convention."[502]

388. Because of the inherent relationship between democracy and political rights and the fact that democratic order in Honduras has been interrupted with a *coup d'état*, the Commission deems it imperative –given the context- to examine the conditions for exercising political rights in Honduras.

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[498] Organization of American States, Inter-American Democratic Charter, approved at the first plenary session of the twenty-eighth special session of the OAS General Assembly, held in Lima, Peru, September 11, 2001, Article 3.

[499] IACHR, *Annual Report 2008*, Chapter IV, Venezuela, paragraph 336.

[500] Preliminary Observations on the IACHR's Visit to Honduras, August 21, 2009.

[501] I/A Court H.R., *Castañeda-Gutman v. Mexico Case*. Preliminary Objections, Merits, Reparations, and Costs. Judgment of August 6, 2008. Series C No. 184, paragraph 140.

[502] I/A Court H.R., *Case of Castañeda Gutman vs. Mexico, op. cit.,* 143.

389. In this regard, during its on-site visit the Commission was able to confirm serious violations of political rights that affect the citizens of Honduras. The Commission notes that since the interruption of constitutional order, the *de facto* authorities have perpetrated repressive acts that have constituted serious limitations, both *de jure* and *de facto,* on the exercise of political rights, in particular those rights associated with the exercise of public office and those related to political participation.

1. Right to Hold Public Office

390. Since the *coup d'état*, restrictions on the exercise of public office have remained in place in the three branches of government, affecting both public officials elected directly by voters at the ballot box and public officials serving in non-elective positions.

391. The Commission considers that as a consequence of the *coup d'état* in Honduras, protection of one's tenure in public office is not effectively guaranteed by the *de facto* authorities. On the contrary, the Commission found a systematic pattern of removing from public office those public officials not deemed to be favorably disposed to the forcible break from the constitutional order.

392. In particular, the Commission observes that while the immediate effect of the *coup d'état* on June 28 was the forcible removal of President Manuel Zelaya Rosales from the office to which he had been constitutionally elected by popular vote,[503] the majority of those who were serving as ministers in the Cabinet of President Zelaya were also removed from office. Similar measures were also taken against those members of the diplomatic corps who, while serving abroad as representatives of President Zelaya's legitimate Government, refused to recognize the authority of the *de facto* regime. Even civil servants working in various State offices were arbitrarily dismissed.

393. The Commission also observes that in order to obstruct public servants' legitimate exercise of their rights, the *de facto* authorities resorted to tactics like withholding notification of Congressional sessions in the case of members of Congress opposed to the *coup d'état*,[504] as well as reprisals and harassment perpetrated against those persons who publicly expressed their political support for President Zelaya.

394. Since June 28, and even after its on-site visit, the Commission has been told of countless acts of intimidation against public officials who support President Zelaya, such as ministers, members of the National Congress and local authorities like municipal mayors and local government officials.

395. The Commission received specific information indicating that members of the National Congress and members of President Zelaya's Cabinet were threatened and physically assaulted. Furthermore, administrative investigations were launched against some of them, while others were facing criminal charges; warrants had even been issued for their arrest.

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[503] President Manuel Zelaya Rosales was elected to the Office of the Presidency of Honduras in the general election held on November 27, 2005, and took office on January 27, 2006.

[504] The IACHR confirmed that contrary to what was originally claimed, the Honduran National Congress had not unanimously approved Legislative Decree No. 141-09 –in which President Zelaya Rosales was removed from the Office of President- because lawfully-elected members of the National Congress had not been convened to participate in that assembly and their seats had been taken over.

396. Concerning the situation of other local authorities, the IACHR confirmed that the offices of some mayors were taken over by military troops[505] and that cuts were even made to the local budgets of communities whose authorities came out against the *coup d'état*.[506]

397. The Commission has learned that civil servants in the judicial branch, at various levels, were taken off court cases[507] or relocated within the justice system in lower-ranking posts, with restrictions on what they could and could not do.[508] This was in retaliation for their having taken measures that were perceived as contrary to the interests and policy of the *de facto* government. Furthermore, some judges were threatened, attacked, and even arbitrarily detained,[509] while others were subjected to disciplinary proceedings.[510]

398. The IACHR considers that all the events described above are serious restrictions on the exercise of public office. In the case of public servants and officials who have been removed from their posts, the IACHR considers that any dismissals ordered by the *de facto* authorities are illegitimate *ab initio* inasmuch as they were adopted by illegitimate authorities who appropriated powers that were not theirs.

399. Furthermore, the IACHR believes it is fitting to point out that every state has an obligation to respect the legitimate exercise of political power by those persons who, having been voted into office, are not of the same political persuasion as the government in power. This obligation remains intact and takes on particular relevance when institutional order is interrupted and the legitimate authorities are removed from office by force. Those representatives who, although in open opposition, nonetheless continue to perform the functions of their office are the ultimate expression of the democratic spirit.

2. Right to Vote and to Participate in Government

400. The IACHR has indicated that the right to vote and to participate in government "is broader than the right to associate for purely political reasons" as it also "includes the right to organize parties and political associations that, through the free exchange of ideas, prevent a monopoly on power by any single group or individual."[511] It has also established that the absence of an atmosphere of respect, in which ideas contrary to the form of government can be expressed freely, violate the right to participate in government, since "free exercise of the right to participate in government also requires respect for other human rights, especially liberty and personal security. Full exercise of freedom of expression and the rights of association and assembly are essential to having a direct role in shaping the decisions that affect the community."[512]

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[505] One example is the municipality of El Paraíso, department of El Paraíso. Information received by the IACHR during its visit to El Paraíso on August 20, 2009.

[506] One example is the municipality of San José de las Colinas, department of Santa Bárbara. Testimony of A.J.H., taken by the IACHR in San Pedro Sula on August 19. 2009 (No. 202).

[507] Information supplied by the *Asociación de Jueces por la Democracia* [Association of Judges for Democracy], received by the IACHR in San Pedro Sula on August 19, 2009 (No. 124).

[508] Testimony of J.R.P., taken by the IACHR in Tegucigalpa on October 19, 2009 (No. 277).

[509] For example, Juan Carlos Griffin, Prosecutor for Human Rights in Tegucigalpa, and Luis Alonso Chévez de la Roca, Trial Judge in Domestic Violence Cases.

[510] For example, Judges Adán López Lone, Luis Alonso Chévez de la Roca and Ramón Enrique Barrios.

[511] IACHR, Report No. 67/07 (Merits), Case 12,476 *Oscar Elías Biscet et al. (*Cuba), October 21, 2006, paragraph 245.

[512] IACHR, Report No. 67/07 (Merits), Case 12,476 *Oscar Elías Biscet et al., op. cit.,* paragraph 256.

401. However, as has been noted, the IACHR has confirmed that those rights have been violated through a variety of measures adopted and carried out by the *de facto* authorities in Honduras. The Commission observes that, given that context and the fact that the interests of the majority of the Honduran people are not represented by the *de facto* government which has made a mockery of the will of the people and decided to appoint itself to power, it is hard to think of the active participation of Honduran citizens in their government.

402. During its visit, the Commission confirmed that the political leaders have been particularly affected by this climate of restriction and violation of rights. Those restrictions have materialized in the form of acts of intimidation, threats, physical assaults and arbitrary detentions; some political leaders have even been victims of police and military repression during demonstrations protesting against the *coup d'état*.

403. However, restrictions on the right to participate in government have not been confined to political leaders. In fact, they extend to and are prejudicial to the better part of the Honduran population. Participation in demonstrations, statements against the *coup* made by way of the media or the resistance actions –such as the teachers' strike- have drawn a disproportionate reaction on the part of the *de facto* authorities, carried out for the purpose of silencing public opinion. The Commission observes that this policy of intolerance and repression limits Honduran society's right to political participation because its goal is to silence the criticism that arose in response to the illegitimate government's takeover and in so doing eliminates any type of political opposition by creating a climate of insecurity and terror.

404. The Inter-American Court of Human Rights has indicated that "[i]t is essential that the State should generate the optimum conditions and mechanisms to ensure that these political rights can be exercised effectively, respecting the principles of equality and non-discrimination."[513]

405. Nevertheless, the Commission confirmed that the *de facto* authorities have not respected the principle of equality in the exercise and enjoyment of political rights in general, and the right to participate in government in particular. The Commission observes that, in a blatant display of discrimination, the coercive measures have specifically targeted the political opposition. By contrast, the IACHR observed that the demonstrations, campaigns and any type of expression in favor of the *coup d'état* have been conducted in an atmosphere of security and calm. For example, the security forces did not engage in any act of violence at any of the "*manifestaciones blancas."*[514]

406. In view of the foregoing, the Commission concludes that since the *coup d'état* the inhabitants of Honduras have not enjoyed the guarantees essential for them to exercise their political rights freely.

F. Right to Freedom of Expression

407. Article 13 of the American Convention on Human Rights provides that

> [e]veryone has the right to freedom of thought and expression. This right includes freedom to seek, receive, and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing, in print, in the form of art, or through any other medium of one's choice.

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[513] I/A Court H.R., *Yatama v. Nicaragua Case*. Judgment of June 23, 2005. Series C No. 127, paragraph 195.

[514] "*Manifestaciones blancas"* are those demonstrations held in support of the *coup d'état*.

It adds that exercise of this right

> .. shall not be subject to prior censorship but shall be subject to subsequent imposition of liability, which shall be expressly established by law to the extent necessary to ensure: a. respect for the rights or reputations of others; or b. the protection of national security, public order, or public health or morals.

It also states that

> [t]he right of expression may not be restricted by indirect methods or means, such as the abuse of government or private controls over newsprint, radio broadcasting frequencies, or equipment used in the dissemination of information, or by any other means tending to impede the communication and circulation of ideas and opinions." It adds that "[a]ny propaganda for war and any advocacy of national, racial, or religious hatred that constitute incitements to lawless violence or to any other similar action against any person or group of persons on any grounds including those of race, color, religion, language, or national origin shall be considered as offenses punishable by law.

408. Principle 5 of the Inter-American Declaration of Principles on Freedom of Expression states that prior censorship, direct or indirect interference in or pressure exerted upon any expression, opinion or information transmitted through any means of oral, written, artistic, visual or electronic communication must be prohibited by law. Under this principle, "restrictions to the free circulation of ideas and opinions, as well as the arbitrary imposition of information and the imposition of obstacles to the free flow of information violate the right to freedom of expression." Principle 13 of the Inter-American Declaration states that the media have the right to practice their profession independently. Direct or indirect pressures exerted upon journalists or other social communicators to stifle the dissemination of information are incompatible with freedom of expression.

409. The Constitution of Honduras recognizes the right to freedom of expression in Article 72, which provides that "The expression of thought and opinion by any means of dissemination shall be free and uncensored. Those who abuse this right shall answer to the law, as shall those who, by direct or indirect means, restrict or impede communication and the free flow of ideas and opinions." Article 73 of the Constitution provides that printing presses, radio and television stations and any other means of dissemination of thought and opinion and all their equipment "shall not be taken out of commission, confiscated, closed, or have their business interrupted for a crime or failure to report, notwithstanding any liabilities that may thereby have been incurred under the law. No business engaged in reporting news and opinions may be subsidized by a foreign government or foreign political party. The law shall prescribe the penalties for violation of this clause. The executive offices of print media, radio and television, and the intellectual, political and administrative management of them shall be performed by persons who are Hondurans by birth." Article 74 of the Constitution provides that "the right to express thoughts and opinions shall not be restricted through indirect means such as abuse of official or private control of the material used to print newspapers and the frequencies, tools or apparatuses used in broadcasting." Article 75 adds that "The law regulating expression of thought may provide for prior censorship for the purpose of protecting the ethical and cultural values of society, and the rights of persons, especially children, adolescents and youth. The law shall regulate commercial advertising of alcoholic beverages and tobacco consumption."

410. For its part, the *jurisprudence constante* of the Inter-American Court has underscored the importance of freedom of expression:

> Freedom of expression is a cornerstone upon which the very existence of a democratic society rests. It is indispensable for the formation of public opinion. It is also a condition *sine qua non* for the development of political parties, trade unions, scientific and cultural societies and, in general, those who wish to influence the public. It represents, in short, the means that enable the community, when exercising its options, to be sufficiently informed. Consequently, it can be said that a society that is not well informed is not a society that is truly free.[515]

411. The Commission has received information about situations that have occurred since the *coup d'état* that constitute serious violations of the right to freedom of expression. During the Commission's on-site visit, it confirmed that on June 28 a number of media outlets –especially television and radio stations- were forced to suspend broadcasts when the military took over their facilities, when technical problems like blackouts occurred, and when relay stations and transmitters were seized, which meant that they were unable to report what was happening. The Commission also learned that various cable television channels were taken off air. Broadcasting of television programs whose editorial leaning was critical of the *coup d'état* was suspended. Other methods of controlling information included calls made by various high-ranking officials, especially members of the forces of law and order, suggesting that it would be inadvisable to broadcast or print news or opinions against the *de facto* government. While broadcasting, reporters were assaulted and detained and their equipment destroyed. Private citizens also launched violent attacks and made death threats against the media.

412. The IACHR has been able to confirm that after the *coup d'état*, the media became polarized. Because of problems in their institutional structure, the government-owned media are not independent of the Executive Branch and as a result are openly biased in favor of the *de facto* government. Reporters, journalists and the media that are perceived as being supportive of the *de facto* government have become targets of sharp attacks, presumably from those who oppose the *coup d'état*. Other media outlets that are perceived as encouraging the resistance movement have had their ability to report affected by agents of the State and by private citizens who are restricting their reporting. In this highly polarized atmosphere, few media outlets have made public commitments to civilian organizations to report the news from all sides, without letting editorial positions influence their reporting. However, reporting the news freely and without interference is no easy task, as the *de facto* government has powerful tools it can use to exert influence and intimidate. These may be employed openly or under cover, under the pretext of enforcement of pre-existing laws. On the other hand, threats and violent attacks by private citizens have also made the practice of journalism very difficult.

1. Broadcasting Shutdowns or Interruptions

413. The Commission was told that a number of channels were taken off the air on the morning of June 28. Military troops took over the broadcasting antennas and cut electrical power. Cable channels were ordered to block the signals from international channels and various radio stations were militarized. These were just some of the abuses committed against freedom of the press.

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[515] I/A Court H.R., *Compulsory Membership in an Association Prescribed by Law for the Practice of Journalism* (Arts. 13 and 29 American Convention on Human Rights). Advisory Opinion OC-5/85 of November 13, 1985. Series A No. 5, paragraph 70.

a. Television Channels

414. According to the information the Commission received, on June 28 military personnel occupied the broadcast antenna facilities of various radio and television channels in the Cerro de Canta Gallo district of Tegucigalpa and for a number of hours prevented the transmitters from going online. The transmission towers for Channel 5, Channel 3, Channel 57, Channel 8, Channel 33, Channel 36, Channel 30, Channel 54 and Channel 11 are all in that area. This measure, combined with the repeated power outages, made it difficult for these channels to transmit a signal.[516]

415. For its part, Channel 8, which belongs to the State, stopped broadcasting its signal on June 28, according to what its former editor, Héctor Orlando Amador Zúñiga[517] told the Commission. Some days thereafter, it started broadcasting again, but the entire staff and all the programming –including the advertising- had been substantially overhauled, presumably to reflect the *de facto* government's views.[518].

416. Channel 36, whose editorial line was supportive of President Zelaya's administration, was also occupied by members of the armed forces on June 28 and went off the air. According to reports, soldiers also took over the channel's antenna and broadcasting equipment,

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[516] Office of the Special Rapporteur-IACHR, Press Release 44-09: *Office of the Special Rapporteur for Freedom of Expression Condemns Limitations to Freedom of Expression in Honduras,* June 29 2009. Available at: http://www.cidh.oas.org/relatoria/showarticle.asp?artID=753&lID=1. Committee to Protect Journalists, "CPJ Alarmed by Suppression of Media in Honduras," (New York) June 30, 2009. Available at: http://www.cpj.org/blog/2009/06/cpj-alarmed-by-supression-of-media-in-honduras.php. Reporters Without Borders, "News blackout after army ousts president," June 29, 2009, Available at: http://www.rsf.org/News-blackout-after-army-ousts.html. .C-Libre, "*Reinician transmisiones Canal 36 y Radio la Catracha*" [Channel 36 and Radio la Catracha resume broadcasting]. (Tegucigalpa), July 5, 2009. Available at: http://www.conexihon.com/ediciones/edicion117/NOTAS/n_libertdad-expresion3.html. Committee of Relatives of Detainees- Disappeared in Honduras, "*Informe Preliminar Violaciones a Derechos Humanos en el marco del golpe de Estado en Honduras*" [Preliminary Report on Human Rights Violations in the Context of the Coup d'état in Honduras], July 15, 2009. Available at: http://www.cofadeh.org/. IACHR meeting with COFADEH, Washington, D.C., United States, July 21, 2009.

[517] In his testimony to the IACHR during the on-site visit to Honduras on August 21, 2009 (Tegucigalpa), the former managing editor of Channel 8, Héctor Orlando A. Zúñiga, said the following: "On June 28 I was planning for the channel to begin broadcasting at 6:30 AM. However, when I reached the presidential residence, where channel 8 is located, there were soldiers everywhere; the *coup d'état* was already under way. They took my colleagues –the technicians and the producer Cesar Romero- out at gunpoint, beat them up and took away their cell phones. I couldn't get into the station. We were standing outside, with guns pointed at us. I finally managed to get away when they picked me up on a motorcycle."

[518] "Corte le quita al gobierno la frecuencia del canal 8" [Court takes Channel 8 away from government], La Prensa (San Pedro Sula), November 25, 2008. Available [in Spanish] at: http://www.laprensahn.com/País/Ediciones/2008/11/26/Noticias/Corte-le-quita-al-Gobierno-la-frecuencia-de-Canal-8. "Canal de televisión del Gobierno hondureño comienza a emitir señal" [Honduran government television channel begins to broadcast signal], *Radio La Primerísima* (Managua), August 3, 2008. Available [in Spanish] at: http://www.radiolaprimerisima.com/noticias/resumen/34874. AMARC, "Canal de televisión del gobierno comenzó a emitir" [Government television channel started broadcasting], August 2008. Available [in Spanish] at: http://legislaciones.item.org.uy/index?q=node/732. Inter-American Press Association. *Honduras Report. 64th General Assembly, Madrid, Spain.* Available at: http://www.sipiapa.com/v4/index.php?page=det_informe&asamblea=20&infoid=321&idioma=us. "Gobierno intenta recuperar Canal 8 ante tribunales" [Government returns to the courts to get back Channel 8], La Prensa (San Pedro Sula), November 26, 2008. Available [in Spanish] at: http://www.laprensahn.com/Pa%C3%ADs/Ediciones/2008/11/27/Noticias/Gobierno-intenta-recuperar-Canal-8-ante-tribunales.

located on Cerro de Canta Gallo in Tegucigalpa. On July 4, the channel was back on the air, after the military authorities returned it to its owner, Esdras Amado López.[519] A communication sent by the *de facto* government in response to a July 3 request for information from the Commission, and received on July 10, stated the following about this case: "The Office of the Special Prosecutor for Human Rights took various measures to get that channel back on the air, which finally happened on Saturday, July 4. That day, Channel 36 resumed normal broadcasting."[520]

417. According to the information compiled by the Commission, Maya Channel 66 was also ordered to stop broadcasting, although its signal was restored on June 29. Eduardo Maldonado, who hosts the program "Hable como Habla" on Channel 66, told the Commission that on June 28 the Head of the Joint Chiefs, General Romeo Vásquez Velásquez, had called him by phone and told him that he should stay off the air.[521]

418. The signals of privately-owned channels 6 and 11 were interrupted on June 28, according to complaints received by the Commission during its on-site visit. The two channels resumed broadcasting and are back on the air, but there are complaints that they are up against restrictions in terms of what they can say and the views they can express regarding the events, especially when they report news related to President Manuel Zelaya. Nancy John, news coordinator at Channel 11, told the Commission that on the day of the coup "we began to receive phone calls from CONATEL telling us to take CNN in Spanish and TeleSUR off the air. We did establish links with them to be able to report the news that they had, because they had more access; however, we were told that we couldn't.[522]

419. In the department of Colón, at least two channels were forced to stop broadcasting for a number of days. This happened in the case of Channel La Cumbre and Televisora de Aguán, Channel 5. Nahúm Palacios, managing editor of Channel 5, told the Commission that on June 28, "a number of members of the Armed Forces came into the station" and "they forced the channel to stop broadcasting."[523]

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[519] Testimony of the managing editor of Channel 36, Esdras Amado López, as told to the IACHR during the on-site visit in Honduras (Tegucigalpa) on August 17, 2009. Office of the Special Rapporteur-IACHR, Press Release 44-09: Office of the Special Rapporteur for Freedom of Expression Condemns Limitations to Freedom of Expression in Honduras, June 29, 2009. Available at: http://www.cidh.oas.org/relatoria/showarticle.asp?artID=753&lID=1. Committee to Protect Journalists, "CPJ Alarmed by Suppression of Media in Honduras," (New York) June 30, 2009. Available at: http://www.cpj.org/blog/2009/06/cpj-alarmed-by-supression-of-media-in-honduras.php. Reporters Without Borders, "News blackout after army ousts president," June 29, 2009, Available at: http://www.rsf.org/News-blackout-after-army-ousts.html. .C-Libre, "Reinician transmisiones Canal 36 y Radio la Catracha" [Channel 36 and Radio la Catracha resume broadcasting]. (Tegucigalpa), July 5, 2009. Available [in Spanish] at: http://www.conexihon.com/ediciones/edicion117/NOTAS/n_libertdad-expresion3.html.

[520] *De facto* Secretariat of Foreign Affairs, Memorandum No. 526-DGAE-90, dated July 10, 2009.

[521] Testimony of Eduardo Maldonado, who conducts the Maya TV program called "Hable como Habla," as told to the IACHR during the on-site visit to Honduras. (Tegucigalpa), August 17, 2009.

[522] Testimony of Nancy John, Editorial Head of Channel 1, as told to the IACHR during the on-site visit to Honduras (Tegucigalpa), August 17, 2009. Inter-American Press Association, "Respect press freedom, IAPA again urges Honduras" (Tegucigalpa) July 2, 2009 Available at: http://www.sipiapa.com/v4/index.php?page=cont_comunicados&seccion=detalles&id=4210&idioma=us. Reporters Without Borders, "News blackout after army ousts president," June 29, 2009, Available at: http://www.rsf.org/News-blackout-after-army-ousts.html.

[523] Testimony that Naúm Palacios, managing editor of Channel 5, gave to the IACHR, by telephone, during the on-site visit to Honduras (Tegucigalpa) August 21, 2009.

420. Early on the morning of September 28, the forces of law and order searched and seized broadcasting equipment at Channel 36 and Radio Globo. This was shortly after the *de facto* government approved executive decree PCM-M-016-2009.[524]

421. On October 20, the *de facto* government's Foreign Office sent the Commission a communication in response to a request that the Commission had sent on October 6 seeking information. The *de facto* government's reply states that "with regard to the closing of Channel 36 and Radio Globo, the Commission is advised that these media outlets were closed pursuant to the instructions given in resolutions OD-019/09 and OD-018/09, which were issued by CONATEL pursuant to Executive Decree PCM-M-016-2009; those instructions designate the First Communications Battalion, based in Las Mesas, Department of Francisco Morazán, as the repository of all transmitting equipment, relays and antennas confiscated in the operation." In its response, the *de facto* government added the following: "Inasmuch as the above-mentioned Executive Decree was revoked by Executive Decree PCM-M-020-2009, both Channel 36 and Radio Globo are currently operating normally. The Office of the Special Prosecutor for Human Rights has opened investigations into these cases".[525]

b. Signal Blocking

422. Apart from these situations, during its on-site visit the Commission confirmed that the National Telecommunications Commission (CONATEL) had instructed cable television companies to either directly or indirectly take the international news broadcasts by CNN in Spanish, TeleSUR, Cubavisión Internacional, Guatevisión, Ticavisión, and others off the air.[526]

423. However, during the Commission's meeting with the board of CONATEL on August 18 in Tegucigalpa the directors denied having given any order to have the signals of the international news channels blocked; they even said that they watched –from their own homes- the broadcasts by CNN in Spanish and TeleSUR.[527]

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[524] Office of the Special Rapporteur-IACHR, Press Release 71-09: ´The Office of the Special Rapporteur for Freedom of Expression Condemns the Suspension of Guarantees in Honduras and the Violations of the Right to Freedom of Expression," September 29, 2009. Available at: "http://www.cidh.oas.org/relatoria/showarticle.asp?artID=764&lID=1. . "Micheletti acalla las voces contra el golpe en Honduras" [Micheletti silences the voices protesting coup in Honduras], *El País de Madrid*, September 29, 2009. Available [in Spanish] at: http://www.elpais.com/articulo/internacional/Micheletti/acalla/voces/golpe/Honduras/elpepiint/20090929elpepiint_10/Tes.

[525] *De facto* Secretariat of Foreign Affairs of Honduras, Memorandum 731-DGAE-09 dated October 20, 2009.

[526] Office of the Special Rapporteur-IACHR, Press Release 44-09: *Office of the Special Rapporteur for Freedom of Expression Condemns Limitations to Freedom of Expression in Honduras,* June 29 2009. Available at: http://www.cidh.oas.org/relatoria/showarticle.asp?artID=753&lID=1. Reporters Without Borders, "News blackout after army ousts president," June 29, 2009, Available at: http://www.rsf.org/News-blackout-after-army-ousts.html. Inter-American Press Association, "IAPA censures acts against journalists and media in Honduras" (Miami), June 29, 2009. Available at: http://www.sipiapa.com/v4/index.php?page=cont_comunicados&seccion=detalles&id=4208&idioma=us. Inter-American Press Association, "Respect press freedom, IAPA again urges Honduras" (Tegucigalpa) July 2, 2009. Available at: http://www.sipiapa.com/v4/index.php?page=cont_comunicados&seccion=detalles&id=4210&idioma=us. Article 19, "Honduras: Early Warning Signs of Impending Crisis", (London) July 28, 2009. Available at: http://www.article19.org/pdfs/press/honduras-early-warning-signs-of-impending-crisis.pdf. Committee to Protect Journalists, CPJ Alarmed by Suppression of Media in Honduras," (New York) June 30, 2009. Available at: http://www.cpj.org/blog/2009/06/cpj-alarmed-by-supression-of-media-in-honduras.php.. ..

[527] IACHR's meeting with the Board of CONATEL, during its on-site visit to Honduras (Tegucigalpa), August 18, 2009.

424. The chairman of CONATEL, Miguel A. Rodas, said that he had no "knowledge" of what happened on June 28, because he did not become chairman of CONATEL until five days after President Zelaya was deposed. "We don't know anything. No order has been given since July 3 to take the cable channels off the air", Rodas asserted.[528]

425. In his response to the Commission's preliminary report on its on-site visit,[529] the National Commissioner for Human Rights (CONADEH), Ramón Custodio López, said that it was "true" that CONATEL instructed cable television providers to directly or indirectly take the international channels or domestic programs carried by local channels off the air.[530]

426. In the meantime, Nancy John, a journalist with Channel 11, told the Commission that on June 28, "we started receiving phone calls from CONATEL to take CNN and TeleSUR off the air". She also said that in these phone calls, they were also told, "Please cut off CNN and TeleSUR." She said that their argument was that "they wanted to avert more acts of violence, which was why they didn't want the images of the people in the streets to be seen."[531]

c. Radio

427. Other media outlets were also taken over or surrounded by security forces on the date of the *coup d'état*. According to the information received, on the morning of June 28, Army troopers were said to have gone to the facilities of *Radio Progreso* in the city of El Progress, department of Yoro, and reportedly ordered the station personnel to shut down all the transmitting equipment and go home. Given the display of force, the managing editors of the radio station and its staff allegedly decided to follow orders, which is why Radio Progreso was not broadcasting that day. According to this information, the following day, June 29, the employees returned to the station, by which time the Army troops had apparently left the premises. That day, the station broadcast normally. However, on June 30, precautionary measures were requested from the Inter-American Commission because of the fear that the safety of the news crew had been compromised. Shortly thereafter, the station started broadcasting its signal again.

428. In his testimony to the IACHR, Radio Progreso journalist José Peraza recounted the moment when the military entered and took over the station.[532]

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[528] IACHR's meeting with the Board of CONATEL, during its on-site visit to Honduras (Tegucigalpa), August 18, 2009.

[529] IACHR, Press Release 60-09: *IACHR presents preliminary observations on its visit to Honduras*, August 21, 2009. Available at: http://www.cidh.oas.org/Comunicados/English/2009/60-09eng.htm.

[530] CONADEH's response to the IACHR's Press Release 60-09, Honduras. (Tegucigalpa), September 1, 2009.

[531] Testimony of Nancy John, as told to the IACHR during its on-site visit to Honduras (Tegucigalpa), August 17, 2009.

[532] Testimony of Radio Progreso journalists Ismael Moreno, Karla Rivas, Gustavo Cardoza and José Peraza, as told to the IACHR during its on-site visit to Honduras (San Pedro Sula), August 19, 2009. Pereaza said the following: "Early on Sunday morning, the 28th we checked the media that tend to be carrying news at that time of the day; all they were carrying were sports, cartoons, and they said 'nothing's happening in this country'. Right away we thought, the military is going to take us over. We knew we had no bargaining position, so we decided to leave the radio station. The first contingent of troops was on the street corner where the station is located at 10:10 a.m. But the people who were in the park, just a block away, came to the station and the soldiers run off. Then, Karla Rivas, who was in the booth at that time, began to say that the military were here. Within minutes, the military came in, positioned themselves at key points and ordered the equipment shut down." Office of the Special Rapporteur-IACHR, Press Release 44-09: *Office of the Special Rapporteur for Freedom of Expression Condemns Limitations to Freedom of Expression in Honduras,* June 29 2009. Available at:

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429. In a communication from the *de facto* government received at the Commission on July 10, the following is written about Israel Moreno, journalist and managing editor of Radio Progreso: "He complained that the station's signal had been suspended; it was restored and an investigation is in progress." As with so many of the situations involving issues related to freedom of expression and about which the Commission requested information, this communication said the following: "The Office of the Special Prosecutor for Human Rights is currently investigating the circumstances surrounding those complaints."[533]

430. Reports were also received to the effect that the following members of the journalist staff and members of Radio Progreso and the Equipo de Reflexión, Investigación y Comunicación (ERIC) t Ministries' Team of Reflection, Research and Communication [Radio Progreso and the Jesuit Ministries' Team of Reflection, Research and Communication] had allegedly received threats via their cell phones and monitors: Rita Santa María, María Elena Cubillo, Lolany Pérez, Rommel Gómez, José Peraza, Lesly Banegas, Gerardo Chevez, Karla Rivas, Féliz Antonio Molina and Elvín Fernaly Hernández[534].

431. The Managing Editor of Radio Globo, David Ellner Romero, reported that on June 28, the station was surrounded by Army troops for more than two hours, until they finally decided to take over the station. In his testimony to the IACHR Romero recounted that on June 28, he arrived at the station at around 5:30 a.m.: "There were around 40 soldiers surrounding it." Romero said he received a call from an Armed Forces spokesperson at 8:00 a.m. who "told me I was making a big mistake by saying that there had been a *coup d'état*, because this was a handover of power." "But I hung up on them and at 10:00 a.m. they came looking for me at the building from which I was broadcasting. I recalled then that in the 1980s I had been 'disappeared' for 6 days." Romero added, "With that thought in mind, I jumped from the third floor."[535] That afternoon, the soldiers allegedly entered the station and took the reporters off the air. They were broadcasting live at the time. According to the information received, reporters Alejandro Villatoro, Lidieth Díaz, Rony Martínez, Franklin Mejía, David Ellner Romero and Orlando Villatoro had allegedly been roughed up and threatened. The station was off the air for a number of hours, and then started broadcasting again, but with restrictions. Some of the information about the station's situation appeared in a letter that Ellner Romero published on a Web page.[536]

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http://www.cidh.oas.org/relatoria/showarticle.asp?artID=753&lID=1. Reporters Without Borders, "News blackout after army ousts president," June 29, 2009, Available at: http://www.rsf.org/News-blackout-after-army-ousts.html. Committee to Protect Journalists, "CPJ Alarmed by Suppression of Media in Honduras," (New York) June 30, 2009. Available at: http://www.cpj.org/blog/2009/06/cpj-alarmed-by-supression-of-media-in-honduras.php. Inter-American Press Association, "IAPA censures acts against journalists and media in Honduras" (Miami), June 29, 2009. Available at: http://www.sipiapa.com/v4/index.php?page=cont_comunicados&seccion=detalles&id=4208&idioma=us.

[533] *De facto* Secretariat of Foreign Affairs, Memorandum No. 526-DGAE-90, received on July 10, 2009.

[534] Request for precautionary measures filed by the International Mission to investigate the Human Rights Situation in Honduras in the wake of the coup d'état, July 22, 2009.

[535] Testimony of David Ellner Romero, as told to the IACHR during its on-site visit to Honduras (Tegucigalpa), August 17, 20009.

[536] IACHR, Office of the Special Rapporteur, Press Release 44-09: *Office of the Special Rapporteur for Freedom of Expression Condemns Limitations to Freedom of Expression in Honduras,* June 29 2009. Available at: http://www.cidh.oas.org/relatoria/showarticle.asp?artID=753&lID=1. Reporters Without Borders, "News blackout after army ousts president," June 29, 2009, Available at: http://www.rsf.org/News-blackout-after-army-ousts.html. "El apagón de los medios" [The Media Blackout], *BBC World* (London), June 30, 2009. Available at: http://www.bbc.co.uk/mundo/america_latina/2009/06/090630_1030_honduras_medios_sao.shtml.

432. In the communication from the *de facto* government, which the Commission received on July 10, the following is stated: "Concerning these complaints, the Office of the Special Prosecutor employed its best efforts in having the signal of Radio Globo restored and to get the Maya TV program "*Hable como Habla*" back on the air. Radio Globo re-started broadcasting last week."[537]

433. According to information that the Commission received, the executives at Radio Globo had allegedly obtained a copy of the petition filed on August 3 with CONATEL by attorney José Santos López Oviedo, who has his office in the Office of the Judge Advocate General of the Armed Forces. In this petition, the attorney "requests suspension of one media outlet, because it is being used to commit sedition by inciting insurrection, thereby endangering the lives of private citizens."[538] According to information received, the complaint is based on the fact that Radio Globo had allegedly broadcast a message from human rights activist Andrés Pavón, who had allegedly called for a popular uprising.

434. During the meeting between the Commission and the board of CONATEL in Tegucigalpa on August 18, the Chairman of CONATEL, Mr. Miguel A. Rodas, supplied a copy of the ruling that had declared the complaint against Radio Globo "inadmissible" "on the grounds that CONATEL's authority and functions do not grant the power to investigate or punish alleged crimes; by law, that authority belongs exclusively to the Public Prosecutor's Office and the Courts of the Republic, respectively.[539]

435. On August 6, the managing editor of the station, David Romero Ellner, told the IACHR that he had received a phone call from a spokesman for the military chiefs emphasizing that the Armed Forces were not behind the petition and that it was attorney López' personal initiative.[540]

436. Early on the morning of June 28, Radio Juticalpa in the department of Olancho was strafed by machinegun fire. The bullets struck the walls and windows of the broadcast booths. The incident was reported to the delegate of the Olancho Commissioner of Human Rights and to the Police, but there was allegedly no response. The owner of the station, Martha Elena Rubí, told the Commission that on the morning of June 28, a military contingent had come to the station and forced her to close it down. The military occupation of the station lasted until 7:00 p.m. Rubí and her children immediately started to receive death threats over their cell phones. Rubí told the

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[537] *De facto* Secretariat of Foreign Affairs, Memorandum No. 526-DGAE-90, July 10, 2009. Article 19, "Honduras: Early Warning Signs of Impending Crisis", (London) July 28, 2009. Available at: http://www.article19.org/pdfs/press/honduras-early-warning-signs-of-impending-crisis.pdf. Reporter Without Borders, "Gag on media getting steadily tighter in month since coup," July 28, 2009. Available at: http://www.rsf.org/Gag-on-media-getting-steadily.html.

[538] IACHR's meeting with the board of CONATEL during its on-site visit in Honduras (Tegucigalpa), August 18, 2009.

[539] IACHR's meeting with the board of CONATEL during its on-site visit in Honduras (Tegucigalpa), August 18, 2009.

[540] "Radio globo de Honduras denuncia que auditor militar pidió silenciarla" [Radio Globo of Honduras denounces that military judge advocate seeks to silence it], El Nacional (Caracas), August 4, 2009. Available [in Spanish] at: http://www.el-nacional.com/www/site/p_contenido.php?q=nodo/92989/Honduras/Radio-Globo-de-Honduras-denuncia-que-auditor-militar-pidi%C3%B3-silenciarla-. C-Libre, "Fuerzas Armadas intentan cerrar Radio Globo" [Armed Forces Attempt to Shut Down Radio Globo]. (Tegucigalpa), August 4, 2009. Available [in Spanish] at: http://conexihon.com/blog/archives/582. Testimony of David Romero Ellner, managing editor of Radio Globo, taken by telephone by the IACHR on August 6, 2009.

Commission that the officers in charge of the operation refused to give her their names and told her that when she tells the Judge Advocate General what happened, "say that it was the Army."[541]

437. Also on June 28, military personnel tried to shut down Radio Marcala in Marcala, department of La Paz. At the time, it was the only station transmitting the events. According to the information received, locals who allegedly heard what was happening, came to the radio station and refused to allow it to be shut down. Suyapa Banegas, a journalist with Radio Marcala, told the IACHR that "on the day of the *coup d'état*, when the troops showed up at the radio station we announced it on the air and the people planted themselves outside the station," thereby preventing it from being taken over.[542]

438. On October 6, the Commission requested information from the *de facto* government concerning the serious threats and acts of harassment that community and commercial radio stations were said to have experienced. In its response, dated October 20, the *de facto* government indicated the following:

> Apropos the threats and acts of harassment supposedly experienced by Radio Faluna Binetu (Radio Coco Dulce), Radio Durugubuti (Radio San Juan), Radio Lafuru Garabali (Radio Buenos Aires), Radio Stereo Celaque in the Municipality of Tomalá (Department of Lempira), Radio Estereo Lenca of Valladolid (Puerto Lempira), Revista Vida Laboral, Radio Orquídea serving the community of Guadalupe Carney (Department of Colón), Radio Gaurajambala (Department of Intibuca), Radio La Voz Lenca of the Municipality of San Francisco (Department of Lempira), Radio Márcala (Department of La Paz), Defensores en línea.com and the radio program *Voces contra el Olvido,* which is a broadcast of the Committee of Relatives of Detainees-Disappeared in Honduras (COFADEH), Radio Progreso of the Society of Jesus, and Radio Uno, the Commission is hereby advised that the National Bureau of Criminal Investigation has been instructed to conduct all the necessary investigations to clarify the facts being alleged; however, those who consider themselves to have been aggrieved are urged to file the corresponding complaints with the National Bureau of Criminal Investigation, which has offices nationwide. The Commission is also advised that the Office of the Special Prosecutor for Human Rights has issued instructions to the competent regional prosecutor's offices to look into the situations being alleged and, where appropriate, open investigative case files. Concerning Radio Progreso, the Commission is again advised that a request has been filed by the Public Prosecutor seeking indictment of personnel from the La Lima Air Base in the department of Cortés; as an update, the Judge presiding over case has decided to apply 4 of the 5 precautionary measures requested by the Office of the Special Prosecutor for Human Rights against Lieutenant Colonel Hilmer Enrique Hermida

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[541] Testimony of Martha Elena Rubí, owner of Radio Juticalpa, as told to the IACHR during its on-site visit to Honduras (Tegucigalpa), August 21, 2009. Committee of Relatives of Detainees-Disappeared in Honduras, "Informe Preliminar de Violaciones a los Derechos Humanos en el marco del golpe de Estado en Honduras" [Preliminary Reporto n Human Rights Violations in the context of the coup d'état], July 15, 2009. Available [in Spanish] at: http://www.cofadeh.org/. Request seeking precautionary measures, filed by the Center for Justice and International Law and received on July 20 and 22, 2009.

[542] Testimony of Suyapa Banegas, journalist with Radio Marcala, as told to the IACHR during its on-site visit to Honduras (Tegucigalpa), August 20, 2009. Committee of Relatives of Detainees-Disappeared in Honduras, "Informe Preliminar de Violaciones a los Derechos Humanos en el marco del golpe de Estado en Honduras" [Preliminary Report on Human Rights Violations in the context of the coup d'état], July 15, 2009. Available [in Spanish] at: http://www.cofadeh.org/.

Álvarez and Lieutenant Dennis Mauricio Valdez Rodas, who have been prohibited from leaving the country, visiting the facilities of Radio Progreso and communicating with the station's personnel; they have also been ordered to make a weekly court appearance. The initial hearing has been set for November 16 of this year.[543]

d. Impact on the Print Media

439. The staff of the newspaper *Poder Ciudadano*, established as the official newspaper of the administration of President Zelaya, was dismissed a few days after the *coup*.[544] On July 14, René Zelaya, Minister of Communications and Press of the *de facto* government, delivered a message to Lic. Mercedes Barahona, the editor of the newspaper, which read as follows: "On orders from the Office of the General Manager of the Presidential Residence and due to budgetary cuts, you are hereby respectfully notified that as of this date, all staff members working on what was once the '*Poder Ciudadano*' newspaper are hereby discharged."[545]

440. In connection with these events, the Commission is compelled to point out that under Article 13 of the American Convention on Human Rights, "[e]veryone has the right to freedom of thought and expression. This right includes freedom to seek, receive, and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing, in print, in the form of art, or through any other medium of one's choice." Article 13 also provides that "[t]he right of expression may not be restricted by indirect methods or means, such as the abuse of government or private controls over newsprint, radio broadcasting frequencies, or equipment used in the dissemination of information, or by any other means tending to impede the communication and circulation of ideas and opinions."

441. Furthermore, Principle 5 of the Inter-American Declaration of Principles on Freedom of Expression states that "[p]rior censorship, direct or indirect interference in or pressure exerted upon any expression, opinion or information transmitted through any means of oral, written, artistic, visual or electronic communication must be prohibited by law. Restrictions to the free circulation of ideas and opinions, as well as the arbitrary imposition of information and the imposition of obstacles to the free flow of information violate the right to freedom of expression." Principle 13 states that "[t]he means of communication have the right to carry out their role in an independent manner. Direct or indirect pressures exerted upon journalists or other social communicators to stifle the dissemination of information are incompatible with freedom of expression."

2. Blackouts

442. On the morning of June 28, there was a generalized blackout that lasted for over two hours. According to the complaints received by the Commission during its visit, a number of intermittent blackouts followed for the rest of the day. The power cuts prevented radio and

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[543] *De facto* Secretariat of Foreign Affairs of Honduras, Memorandum 731-DGAE-09 dated October 20, 2009.

[544] Article 19, "Honduras: Early Warning Signs of Impending Crisis", (London) July 28, 2009. Available at: http://www.article19.org/pdfs/press/honduras-early-warning-signs-of-impending-crisis.pdf.

[545] Note sent to the newspaper *Poder Ciudadano* by the Presidential House, dated July 14, 2009, a copy of which was received by the IACHR during its on-site visit to Honduras (Tegucigalpa), August 17, 2009.

television broadcasts. Among the affected areas were those in which the transmission towers were located. The outages also affected landline and cellular telephone services.[546]

443. Dagoberto Rodríguez, managing editor of Radio Cadena Voces, confirmed the complaints of electrical power being cut off.[547] Nancy John, news coordinator at Channel 11, also confirmed for the Commission the complaints concerning the incidents in which electrical power was cut.[548]

444. For her part, Suyapa Banegas, on the staff of Marcala alternative radio in the department of La Paz, said that on the day of the coup, broadcasters on commercial radio stations that supported the ousting of President Manuel Zelaya could be heard saying "Nothing is happening here." They asked the public "not to leave home" because "everything" was "normal".[549]

445. However, at the meeting that the Commission had with CONATEL's board, Miguel A. Rodas, chairman of CONATEL –which is in charge of regulating telecommunications- assured the Commission that he had no information as to whether the power outages were intentional. Rodas said the following: "What I can tell you is that electricity supply in Honduras is very unstable". By way of example he pointed out that "TIGO," a cell phone company, has "100 percent of its towers operating on generators."[550]

446. The Commission also received information to the effect that a series of intermittent outages that began in Tegucigalpa on September 21, affected transmission by Channel 36 and Radio Globo. The IACHR also received information to the effect that on September 21,

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[546] Office of the Special Rapporteur- IACHR, Press Release 44-09: *Office of the Special Rapporteur for Freedom of Expression Condemns Limitations to Freedom of Expression in Honduras,* June 29 2009. Available at: http://www.cidh.oas.org/relatoria/showarticle.asp?artID=753&lID=1. C-Libre, "Bloqueo de Medios de Comunicación en Honduras. (Tegucigalpa), June 29, 2009. Available [in Spanish] at: http://conexihon.com/blog/archives/324. Reporters Without Borders, "News blackout after army ousts president," June 29, 2009, Available at: http://www.rsf.org/News-blackout-after-army-ousts.html. Inter--American Press Association. June 29, 2009, *IAPA censures acts against journalists and media in Honduras*. Available at: http://www.sipiapa.org/v4/index.php?page=cont_comunicados&seccion=detalles&id=4208&idioma=us. BBC. June 30, 2009. "*El apagón de los medios"* [The media blackout]. Available [in Spanish] at: http://www.bbc.co.uk/mundo/america_latina/2009/06/090630_1030_honduras_medios_sao.shtml. Communication sent to the IACHR on June 29, 2009.

[547] Testimony of Dagoberto Rodríguez, managing editor of Radio Cadena Voces, as told to the IACHR during its on-site visit to Honduras (Tegucigalpa), August 17, 2009. Rodríguez said the following: "On Sunday the 28th, power was cut several times; one of the outages affected us. But because we have our generator, we solved the problem." Rodríguez added that on that day, "broadcasting at all stations was suspended for a number of hours and we had to broadcast in segments. On Monday, we didn't have problems. At least not at our station."

[548] Testimony of Nancy John, a journalist with Channel 11, as told to the IACHR during its on-site visit to Honduras (Tegucigalpa), August 17, 2009. Ms. John said the following: "On the morning of the coup, there was a generalized two-hour blackout in Tegucigalpa and other cities and regions in Honduras. This was followed by a number of power cuts, but they were intermittent."

[549] Testimony of Suyapa Banegas, journalist with Radio Marcala, as told to the IACHR during its on-site visit to Honduras (Tegucigalpa), August 20, 2009. She indicated: "However, when the radio stations in the country's interior –community and alternative stations— realized about the *coup*, it occurred to us that the Government, and more specifically the military who were in control that morning, had decided to cut the electrical power in the country, specifically in those areas where the local stations were beginning to report the news. All this happened before 11:00 a.m., when electric power was restored."

[550] IACHR's meeting with the board of CONATEL during its on-site visit to Honduras (Tegucigalpa), August 18, 2009.

military troops took over the Tegucigalpa electric power plant, which is the plant that controls electric power transmission to the Tegucigalpa region.[551]

3. Detention of Journalists

447. The Commission received reports to the effect that a number of journalists were detained for several hours for reasons associated with the practice of their profession. According to this information, on June 29, some 10 soldiers detained a group of journalists working for the foreign media at their hotel in Tegucigalpa. Among those detained were the following: Adriana Sivori, with TeleSUR, and the members of the crew working for the same channel, María José García and Larry Sánchez; Nicolás García and Esteban Félix, who were working for the Associated Press (AP), and two others also working for AP. According to various reports, the journalists were said to have been taken to an immigration office where they were allegedly questioned about their visas to work in the country. Other reports indicated that the military had allegedly confiscated the work material of the TeleSUR journalists. All were released some hours later.[552] The TeleSUR journalist, Madeleine García, told the IACHR that on Monday, June 29, they were transmitting "live" from the 12th floor of the Hotel Marriot, a vantage point that allowed them to film "everything that was happening" on the streets below, located in the vicinity of the Presidential Residence, where sympathizers of President Manuel Zelaya were gathered, "pleading for his return." García said that at around midnight, she received a call from the authorities of the *de facto* regime in which they warned her that the authorities were about to arrest them.[553]

448. As with the other situations involving issues of freedom of expression and about which the IACHR requested information, the communication received from the *de facto* government said the following about this case: "The Office of the Special Prosecutor for Human Rights is currently investigating the circumstances under which the events in these complaints transpired."[554]

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[551] Office of the Special Rapporteur-IACHR, Press Release 66-09: Special Rapporteurship for Freedom of Expression Condemns Restrictions to Freedom of Expression in Honduras, September 24, 2009. Available at: http://www.cidh.oas.org/relatoria/showarticle.asp?artID=753&lID=1.

[552] Office of the Special Rapporteur-IACHR, Press Release 44-09: *Office of the Special Rapporteur for Freedom of Expression Condemns Limitations to Freedom of Expression in Honduras,* June 29 2009. Available at: http://www.cidh.oas.org/relatoria/showarticle.asp?artID=753&lID=1. Committee to Protect Journalists, "CPJ Alarmed by Suppression of Media in Honduras," (New York) June 30, 2009. Available at: http://www.cpj.org/blog/2009/06/cpj-alarmed-by-supression-of-media-in-honduras.php. Reporters Without Borders, "News blackout after army ousts president," June 29, 2009, Available at: http://www.rsf.org/News-blackout-after-army-ousts.html. Article 19, "Honduras: Freedom of Expression Under Threat Following Weekend Coup". (London), July 1, 2009. Available at: http://www.article19.org/pdfs/press/honduras-freedom-of-expression-under-threat-following-weekend-coup.pdf. Inter-American Press Association. "Respect Press Freedom, IAPA Again Urges Honduras." (Miami), July 2, 2009. Available at: http://www.sipiapa.com/v4/index.php?page=cont_comunicados&seccion=detalles&id=4210&idioma=us.

[553] Testimony of Madeleine García, a journalist with TeleSUR, as told to the IACHR during its on-site visit to Honduras (Tegucigalpa), August 17, 2009. García said that the midnight call she received was from a call center; the party at the other end of the line said to her: "Look, Madeleine, why are you doing this? You are showing something that isn't true. We'll be there in 20 minutes." Ms. García went on to say: "And in fact, 20 minutes later, a group of heavily armed military personnel arrived on the hotel's 12th floor and took all the reporters away, including the journalists from the AP and other news agencies. I immediately called General Romeo Vásquez Velázquez and asked him, 'Where are the journalists who were detained?' All this came out, which is why they acted quickly to release the TeleSUR crew, which had been taken to the immigration office, on the pretext that they were in Honduras illegally."

[554] *De facto* Secretariat of Foreign Affairs, memorandum No. 526-DGAE-90, received on July 10, 2009.

449. Caricaturist Allan McDonald was detained together with his 17-month-old daughter. According to the complaint, the caricaturist "reported from a hotel, where he was being held in custody along with the Consul of the Republic of Venezuela and two women journalists from Spain and Chile, with whom he was not acquainted." The caricaturist said that on June 28, members of the Armed Forces burst into his home, "ransacked" it and built a "bonfire with all his caricatures and drawing materials." The only thing they allowed him to take when they dragged him from his home was his passport.[555]

450. The news director at Televisor de Aguán, Channel 5, Nahúm Palacios, reported that in Tocoa, department of Colón, soldiers surrounded the television station on June 29 and forcibly entered the facility, while the journalists were covering the *coup d'état*. The soldiers seized the broadcasting equipment and the channel went off the air.[556]

451. On July 2, Mario Amaya, a photographer for the Salvadoran newspaper *El Diario de Hoy,* was beaten and taken into custody by soldiers as he was photographing a protest in San Pedro Sula that was being dispersed. On June 29, the same photographer reported having been beaten by supposed demonstrators as he was covering a pro-Zelaya march.[557]

452. On July 2, Rommel Gómez, a reporter from Radio Progreso, was detained by the military as he was covering a protest in San Pedro Sula's Central Park. The soldiers took way his work materials and took photos of his personal documents. According to the complaints received, this was an act of intimidation.[558] Rommel Gómez and his wife, Miryam Espinal, also complained of receiving death threats on their private phones.[559]

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[555] Office of the Special Rapporteur-IACHR, Press Release 44-09: *Office of the Special Rapporteur for Freedom of Expression Condemns Limitations to Freedom of Expression in Honduras,* June 29 2009. Available at: http://www.cidh.oas.org/relatoria/showarticle.asp?artID=753&lID=1. Article 19, "Honduras: Freedom of Expression Under Threat Following Weekend Coup". (London), July 1, 2009. Verenice Bengtson, e-mail received by the IACHR on June 29, 2009. *Periodistas en Español*, "Secuestrado en Honduras el caricaturista Allan Mc Donald" [Caricaturist Allan McDonald abducted in Honduras], June 30, 2009. Available [in Spanish] at: http://www.p-es.org/index.php?option=com_content&task=view&id=3724&Itemid=78.

[556] Testimony that Nahúm Palacios, news editor at Televisora de Aguán, Channel 5, gave to the IACHR by phone during its on-site visit to Honduras (Tegucigalpa), August 21, 2009. C-Libre, "Director de Noticiero del Aguán también fue atropellado" [Editor at Aguan News also beaten]. (Tegucigalpa), July 3, 2009. Available [in Spanish] at: http://www.ifex.org/honduras/2009/07/07/nahun_palacios_victim/es/. Committee of Relatives of Detainees-Disappeared in Honduras, "Informe Preliminar Violaciones a Derechos Humanos en el marco del golpe de Estado en Honduras" [Preliminary Report on Human Rights Violations in the context of the coup d'état], July 15, 2009. Available [in Spanish] at: http://www.cofadeh.org/. Nahúm Palacios, e-mail sent to the Office of the Special Rapporteur for Freedom of Expression on July 16, 2009. Testimony of Naún Palacios, taken by the IACHR by phone on July 15, 2009 and July 22, 2009. CEJIL's letter to the Executive Secretary of the IACHR, Santiago Cantón received by the IACHR on July 23, 2009.

[557] "A Micheletti no le preocupan represalias contra Honduras" [Micheletti unconcerned about reprisals against Honduras], *El Universo* (Guayaquil), July 3, 2009. Available [in Spanish] at: http://www.eluniverso.com/2009/07/03/1/1361/9AB24BE7076D489FA5EDC0956A412372.html. "Periodista salvadoreño es agredido en Honduras" [Salavadoran journalist assaulted in Honduras], *Diario Co Latino* (San Salvador), July 3, 2009. Available [in Spanish] at: http://www.diariocolatino.com/es/20090703/nacionales/68733/. Inter-American Press Association, "IAPA calls for Investigation into the Death of Honduran Journalist" (Miami), July 7, 2009. Available at: http://www.sipiapa.com/v4/index.php?page=cont_comunicados&seccion=detalles&id=4211&idioma=us. "Fotoperiodista salvadoreño golpeado en Honduras" [Salvadoran Photojournalist Beaten in Honduras], La Prensa *Gráfica* (San Salvador), July 2, 2009. Available [in Spanish] at: http://www.laprensagrafica.com/el-salvador/lodeldia/43920-fotografo-salvadoreno-golpeado-en-manifestacion-en-honduras.html.

[558] Defensores en Línea, "*Denuncian represión de militares hacia dirigentes sociales y periodistas independientes [Military repression of social leaders and independent journalists denounced].* (Tegucigalpa), July 2, 2009. Available

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453. According to information received, on the night of July 11, police in Tegucigalpa detained members of the TeleSUR and VTV news teams and took them to police headquarters on the pretext of confirming their immigration status. After a number of hours, the persons being held were released. The next morning, police allegedly prevented reporters from leaving their hotels for a number of hours, on the pretext that they were waiting for the immigration authorities to arrive to check their status. According to the information received, journalists and members of the TeleSUR and VTV news teams were allegedly being held up as a form of intimidation, because of their coverage of the *coup d'état* and of the institutional rupture. According to reports received, the crews from both channels left Honduras the next day believing that they might be in danger. They were escorted as far as the Nicaraguan border by a delegation from the Centro para la Prevención, Tratamiento y Rehabilitación de las Víctimas de la Tortura y sus Familiares (CPTRT) [Center for the Prevention of Torture and the Treatment and Rehabilitation of its Victims and Their Families].[560]

454. On August 14, a reporter from Radio Progreso, Gustavo Cardoza, was taken into custody in Choloma, in the Department of Cortés, as he was covering the violent dispersal of a group of Zelaya sympathizers. The reporter was beaten by police and detained for a number of hours.

455. In the testimony he gave to the Commission, Cardoza recounted how he was beaten by security forces as he was trying to do his reporting.[561] At the same protest, Eduin Castillo,

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[in Spanish] at: http://libertaddeexpresionhn.blogspot.com/2009/07/denuncian-represion-de-militares-hacia.html. Reporters Without Borders. September 7, 2009. *Media in Coup Storm.* Available at: http://www.rsf.org/spip.php?page=article&id_article=33697. . Committee of Relatives of Detainees-Disappeared in Honduras, "Informe Preliminar Violaciones a Derechos Humanos en el marco del golpe de Estado en Honduras" [Preliminary Report on Human Rights Violations in the Context of the Coup d'état]. July 15, 2009. Available [in Spanish] at: http://www.cofadeh.org/. Testimony of Patricia Murillo Gómez, coordinator of the School of Journalism of the Universidad Autónoma de San Pedro Sula and a correspondent for the newspaper Tiempo *de Tegucigalpa*, as told to the IACHR during its on-site visit to Honduras (San Pedro Sula), August 19, 2009.

[559] Request seeking precautionary measures, filed by the International Mission Investigating the Human Rights Situation in the wake of the coup d'état, July 22, 2009.

[560] Testimony of the Centro para la Prevención, Tratamiento y Rehabilitación de las Víctimas de la Toruta y sus Familiares (CPTRT) [Center for te Prevention of Torture and Treatment and Rehabilitation of Its Victims and Their Families] , as told to the IACHR during its on-site visit to Honduras (Tegucigalpa), August 17, 2009. Office of the Special Rapporteur-IACHR: Relatoría Especial-IACHR, Press Release R50-09: *Office of the Special Rapporteur for Freedom of Expression Condemns Detention of Foreign Journalists in Honduras.* July 12, 2009. Available at: http://www.cidh.oas.org/relatoria/showarticle.asp?artID=755&lID=1. Committee to Protect Journalists, "Venezuelan journalists leave Honduras after harassment". (New York), July 13, 2009. Available at: http://cpj.org/2009/07/venezuelan-journalists-leave-honduras-after-harass.php. Inter-American Press Association, " IAPA condemns harassment of Venezuelan TV crews in Honduras." (Miami), July 14, 2009. Available at: http://www.sipiapa.com/v4/index.php?page=cont_comunicados&seccion=detalles&id=4215&idioma=us. Comité de Familiares Detenidos Desaparecidos en Honduras [Committee of Relatives of Detainees-Disappeared in Honduras], "Informe Preliminar Violaciones a Derechos Humanos en el marco del golpe de Estado en Honduras" [Preliminary Report on Human Rights Violations in the Context of the Coup d'État], *July 15, 2009.* Available [in Spanish] at: http://www.cofadeh.org/.

[561] Testimony of Gustavo Cardoza, reporter from Radio Progreso, as told to the IACHR during its on-site visit to Honduras (San Pedro Sula), August 19, 2009. Cardoza said the following: "The security forces were throwing tear gas grenades into the crowd of demonstrators. I ran off in the midst of the smoke, I began coughing and they handed me the microphones. Running to get out into the fresh air. I reported that the police were hurling grenades at the houses. A police officer, who must have been a high-ranking officer because his uniform was different, looked at me, drew his weapon and pointed it at me. I decided to run, because I was scared to death. But five anti-riot police caught me. They threw us one on top of the other."

an independent journalist from Tela in the department of Atlántida, complained of having been beaten by the security forces.[562]

456. The IACHR received information to the effect that just after 6:00 a.m. on September 22, Agustina Flores López, a teacher and broadcaster with Radio Liberada, was allegedly arrested as she was on her way to the Brazilian Embassy in Tegucigalpa, where President Zelaya was. The information added that Flores López had allegedly been beaten and tortured by law enforcement personnel. On October 6, the Commission requested information on this matter from the *de facto* government. In its reply, sent October 20, the *de facto* government stated the following: "Concerning the complaint of the detention and alleged acts of torture committed against Mrs. Agustina Flores López, the Commission is hereby advised that the individual in question entered the National Bureau of Criminal Investigation on September 23 of this year, at 16:55 hours, together with Mr. Mario Enrique Molina Izaguirre. She was brought in on suspicion of the crime of sedition and aggravated vandalism, at the request of Metropolitan Police Headquarters No. 1, after being brought before the Combined Court of Francisco Morazán. When she entered police premises, Mrs. Agustina Flores López had a blow to the jaw area of the face and was therefore asked to have a dental examination; however, she did not respond. On October 12, the hearing was held to review measures. Judge No. 3, attorney Laura Casco, proceeded to release her on bail for one hundred thousand lempiras (the equivalent of some 5 thousand United States dollars)."

457. The IACHR reiterated the provisions of Principle 5 of the Inter-American Declaration of Principles on Freedom of Expression to the effect that "[p]rior censorship, direct or indirect interference in or pressure exerted upon any expression, opinion or information transmitted through any means of oral, written, artistic, visual or electronic communication must be prohibited by law. Restrictions to the free circulation of ideas and opinions, as well as the arbitrary imposition of information and the imposition of obstacles to the free flow of information violate the right to freedom of expression."

458. As for the violence to which reporters covering many of the events were subjected, the IACHR would point out that Principle 9 of the Inter-American Declaration of Principles warns that the "murder, kidnapping, intimidation of and/or threats to social communicators, as well as the material destruction of communications media violate the fundamental rights of individuals and strongly restrict freedom of expression. It is the duty of the state to prevent and investigate such occurrences, to punish their perpetrators and to ensure that victims receive due compensation."

4. Assaults on Journalists

459. The IACHR received reports of serious and multiple assaults on journalists for reasons associated with their news coverage. These assaults were perpetrated by agents of the State and by demonstrators. Information has been received on all these assaults.

460. The IACHR received information to the effect that on June 29, a journalist from the newspaper *El Heraldo* was allegedly attacked while he was covering a demonstration in front of

[562] Testimony of Eduin Castillo an independent journalist from Tela, as told to the IACHR during its on-site visit to Honduras (San Pedro Sula), August 19, 2009. Castillo reported that: "When they told us that hundreds of members of the security forces were on their way, we stepped to one side. They came in shouting "Conquer or die." They were soldiers, police and members of the Cobra special strike force. I identified myself and a soldier told me 'Here, you're worthless.' Then they started shoving me. And they said 'son of a bitch, so you like to mix it up, get into fights.' When I protested and asked why the police were saying things just to the media that supported the *coup*, they slapped handcuffs on me and left me out in the sun. 'You'll fry out here, you son of a bitch'."

the Presidential House in Tegucigalpa.[563] At least one photo-journalist from the newspaper *La Tribuna,* Juan Ramón Sosa**,** was beaten and verbally abused by police as he was covering the demonstration on June 29 in Tegucigalpa. His camera was also confiscated.[564] Also in Tegucigalpa, three journalists of the Channel 42 program "Entrevistado" were allegedly attacked on June 28 by a group of demonstrators who also knocked them down and destroyed their cameras.[565]

461. On July 1, demonstrators presumably in support of President Zelaya, allegedly assaulted Carlos Rivera, a correspondent with Radio América in the city of Santa Rosa de Copán. When a second journalist was assaulted at the same demonstration, the journalists present allegedly felt compelled to leave. In the same city, Zelaya sympathizers allegedly attacked Maribel Chinchilla, the owner of Channel 34 television.[566]

462. On July 25, a group of foreign journalists were allegedly assaulted by police in Danli. According to the information received, photo-journalist Wendy Olivo, of the Agencia Bolivariana de Noticias, was reportedly attacked after trying to photograph detainees at a police station. When she refused to hand over her camera to the police, Olivo was reportedly beaten up. Other journalists were also assaulted when they attempted to come to the photo-journalist's rescue.[567]

463. In the Department of El Paraíso on July 26 reporters from the newspaper *La Tribuna* reported having been assaulted by demonstrators presumably in favor of President Zelaya's return. According to the information received, a group of people had allegedly attempted to grab the camera belonging to photo-journalist Henry Carvajal. When journalist Martín Rodríguez intervened, they hit him, too, calling them 'coup supporters'. Carvajal allegedly lost all the photographs he had taken that day.[568]

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[563] Reporters Without Borders, "News blackout after army ousts president," June 29, 2009, Available at: http://www.rsf.org/News-blackout-after-army-ousts.html. Inter-American Press Association, "IAPA Censures Acts against Journalists and Media in Honduras", Tegucigalpa, June 29, 2009. Available at: http://www.sipiapa.com/v4/index.php?page=cont_comunicados&seccion=detalles&id=4208&idioma=us.

[564] Inter-American Press Association, "Respect Press Freedom, IAPA Again Urges Honduras," (Miami), July 2, 2009. Available at: http://www.sipiapa.com/v4/index.php?page=cont_comunicados&seccion=detalles&id=4210&idioma=us. "Periodistas y fotógrafos denuncian agresiones" [Journalists and photographers denounce assaults], La Tribuna (Tegucigalpa), June 30, 2009. Available [in Spanish] at: http://www.latribuna.hn/web2.0/?p=14635,

[565] Inter-American Press Association, "Respect Press Freedom, IAPA Again Urges Honduras," (Miami), July 2, 2009. Available at: http://www.sipiapa.com/v4/index.php?page=cont_comunicados&seccion=detalles&id=4210&idioma=us. "Periodistas y fotógrafos denuncian agresiones" [Journalists and photographers denounce assaults], La Tribuna (Tegucigalpa), June 30, 2009. Available [in Spanish] at: http://www.latribuna.hn/web2.0/?p=14635.

[566] Reporters Without Borders, "Media in Coup Storm", September 7, 2009. Available at: http://www.rsf.org/Media-in-coup-storm.html.

[567] "Agencia estatal venezolana denuncia agresión contra reportera en Honduras" [Venezuelan state agency denounces assault on female reporter in Honduras], E*FE/Yahoo News*, July 25, 2009. "Agredida reportera gráfica de ABN por fuerzas policiales hondureñas" [ABN photographic journalist roughed up by Honduran police], *Agencia Bolivariana de Noticias* (Caracas), July 25, 2009. Available [in Spanish] at: http://www.abn.info.ve/noticia.php?articulo=192265&lee=16.

[568] C-Libre, "Comunicadores denuncian agresiones" [Reporters denounce assaults]. (Tegucigalpa), July 26, 2009. Available [in Spanish] at: http://conexihon.com/blog/archives/548. "Seguidores de "Mel" agreden a fotógrafo de LA TRIBUNA" [Mel supporters rough up a photographer from La Tribuna*]* (Tegucigalpa), July 27, 2009. Available [in Spanish] at: http://www.latribuna.hn/web2.0/?p=23625.

464. On July 30, a number of journalists and cameramen were assaulted by police as they were covering the suppression of the demonstration held that day in Tegucigalpa. According to the information received, Karen Méndez**,** a reporter from *TeleSUR*, said she was pushed and threatened by a police officer, while a photographer from that same channel, Roger Guzmán, was also assaulted and his work materials taken.[569] José Oseguera and Luis Andrés Bustillo, cameramen with the Maya TV program *Hable como Habla* were said to have been beaten in the Durazno area, on the northern road leading out of Tegucigalpa on July 30.[570] Edgardo Castro, a journalist with *Televisora Hondureña de Comayagua*, was said to have been assaulted on July 30, during a demonstration in Tegucigalpa where he was filming the action the police were taking against demonstrators. His equipment was reportedly damaged.[571]

465. *C-Libre* reported that Juan Carlos Cruz, a journalist with the state-run *Radio Nacional de Honduras,* was beaten and arrested by police on July 31 because he was filming a confrontation between police and some young people who were driving a motorcycle without license plates, in a sector of Comayagüela. Cruz was held for 18 hours and his camera was not returned, even though he had identified himself as a reporter.[572]

466. On August 5, Héctor Clara Cruz, photo journalist with the newspaper *Tiempo,* was said to have been beaten by police as he was covering a student demonstration at the *Universidad Nacional Autónoma de Honduras* (UNAH). According to reports in the newspaper *Tiempo,* at least two police officers beat him up to make him stop taking photographs of the clash between students and police. The beating left him disabled for one week. His camera equipment was also damaged.[573]

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[569] *C-Libre*, "*Policía hondureña golpea a periodistas y camarógrafos nacionales e internacionales*" [Honduran police beat national and international reporters and photographers]. (Tegucigalpa), July 30, 2009. Available [in Spanish] at: http://conexihon.com/blog/archives/569. "Reprime la policía hondureña a seguidores de Zelaya" [Honduran Police Repress Zelaya Followers], *La Crónica de Hoy* (Mexico, DF), July 31, 2009. Available [in Spanish] at: http://www.cronica.com.mx/nota.php?id_nota=448659.

[570] *C-Libre*, "*Policía hondureña golpea a periodistas y camarógrafos nacionales e internacionales*" [Honduran police beat national and international reporters and photographers]. (Tegucigalpa), July 30, 2009. Available [in Spanish] at: http://conexihon.com/blog/archives/569.

[571] Testimony of Edgardo Castro, as told to the IACHR during its on-site visit to Honduras (San Pedro Sula), August 19, 2009. *C-Libre*, "*Policía hondureña golpea a periodistas y camarógrafos nacionales e internacionales*".[Honduran police beat national and international journalists and cameramen] (Tegucigalpa), July 30, 2009. Available at: http://conexihon.com/blog/archives/569. Habla Honduras, "3 días de movilizaciones diarias" [Three days of daily demonstrations]. (Tegucigalpa), July 30, 2009. Available [in Spanish] at: http://hablahonduras.com/2009/07/31/hechos-destacados-jueves-30-de-julio-de-2009/. "Endurecen golpistas acciones contra manifestantes en Honduras" [Coup takes harder line with demonstrators] *Milenio* (Mexico, DF), July 30, 2009. Available [in Spanish] at: http://www.milenio.com/node/259010.

[572] *C-Libre*, "*Arrestado un policía porque filmaba pleito de jóvenes*" [Arrested by Police because he was filming a confrontation between police and younsters]. (Tegucigalpa), August 3, 2009. Available [in Spanish] at: http://conexihon.com/blog/archives/580.

[573] *Diario* Tiempo, "*Salvaje golpiza propinan policías a reportero gráfico de* Tiempo" [Police beat a photographic journalist with Tiempo savagely] (Tegucigalpa), August 6, 2009. *Diario* Tiempo, "*Evidente ignorancia del viceministro de Seguridad ante golpiza contra reportero gráfico de* Tiempo *[Vice Minister of Security's obvious ignorance of the beating of the photo journalist with* Tiempo*]*. (Tegucigalpa), August 7, 2009. IACHR, MC 196/09 – Amplification of Precautionary Measures, Honduras, September 4, 2009. Available at http://www.cidh.org/medidas/2009.eng.htm. *Diario* La Tribuna, Editorial "*Libre Expresión*" [Free Expression], August 18, 2009. Available [in Spanish] at: http://www.latribuna.hn/web2.0/?cat=10&paged=3.

467. Richard Esmith Cazulá, a cameraman with Channel 36, was said to have been beaten in Tegucigalpa on August 12, as he was filming a demonstration. His camera was also damaged. The reporter said that he was beaten by police.[574]

468. During a demonstration on August 14, a group of police assaulted Julio Umaña and confiscated his material. Umaña, a photographer for the newspaper *Tiempo,* had allegedly shown them his journalist credentials.[575]

469. On September 28, Guatemalan journalists Alberto Cardona, a reporter with Guatevisión, and Rony Sánchez, a cameraman with Guatevisión and the Mexican channel Televisa, were beaten by security forces as they were covering the shutdown of Radio Globo. The information received indicates that the security forces confiscated the video they had taken of the radio station being shut down. Police also damaged the television camera.[576]

470. The IACHR received information to the effect that in the municipality of El Progreso, department of Yoro, Dunia Montoya, wife of journalist Bartolo Antonio Fuentes, was allegedly assaulted as she was filming her husband being taken into custody on September 15. On October 6, the IACHR requested information on this case from the *de facto* government. In its reply, dated October 20, the *de facto* government maintained that it "has no information whatever concerning the assault allegedly suffered by Mrs. Dunia Montoya."[577]

471. The Commission also received information to the effect that on September 28, Delmer Alberto Membreño Aguilar, graphics editor with the newspaper *El Libertador*, had reportedly been abducted and assaulted for a number of hours by four individuals wearing ski masks. The Commission requested information on this case from the *de facto* government on October 6. Its reply, dated October 20, reads as follows: "Concerning the alleged abduction of Mr. Delmer Alberto Membreño Aguilar, Graphics Editor with the newspaper *El Libertador,* the Commission is hereby informed that neither the National Bureau of Criminal Investigation nor the Public Prosecutor's Office has any record of this episode; nevertheless, instructions have been issued to have the matter investigated."[578]

5. Violent Attacks on the Media

472. The IACHR has observed the increasing polarization between sectors of the press, the *de facto* government and the opposition, which has manifested itself in a variety of ways, including violent attacks on the media.

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[574] *C-Libre, "Otro ataque contra la libertad de expresión en Honduras*" [Another attack on freedom of expression in Honduras]. (Tegucigalpa), August 12, 2009. Available [in Spanish] at: http://conexihon.com/blog/archives/624.

[575] *Diario* La Tribuna, Editorial "Libre Expresión" [Free Expression], August 18, 2009. Available [in Spanish] at: http://www.latribuna.hn/web2.0/?cat=10&paged=3.

[576] IACHR, Office of the Special Rapporteur, Press Release 71-09: *Office of the Special Rapporteur for Freedom of Expression Condemns the Suspension of Guarantees in Honduras and the Violations of the Right to Freedom of Expression*, September 29, 2009. Available at: http://www.cidh.oas.org/relatoria/showarticle.asp?artID=764&lID=1.

[577] *De facto* Secretariat of Foreign Affairs of Honduras, Memorandum 731-DGAE-09 of October 20, 2009.

[578] *De facto* Secretariat of Foreign Affairs of Honduras, Memorandum 731-DGAE-09 of October 20, 2009.

473. The San Pedro Sula newspaper *La Prensa* reported having been the target of an attack on June 29, in Tegucigalpa, when a group of demonstrators threw stones and sticks against the entrance to the newspaper office.[579] Radio América was also allegedly attacked on the night of June 30. According to the information received, a bomb was placed on the premises of the radio station in Tegucigalpa, after the curfew came into effect. Police removed the device. According to the complaints received the radio was off the air for the time it took to remove the device.[580]

474. On the night of July 4, an unidentified person reportedly left an explosive device in the Centro Comercial Prisa in Tegucigalpa, where the facilities of Channel 11 and the newspaper *Tiempo* are located.[581]

475. Early on the morning of August 14, hooded individuals carrying weapons set fire to a vehicle that distributed copies of the newspaper *La Tribuna,* in an area known as Las Vueltas del Junquillo, on the outskirts of the city of Juticalpa**.** "The criminals stopped the green Nissan Frontier, driven by José Giovanni Fonseca Contreras, 30, tied him up, blindfolded him, threw him out of the vehicle, and finally set fire to the vehicle," wrote the newspaper *El Heraldo* when reporting the attack in its Saturday, August 15 edition.[582]

476. The following day, unidentified persons threw Molotov cocktails against the building that houses the newspaper *El Heraldo.* In his testimony to the IACHR, the deputy editor-in-chief of the newspaper, Carlos Mauricio Flores, mentioned the damage caused by the Molotov cocktails.[583]

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[579] Inter-American Press Association, "Respect press freedom, IAPA again urges Honduras" (Miami) July 2, 2009 Available at: http://www.sipiapa.com/v4/index.php?page=cont_comunicados&seccion=detalles&id=4210&idioma=us. Gilberto Molina Arcos, "*Periodista revela que no hay día sin amenazas a periodistas en Honduras*" [Journalist reveals that not a day passes without threats to journalists in Honduras], *El Universal* (Mexico DF), June 30, de 2009. Available [in Spanish] at: http://www.eluniversal.com.mx/notas/608564.html.

[580] *C-Libre, "Radio América denuncia atentado*" [Radio América denounces attack]. (Tegucigalpa), July 1, 2009. Available [in Spanish] at: http://conexihon.com/blog/archives/352. *Radio América*. July 1, 2009, *Radio América condena atentado [Radio América condemns attack]*. Available [in Spanish] at: http://www.radioamerica.hn/sitio.cfm?pag=leenoticias&t=Nacionales&id=13379.

[581] Committee of Relatives of Detainees-Disappeared in Honduras, "Informe Preliminar Violaciones a Derechos Humanos en el marco del golpe de Estado en Honduras" [Preliminary Report on Human Rights Violations in the Context of the Coup d'état]. July 15, 2009. Available [in Spanish] at: http://www.cofadeh.org/. *C-Libre, "Otro atentado a medio de comunicación en Honduras*" [Another attack on a media outlet in Honduras]. (Tegucigalpa),l July 6, 2009. Available [in Spanish] at: http://conexihon.com/blog/archives/441. *El* Tiempo. *Cofadeh constata daños por bombazo en Canal 11* [COFADEH confirms bomb damage at Channel 11]. Available [in Spanish] at: http://www.tiempo.hn/secciones/crisis-politica/13-cofadeh-constata-danos-por-bombazo-en-canal-11

[582] *Diario* La Tribuna, Editorial "Libre Expresión" ["Free Expression"] August 18, 2009. Available [in Spanish] at: http://www.latribuna.hn/web2.0/?cat=10&paged=3. "Queman carro repartidor de diario La Tribuna" ["They set fire to vehicle distributing La Tribuna*]*, El Heraldo, (Tegucigalpa), August 15, 2009.

[583] Testimony of Carlos Mauricio Flores, deputy editor of the newspaper El Heraldo*,* as told to the Office of the Special Rapporteur during the on-site visit to Honduras. (Tegucigalpa) August 20, 2009. Flores said the following: "The most recent visible attack came in the early morning hours of Saturday, August 15, when a number of unknown men threw five incendiary bombs. Three of them exploded; two others, thrown at the second floor, fortunately did not explode. Had it not been for the expertise and skill of the building's security personnel, the building would have caught fire; we believe that was the objective of the attackers." *Diario* La Tribuna, "Lanzan bombas molotov contra diario capitalino" [Molotov cocktails hurled at capital city newspaper]. (Tegucigalpa), August 16, 2009. Also available [in Spanish] at: http://www.latribuna.hn/web2.0/?p=30005.

477. Executives at Channel 36 and Radio Globo reported that on Sunday night, August 23, a group of hooded individuals attacked their transmission towers on Cerro de Canta Gallo, taking both stations off the air for several hours.[584]

478. Concerning this string of serious assaults and attacks, the Commission recalls that Principle 9 of the Inter-American Declaration of Principles on Freedom of Expression states that "murder, kidnapping, intimidation of and/or threats to social communicators, as well as the material destruction of communications media violate the fundamental rights of individuals and strongly restrict freedom of expression. It is the duty of the state to prevent and investigate such occurrences, to punish their perpetrators and to ensure that victims receive due compensation."

6. Threats and other Forms of Intimidation

479. Threats and other forms intimidation have been used to obstruct the work of journalists. Since June 28 the Commission has received a number of complaints that single out the police and supporters of President Zelaya as engaging in these threats and intimidation tactics.

480. Indeed, the threats have come from a variety of sources and have been made by telephone, electronically or in person, while reporters are covering demonstrations or newsworthy events related to the political crisis. The Commission observed that during its visit in the last weeks of August, the threats against freedom of the press had increased.

481. TeleSUR reported that journalist Madeleine García had received phone threats from a person who allegedly identified himself as a military officer. This person had reportedly warned the journalist to stop reporting on the protests in support of President Zelaya.[585]

482. For his part, the managing editor of Radio Cadena Voces, Dagoberto Rodríguez, reported that on June 29 he received three phone calls, supposedly from groups identified with the Zelaya government, in which threats were made against his radio station in Tegucigalpa. Rodríguez filed a complaint with the IACHR to the effect that supporters of President Zelaya had threatened a number of journalists from Radio Cadena Voces during the protests against the *de facto* government.[586]

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[584] Testimony of the owner of Channel 36, Esdras Amado López, given by phone to the IACHR on August 24, 2009. Encapuchados sacan del aire al fundir transmisores de radio Globo y canal 36" [Hooded persons operate in the open to blow up Radio Globo and Channel 36 transmission towers], *Diario* Tiempo, August 24, 2009. Available [in Spanish] at: http://www.tiempo.hn/secciones/el-pais/2706-encapuchados-sacan-del-aire-al-fundir-transmisores-de-radio-globo-y-el-canal-36.

[585] Committee to Protect Journalists, "CPJ Alarmed by Suppression of Media in Honduras," (New York) June 30, 2009. Available at: http://www.cpj.org/blog/2009/06/cpj-alarmed-by-supression-of-media-in-honduras.php.

[586] Testimony of Dagoberto Rodríguez, managing editor de Radio Cadena Voces, as told to the IACHR during its on-site visit to Honduras (Tegucigalpa), August 17, 2009. Rodríguez stated that: "a number of our colleagues were threatened at the protest marches. Some were asked to show their identification. The [authorities] don't have a right to ask that. They asked which media outlets they were associated with and told them they would be beaten if they didn't answer. Our colleagues identified themselves. Because of that, we didn't cover the demonstrations staged by the Resistance group. This was not because we didn't want to; the ideal thing would have been to give them more coverage. However, we felt that because of the threats that had been made and the fact that members of the Resistance block had become increasingly radicalized, we would have to stop covering their marches."

483. Other reports indicated that journalist Eduardo Maldonado, who aided Zelaya on the consultation that the administration was planning and who hosts the program "*Hable como Habla*" on Channel 66 Maya, had allegedly received threats and sought protection at an embassy.[587]

484. On July 2, journalist Jorge Otts Anderson filed a complaint from Bonito Oriental in the department of Colón, where he had to go into hiding because soldiers were looking for him to take away his camera. In a telephone conversation with the IACHR on July 15, Otts explained that channel La Cumbre, which he owns, had been shut down for several days.[588]

485. Héctor Castellanos**,** who directs the program "*El consultorio del Médico*" [The Doctor's Office] on *Radio Globo* said he had received death threats.[589] In an e-mail to the IACHR, Castellanos explained that after expressing his opinion on the current political situation in Honduras, he began receiving text messages and e-mails containing threats, as well as threatening phone calls from persons he supposes were supporters of President Zelaya. Castellanos said that he stopped broadcasting his radio program, since on at least two occasions he had been the target of an attempted assault for not being a supporter of President Zelaya.[590]

486. Before the *coup d'état*, Jhonny Lagos, editor of the newspaper *El Libertador*, was threatened with jail and a fine for having asked his readers whether they were for or against the consultation proposed by President Zelaya. According to the information received, the reporter complained that after June 28 he was under constant surveillance and was constantly being followed in Tegucigalpa and that they had cut off the electricity supply to his newspaper and its internet access. The Center for Justice and International Law reported that since July 10, the newspaper's offices had been under police guard. Lagos complained about the situation at a press conference held on July 15 at COFADEH's offices in Tegucigalpa.[591]

487. Information was received to the effect that José Luis Galdámez Álvarez, director of the program "Tras la Verdad" [Pursuing the Truth] on Radio Globo, had come out against the coup, after which he was allegedly subjected to various acts of intimidation, such as surveillance of his

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[587] Comité por la Libertad de Expresión [Committee for Freedom of Expression]. June 29, 2009. *Alerta: Bloqueo de Medios de Comunicación en Honduras [Warning: Media Blockout in Honduras]*. Available [in Spanish] at: http://conexihon.com/blog/archives/324. *Radio la Primerísima*. June 29, 2009. *Periodista hondureño corre peligro: clausuran su canal [Honduran journalist in danger: they are shutting down his channel].* Available [in Spanish] at: http://radiolaprimerisima.com/noticias/general/55729.

[588] *C-Libre, "Continúan hostigamientos contra periodistas"* [Harassment of journalists continues] (Tegucigalpa), July 3, 2009. Available [in Spanish] at: http://www.movimientos.org/show_text.php3?key=14830. Committee of Relatives of Detainees-Disappeared in Honduras, "Informe Preliminar Violaciones a Derechos Humanos en el marco del golpe de Estado en Honduras" [Preliminary Report on Human Rights Violations in the Context of the Coup d'état]. July 15, 2009. Available [in Spanish] at: http://www.cofadeh.org/.

[589] *C-Libre, "Continúan hostigamientos contra periodistas"* [Harassment of journalists continues] (Tegucigalpa), July 3, 2009. Available [in Spanish] at:: http://www.movimientos.org/show_text.php3?key=14830. Héctor Castellanos, e-mail received by the Office of the Special Rapporteur for Freedom of Expression on July 16, 2009.

[590] Héctor Castellanos, e-mail received by the Office of the Special Rapporteur for Freedom of Expression on August 13, 2009.

[591] Complaint that the CPTRT filed with the IACHR during its on-site visit to Honduras (Tegucigalpa), August 17, 2009. During a press conference held at COFADEH offices, Lagos said the following: "I have received mail by the post and electronic messages mentioning my mother and using words intended to scare me. I understand this is a psychological war. That doesn't affect me. I'm telling you right now, if something happens to me, those responsible will be the visible faces of the *coup d'état*."

home and direct threats made to his children at gunpoint by unidentified persons because of their father's political position.[592]

488. On July 21, Andrés Molina, a broadcaster on Radio Juticalpa, reported that telephone threats against journalists in the Olancho region who expressed views in opposition to the *de facto* government continued. He said that the previous day, he had himself received a phone call threatening him if he continued to speak on the radio.[593]

489. On August 11, Rosangela Soto, a journalist with Televicentro, complained of having been threatened by demonstrators in Tegucigalpa, as a protest against the *coup d'état* was coming to an end.[594]

490. Consistent with the pattern of intimidation, the IACHR was also told that soldiers were asking media outlets like Channel 11 and the newspaper *Tiempo,* to stop reporting on the opposition. A similar request was made of the journalists in Tocoa, Colón, two days after the coup.

491. The Commission received information to the effect that on September 23, Raquel Isaula, coordinator of the Red de Desarrollo Sostenible (RDS) Sustainable Development Network [Sustainable Development Network] had allegedly been persecuted for reasons having to do with her work. According to the information received, Isaula had allegedly been visited by CONATEL representatives who asked that the Network suspend all registration of Honduran domain names and that she turns over the lists and databases of the existing "hn" (Honduran) domain names. The information received went on to say that Isaula had allegedly received a number of threatening messages on her cell phone. The Commission requested information on this matter from the *de facto* government, which on October 20 replied as follows: "Concerning the situation of Mrs. Raquel Isaula, Coordinator of the Red de Desarrollo Sostenible (RDS) [Sustainable Development Network], the Commission understands that the National Police have no knowledge of these events, since the alleged victim did not file a complaint; a review of the files of complaints presented to the Offices of the Special Prosecutor for Human Rights in Tegucigalpa and San Pedro Sula, as well as the files of other regional prosecutors' offices recorded no complaint filed by a person of that name (…) As for the Inspection Visit that CONATEL authorities made to the Sustainable Development Network-Honduras (RDS-HN), the Commission is advised that under the General Regulations of the Telecommunications Sector Framework Law (in force since December 2002), specifically Article 79B thereof, CONATEL has the authority to regulate and manage domain names and IP addresses within the national territory. It also provides that CONATEL may take the measures necessary to ensure that the administration of domain names and IP addresses through other public or private institutions, for which purpose agreements shall be signed and the corresponding regulations issued."[595]

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[592] Request for precautionary measures filed by the Center for Justice and International Law on July 20 and 22, 2009.

[593] *C-Libre, "Periodistas denuncian presiones para cancelación de contratos de publicidad*" [Journalists denounce threats to cancel advertising contracts] (Tegucigalpa), July 21, 2009. Available [in Spanish] at: http://movimientos.org/show_text.php3?key=15046.

[594] C-Libre, "*Otro ataque contra la libertad de expresión en Honduras*" [Another attack on freedom of expression in Honduras]. (Tegucigalpa), August 12, 2009. Available [in Spanish] at: http://conexihon.com/blog/archives/624.

[595] *De facto* Secretariat of Foreign Affairs of Honduras, Memorandum 731-DGAE-09 of October 20, 2009.

492. The acts of aggression described earlier and the threats mentioned in this section are attributed both to the *de facto* government and to alleged members of the opposition, and illustrate how very polarized Honduran society is at the present time.

493. Once again, the Commission recalls the provisions of principle 9 of the Inter-American Declaration of Principles on Freedom of Expression, which states that "murder, kidnapping, intimidation of and/or threats to social communicators, as well as the material destruction of communications media violate the fundamental rights of individuals and strongly restrict freedom of expression. It is the duty of the state to prevent and investigate such occurrences, to punish their perpetrators and to ensure that victims receive due compensation."

7. Other Abuses

494. The Commission also received a number of complaints related to the suspension of programs whose editorial leaning was against the *coup d'état*, restriction of official advertising on media outlets not sympathetic to the *de facto* government or a temporary ban on journalists' access to Government House.

495. On July 11, the program "*Tiempos de Hablar*," carried over *Radio Cadena Voces* and hosted by journalist Daisy Flores, was allegedly cut off on the morning when Flores asked the panelists for their opinion of the *coup d'état*. According to the information received, the management of the radio station had reportedly told her that they had no explanation for the cut-off. Hours later, when she was about to go on air again in connection with the program "*La Bullaranga*," which is a production of the Centro de Estudios de la Mujer de Honduras [Honduran Women's Studies Center], the broadcast was interrupted again.[596]

496. Information was also received to the effect that the program "Voces contra el Olvido" [Lest We Forget], a production of the Comité de Familiares de Detenidos y Desaparecidos en Honduras [Committee of Relatives of Detainees-Disappeared in Honduras] broadcast by contract on Radio América, was taken off the air in mid July. According to this information, the radio station's management had allegedly informed the Committee that the program would be off the air until further notice, "given the situation in the country." Bertha Oliva, one of the program's hosts, told the IACHR that on July 11 they told her that they would not take the program off the air "without giving her an explanation." Oliva told the Commission that on Friday, July 10, they called her and told her that the program was being suspended.[597]

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[596] Comité de Familiares Detenidos Desaparecidos en Honduras [Committee of Relatives of Detainees-Disappeared in Honduras], "Informe Preliminar Violaciones a Derechos Humanos en el marco del golpe de Estado en Honduras" [Preliminary Report on Human Rights Violations in the Context of the Coup d'état]. July 15, 2009. Available [in Spanish] at: http://www.cofadeh.org/. Letter from CEJIL to the IACHR's Executive Secretary, Santiago Canton. Received by the IACHR on July 23, 2009. *C-Libre/IFEX, "Two feminist movement radio programs censored."* (Tegucigalpa), July 14, 2009. Available [in Spanish] at: http://www.ifex.org/honduras/2009/07/20/cadena_voces_suspends_programmes/es/. Article 19, "Honduras: Early Warning Signs of Impending Crisis", (London) July 28, 2009. Available at: http://www.article19.org/pdfs/press/honduras-early-warning-signs-of-impending-crisis.pdf.

[597] Testimony of Bertha Oliva, host of the COFADEH program "Voces contra el Olvido" [Lest We Forget], to the IACHR during its on-site visit to Honduras (Tegucigalpa), August 17, 2009. Oliva said the following: "They said it was because of the crisis the country was experiencing, even though we had a contract until December (…) The one who called was an administrative assistant; she told us not to transmit the program, because the station couldn't air it. She said this was temporary, not a big thing, and it was because of the situation in the country. We asked her to send us the message in writing, but they never did. We want them to notify us in writing. And although we've contacted them about this four times, they've never done." C-Libre, "*Radio América saca del aire programa radial*".[Radio América takes radio program off the air] (Tegucigalpa), July 22, 2009. Available [in

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497. On July 15, broadcaster Allan Adális Martínez complained that he was being dismissed for describing the *de facto* government as "golpista" on his radio show "Libre Expresión" on Radio Alegre, in Tocoa, Colón. According to Martínez, the owner of the station, where Martínez had worked for 13 years, had told him that some broadcasters would be discharged from the station for expressing views of that type.[598]

498. In the meantime, Esdras López at Channel 36 and Radio la Catracha, and Eduardo Maldonado on Maya TV, complained that the *de facto* government had brought pressure to bear on private businesses to cancel advertising on their programs and media outlets.[599]

499. Information was also received to the effect that on July 13, a journalist from *Radio Globo,* Liliet Díaz, was denied entry to Government House, even though she had been given the credentials to enter more than a year earlier.[600]

500. On August 10, journalist Ivis Alvarado and cameraman Alejandro Fiallos, both from Channel 36 and accredited to the Presidential Residence, were not allowed to enter the presidential office "on orders from above." The two members of the Channel 36 crew and the channel's managing director, Esdras López Amado, lodged a complaint with the Office of the Special Prosecutor for Human Rights. The latter reportedly sent its prosecutors to investigate the situation, and they, too, were denied entry to the Presidential Residence. According to López Amado, other media outlets were given access to the Presidential Residence. This was the first time that members of the channel's news crew had been unable to enter a State office to perform their job. The Presidential Residence lifted the suspension two days later.[601]

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Spanish] at: http://hablahonduras.com/2009/07/23/alerta-radio-america-saca-del-aire-programa-radial-de-cofadeh-comite-de-familiares-de-detenidos-y-desaparecidos-en-honduras/.

[598] C-Libre/IFEX, *"*Periodista despedido por oponerse al coup d'état" [Journalist fired for opposing the coup]. (Tegucigalpa), July 16, 2009. Available [in Spanish] at:http://www.ifex.org/honduras/2009/07/20/martinez_fired_diaz_barred/es/. Reporters Without Borders, "International community urged to demand an end to news media lockdown by de facto authorities." July 23, 2009. Available at: http://www.rsf.org/International-community-urged-to,33960.html.

[599] Testimony of journalists Esdras López Amado and Eduardo Maldonado, as told to the IACHR during its on-site visit to Honduras (Tegucigalpa), August 17, 20009. *C-Libre, "Periodistas denuncian presiones para cancelación de contratos de publicidad*" [Journalists denounce threats to cancel advertising contracts] (Tegucigalpa), July 21, 2009. Available [in Spanish] at: http://movimientos.org/show_text.php3?key=15046.

[600] C-Libre, "Impiden acceso en Casa Presidencial a periodista de Radio Globo" [Radio Globo journalist denied access to Presidential House]. (Tegucigalpa), July 13, 2009. Available [in Spanish] at: http://conexihon.com/blog/archives/489. Reporters Without Borders. July 23, 2009 *"International community urged to demand an end to news media lockdown by de facto authorities,"* July 23, 2009. Available at: http://www.rsf.org/International-community-urged-to,33960.html. "Vuelven a Presidencial periodistas de Canal 36 y Radio Globo" [Journalists from Channel 36 and Radio Globo return to Presidential Residence], *Diario* La Tribuna (Honduras), August 13, 2009.

[601] Testimony of Esdras López Amado, taken by the Office of the Special Rapporteur for Freedom of Expression by phone on August 10, 2009. *C-Libre, "Más violaciones a la libertad de expresión del Gobierno de facto en Honduras*" [More violations of freedom of express by Honduras' *de facto* government]. (Tegucigalpa), August 10, 2009. Available [in Spanish] at: http://conexihon.com/blog/archives/612?action=lostpassword. "Vuelven a Presidencial periodistas de Canal 36 y Radio Globo" [Journalists from Channel 36 and Radio Globo return to Presidential Residence], *Diario* La Tribuna (Honduras), August 13, 2009.

501. Journalist Pedro Antonio Noriega Nieto, host of the program "Noticias en línea" on Channel 51, told the Commission that officials of the television channel had removed his program on August 19 "because of pressure from above," an allusion to the *de facto* government.[602]

502. In the meantime, on September 16, Channel 36 complained that its television signal was being sabotaged by order of the *de facto* government. In a news item broadcast on several occasions on the program "Así se informa" on that channel, the executive branch headed by Mr. Micheletti, CONATEL and the Honduran Telecommunications Company (HONDUTEL) were all blamed for the interruptions.[603].

503. On September 22 and October 7, the *de facto* government of Honduras published in the Official Gazette, two executive decrees containing provisions disproportionately restricting the right to freedom of expression.

504. On September 22, the *de facto* government issued Executive Decree PCM-M-016-2009, which was published in the Official Gazette of September 26. This decree, *inter alia,* suspended the constitutional right to freedom of expression by prohibiting any publication that "offends human dignity or the dignity of public officials, or that violates the law and government decisions." The decree authorized the National Telecommunications Commission (CONATEL) to use the forces of law and order to interrupt broadcasting by any radio station, television channel or cable system that in its judgment was in violation of the aforesaid prohibitions. Enforcing that decree, in the early hours of September 28, the security forces proceeded to search and confiscate the broadcasting equipment at television Channel 36 and Radio Globo. Both media outlets had been critical of the *de facto* government. The decree was nullified subsequent to its announcement, on Monday October 19.

505. On October 7, the *de facto* government published Executive Decision 124-2009 in the Official Gazette. Under that decision, "in order to protect national security for the sake of the overriding interests of the Nation, and to defend the rights and physical and moral integrity of the human person," "CONATEL and other competent organs of the State" were ordered to "revoke the permits and operating licenses that CONATEL granted to operators of radio and television stations that broadcast messages that seek to justify hatred against the nation and violation of protected rights and claims, and that defend a system of social anarchy as opposed to a democratic State and in so doing violate social peace and human rights."

506. The IACHR was informed that on October 16, the executives at Radio Cadena Voces allegedly cancelled three women's programs: "Aquí entre Chonas", produced by the Movimiento de Mujeres por la Paz Visitación Padilla [Visitation Padilla Women's Pro-Peace Movement], "Tiempo de Hablar" produced by the Centro de Derechos de Mujeres [Women's Rights Center] (CDM) and "La Bullaranga" produced by the Centro de Estudios de la Mujer Honduras [Honduran Women's Studies Center] (CEM-H). It did so on the grounds that it feared the *de facto* government would take away its license, in application of Executive Decision 124-2009.[604]

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[602] Testimony of Pedro Antonio Noriega Nieto, host of the program "Noticias en línea," as told to the Office of the Special Rapporteur for Freedom of Expression during the on-site visit to Honduras (Tegucigalpa), August 21, 2009.

[603] "Canal 36 asegura que el gobierno le sabotea la señal" [Channel 36 is certain that the government is sabotaging its signal], *Diario* Tiempo (Tegucigalpa), September 16, 2009.

[604] Web page for "Las Chonas". October 17, 2009. Dictadura cierra tres programas radiales de mujeres [Dictatorship takes three women's radio programs off the air]. Available [in Spanish] at: http://www.laschonas.com/cms/noticias.php?subaction=showfull&id=1255792139&archive=&start_from=&ucat=5&. Testimony of Mery Agurcia, COFADEH attorney, as told to the IACHR during its 137th regular session, November 3, 2009, Washington, D.C.

507. In response to complaints the Commission has received since June 28 alleging threats to physical integrity, the Commission has granted precautionary measures on behalf of dozens of journalists in private and alternative or local media, located both in Tegucigalpa and elsewhere in Honduras.

8. Journalistic Ethics

508. The Commission has been told by a number of sources that various media outlets may have manipulated the news, thereby preventing the Honduran public from receiving enough information, presented from all sides, about the situation that the country is experiencing. The IACHR recalls that at times of political crisis like the one Honduras is now experiencing, it is more important than ever that the exchange of ideas be as prolific as possible, which presupposes a well-informed society. In this context the separation of the editorial line from the news reporting offered to the population may contribute to achieving that objective. States should refrain from imposing standards of ethical conduct to the media; instead, journalists should pursue self-regulation by subscribing to deontological codes of ethics, style manuals, rules of composition, and by serving as watchdogs for the public's interests, providing advice, and other mechanisms.

509. Principle 6 of the Inter-American Declaration of Principles on Freedom of Expression states that "[j]ournalistic activities must be guided by ethical conduct, which should in no case be imposed by the State."

510. The Supreme Court of Justice stated the following in its observations: "In strict compliance with Article 74 of the Constitution of the Republic, the National Police has ensured observance of freedom of information and, through the Public Relations Department of the Secretariat of Security, has even provided all necessary collaboration to the print, radio and televised media, both national and international; hence, the supposed threats and other forms of intimidation against journalists and sympathizers of Mr. Zelaya are pure conjecture."[605]

511. With respect to the right to freedom of expression, the Commission must remind the Honduran State of its obligation to respect the right to freedom of expression unreservedly, which demands that it guarantee to all journalists, irrespective of their editorial position, the freedom to express their ideas and impart the information they gather. Acts of intimidation and censorship, either direct or indirect, by reason of a media outlet's coverage of a story or its editorial position, and for the purpose of silencing it, are a blatant violation of the right that all persons have to express themselves without fear of reprisals, and of society's fundamental right to receive information from multiple and diverse sources, without any form of censorship.

512. The Honduran State is also reminded that any restriction on the right to freedom of expression, even in a state of emergency or exception, can only be ordered by a legitimate government and must be proportionate and strictly necessary to protect the democratic system. Silencing dissonant opinions or criticism by evoking words like 'contempt' -as was indeed attempted in Honduras- and giving law enforcement agencies the authority to search and confiscate broadcasting equipment when, in the opinion of the government, the media are engaging in behavior that they deem to be in violation of existing law, constitutes a serious, unnecessary, arbitrary and disproportionate restriction of every Honduran's right to express himself or herself freely and to receive information from multiple and diverse sources.

[605] Observations made by the State of Honduras to the IACHR's Report, dated December 22, 2009 and signed by the Chief Justice of the Supreme Court, p. 17, paragraph 43.

513. The Commission urges Congress and the Supreme Court to put a stop to enforcement of any measure that may violate the right to freedom of expression, and also to take steps to correct the adverse effects that may have been caused while those provisions were in force. It also demands that the *de facto* government grant all the guarantees necessary so that media outlets and journalists are able to discharge their mission of informing and reporting with complete freedom and in total safety.

G. Women's Rights

514. Article 1 of the Inter-American Convention on the Prevention, Punishment and Eradication of Violence against Women (hereinafter, the "Convention on the Prevention of Violence against Women) defines violence against women as "any act or conduct, based on gender, which causes death or physical, sexual or psychological harm or suffering to women, whether in the public or the private sphere." In its preamble, the Convention acknowledges that violence against women is a manifestation of the historically unequal power relations between women and men.[606]

515. The Court, following the line of international jurisprudence, has held that sexual violence is any act of a sexual nature which is committed on a person under circumstances that are coercive. Sexual violence is not limited to physical invasion of the human body and may even include acts that involve no penetration at all or even physical contact.[607]

516. The Inter-American Court has also indicated that in the context of internal or international armed conflict the parties often employ sexual violence against women as an instrument of punishment and suppression. The use of official authority to violate the rights of women in an internal armed conflict affects them directly, and can also be intended as retaliation or as a message to society.[608]

517. On the issue of women deprived of their liberty, international standards indicate that the rape of detainees by a State agents is a particularly grave and abhorrent crime, in view of the vulnerability and defenselessness of the victims.[609] Rape is a highly traumatic experience that can have severe consequences[610] and causes great physical and psychological harm, leaving the victim feeling "debased and violated both physically and emotionally" and with deep psychological scars that do not heal as quickly as other forms of physical and mental violence.[611]

518. The IACHR also received testimony revealing that both in the context of suppression of demonstrations and unlawful detentions, women were subjected to verbal abuse and

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[606] IACHR, *Report of the Inter-American Commission on Human Rights on the Status of Women in the Americas*, OEA/Ser.L/V/II.100, Doc. 17, 13 October 1998.

[607] I/A Court H.R., *Miguel Castro Castro Prison vs. Peru Case, op. cit.,* paragraph 306; International Criminal Tribunal for Rwanda. *Case of Prosecutor vs. Jean-Paul Akayesu,* Judgment of September 2, 1998.

[608] I/A Court H.R., *Castro Castro Prison vs. Peru Case, op. cit.,* paragraph 224.

[609] ECHR, *Case of Aydin v. Turkey,* Judgment of September 25, 1997, paragraph 83.

[610] United Nations, Commission on Human Rights. 50th session, Question of the Human Rights of All Persons Subject to Any Form of Detention or Imprisonment, in particular: torture and other cruel, inhuman or degrading treatment or punishment. Report of the Special Rapporteur Rapporteur, Mr. Nigel S. Rodley, submitted pursuant to the Commission on Human Rights resolution 1992/32. Doc. E/CN.4/1995/34 of January 12, 1995, paragraph 19.

[611] ECHR *Case of Aydin v. Turkey, cit.,* paragraph 83; I/A Court H.R., *Castro Castro Prison vs. Peru Case, op. cit.,* paragraph 311.

sexual violence. The Inter-American Court has already held that acts of violence specifically targeted against women are in many cases used as "a symbolic means to humiliate the other party."[612] The Commission has held repeatedly that the commission of rape by State agents is equivalent to torture.

519. The Commission has learned that members of the security forces reportedly raped women detained after demonstrations. The Commission took testimony from one woman in particular, who after being detained at a demonstration, had allegedly been raped by four soldiers, who had also forced their police batons into her vagina.[613]

520. During its 137th regular session, the Commission was informed that at least seven other women had reportedly been raped by security agents in the context of the public demonstrations held to protest against the *coup d'état*. However, they had refrained from filing their complaints for fear of reprisals and mistrust of the system of justice.

521. The Commission also received information to the effect that women were systematically beaten on their buttocks, thighs and on the rear side of their legs.[614] According to the testimony, the police agents touched women in sexual ways while the women were under arrest; in some cases, police prodded women's genitalia and crotches with their batons. [615] Male officers also involved female officers asking them to "mess" with the detenees.[616] The Commission received the following testimony:

> When they arrest us, they verbally abuse us; they say things like: "Old whores, why aren't you home making dinner? What are you looking for here? Oh, what you want is sex. What you're trying to say is that you want to get it on." They humiliate us. And then there's the physical harm as well. The beatings they administer to women on the buttocks and the legs… and they put their police batons between our legs to intimidate us, and then ask us if we want to have sex.[617]

522. The IACHR also received testimony from a woman who was trapped between military roadblocks erected on July 24 on the road from Las Manos to the border. According to her account, she spent three days without food or water and unable to attend to her biological needs.

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[612] I/A Court H.R., Castro Castro Prison vs. Peru Case, op. cit., paragraph 223. See also, U.N., Committee for the Elimination of Discrimination against Women, 11th session. General Recommendation 19 "Violence against women." Doc. HRI/GEN/1/Rev. 1 at 84 (1994), paragraph 16; United Nations Commission on Human Rights, 57th session, 2001, Report of the Special Rapporteur on violence against women, its causes and consequences, Ms. Radhika Coomaraswamy, submitted in accordance with the Commission on Human Rights resolution 2000/45, "Violence against women perpetrated and/or condoned by the State during times of armed conflict (1997-2000)", E/CN.4/2001/73, paragraph 44.

[613] ERIC, *Violación a los derechos humanos fundamentales [Violation of basic human rights], op. cit.*

[614] Amnesty International, *Honduras: Human rights crisis threatens as repression increases,* e-mail received on September 3, 2009. Testimony of D.X.F.S., taken by the IACHR in Tegucigalpa on August 19, 2009 (No. 14). Testimony of S.C.C.E., taken by the IACHR in Tegucigalpa on August 19, 2009 (No. 111). Testimony of H.S.M.S., taken by the IACHR in Tegucigalpa on August 19, 2009 (No. 206). Testimony of E.Z.A., taken by the IACHR in Tegucigalpa on August 19, 2009 (No. 1).

[615] Testimony of G.G., taken by the IACHR in Tegucigalpa on August 18, 2009 (No. 293).

[616] Testimony of A.V.O., taken by the IACHR in Tegucigalpa on August 21, 2009 (No. 243). Testimony of A.L.O.C. and J.P.M.A., taken by the IACHR en Tegucigalpa on August 17, 2009 (No. 123).

[617] Testimony of I.M., taken at the meeting of human rights defenders in San Pedro Sula on August 19, 2009.

She was so frightened by the entire situation that she suffered a hemorrhage, but the soldiers gave her nothing to take care of her personal hygiene. The entire time she was detained, she was terrified of being raped by the soldiers, given the psychological aggression she had suffered.[618]

523. Another woman, detained on July 24 at the departmental police station of the municipality of Danlí, said that they stripped her and ordered her to bend over, which she refused to do. This all happened in the presence of her son, who was 11 years old and reportedly cried the entire time. She also said that after being put into the cells, the women were searched in an obscene fashion; agents touched them, hit the women's genitalia with their batons[619] and then threatened to burn them.[620]

524. The Movimiento de Feministas en Resistencia [Feminists Movement in Resistance] has played an active role and has openly expressed its condemnation of the *coup d'état*. As a result, their members have been mistreated by security forces on various occasions.[621] This organization has repeatedly denounced the violence against women and the failure of CONADEH and the Public Prosecutor's Office to act on the complaints filed at the domestic level.[622] Specifically, the Movimiento de Mujeres por la Paz, "Visitación Padilla" [Visitation Padilla Women's Pro-Peace Movement] stated that it made presentations to the Special Prosecutor for Women to make her aware of the fact that military and police agents were detaining women in the eastern sector of the country, stripping them, raping them and then releasing them without their underwear.[623]

525. During a thematic hearing held during the 137th regular session of the IACHR, the representatives of Feminists in Resistance reiterated that the security forces were verbally abusive of women who participate in the demonstrations, calling them "whores," "revolting", "you want us to rape you" or "go home and take care of the kids." They also reported that no complaints on the violation of women's rights have been filed before local authorities because women have no confidence in the justice system, because the authorities tend to ignore these complaints, or because women are frequently expected to file them before the perpetrators themselves.

526. The representatives of Feminists in Resistance also described how surveillance and security operations continue, as do death threats, laden with sexual overtones and directed at female human rights defenders (both face-to-face and by cell phone).

527. There were complaints that women working for institutions charged with promoting and protecting women's rights were being persecuted. It was also said that plans within the National Women's Institute were suspended for lack of budget, as there was no international cooperation. Also, there is a plan to merge that institution with other social programs, thereby

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[618] Testimony of M.U., taken by the IACHR in Tegucigalpa on August 21, 2009 (No. 222). Testimony of N.G.B., taken by the IACHR in Comayagua on August 20, 2009 (No. 87)

[619] Testimony of C.M.R., cited in *CIPRODEH, Reporte de Violaciones [Report on Violations], op. cit.*

[620] Testimony of T.J.R., cited in CIPRODEH, Reporte de violaciones [Report on Violations], *op.* cit..

[621] Communiqués from the Movimiento de Mujeres por la Paz "Visitación Padilla" ["Visitación Padilla. Women's Pro-Peace Movement]. Information received by the IACHR in Tegucigalpa on August 18, 2009 (No. 49). Testimony of S.M., taken by the IACHR at the meeting of social leaders on August 17, 2009.

[622] Testimony of S.M. Information supplied by the Movement of Feminists in Resistance and received by the IACHR in Tegucigalpa on August 19, 2009 (No. 488).

[623] Information supplied by the Movimiento de Mujeres por la Paz "Visitación Padilla", received by the IACHR in Tegucigalpa on August 18, 2009 (No. 49). On July 4, 2009, this organization was denied permission to broadcast its radio program "AQUÍ ENTRE CHONAS."

rendering women's issues invisible. Coordinators of the municipal women's affairs offices were reportedly being persecuted and threatened. The representatives complained that significant ground had been lost in the area of reproductive rights and maternal health care. They also said that the Office of the Special Prosecutor for Women has lost all credibility, that it does not investigate the violations reported and that the guarantees of due process are not observed.

528. The Supreme Court asserted the following in its observations: "The allegation that members of the security forces raped and otherwise sexually molested women detained in demonstrations is flatly denied inasmuch as no such events have been reported to law enforcement officials and the justice system and the allegations themselves are based on conjecture."[624]

529. A recurring theme in the information reported is that law enforcement personnel discriminate against women. They are not only beaten on numerous occasions but are also victims of sexual violence. This situation is compounded by the difficulties filing complaints at the domestic level and securing the prosecution and punishment against the state agents responsible for these acts.

H. The Right to an Education and the Right to Strike

530. Article 26 of the American Convention reads as follows:

> The States Parties undertake to adopt measures, both internally and through international cooperation, especially those of an economic and technical nature, with a view to achieving progressively, by legislation or other appropriate means, the full realization of the rights implicit in the economic, social, educational, scientific, and cultural standards set forth in the Charter of the Organization of American States as amended by the Protocol of Buenos Aires.

531. During its visit, the IACHR was able to observe the tension between the hard-line position taken by leaders of the teachers unions, and parents' demands that classes be held to educate their children.

532. In the context of the measures taken by Honduran civil society to protest against the *coup d'état*, teachers' unions called for a total work stoppage; after the *coup*, classes were given only three days a week. Given this situation, parents organized associations and federations, staged demonstrations, held assemblies, drafted proceedings, identified the teachers who were not showing up to give classes, filed complaints,[625] and obtained court orders to have the schools re-opened.[626] The IACHR received information from four of these associations.

533. First, the Parents Association of the Escuela Normal Mixta Pedro Nufio [Pedro Nufio Co-educational Normal School] stated that parents had enrolled their children in that

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[624] Observations made by the State of Honduras to the IACHR's Report, dated December 22, 2009 and signed by the Chief Justice of the Supreme Court, pp. 17-18, paragraph 44.

[625] "Llegan más denuncia a la Fiscalía contra directores de colegios" [Prosecutor's Office receives more complaints against school heads], La Tribuna, August 11, 2009. Information received by the IACHR in Tegucigalpa on August 17, 2009 (No. 115).

[626] The Office of the Special Prosecutor for Children and the Office of the Special Prosecutor for Human Rights authorized the parents to change the locks on the gates to the Escuela República de Costa Rica. "Padres de familia asumen mando en centros educativos" [Parents take charge at schools], El Heraldo, August 12, 2009 (No. 115).

institution so that they would be trained as elementary school teachers. Nevertheless, they said, since the *coup d'état* the leadership of teachers' organizations, amalgamated under the Federación de Organizaciones Magisteriales [Federation of Teachers' Organizations] (FOMH), had called an indefinite strike of the national education system, which could affect the right of children and young people to be educated. Attached to the testimony was a list of 32 teachers who were said to be obstructing academic activity at that school by their refusal to hold classes. Their refusal to teach placed the students' school year and the parents' investment at risk.[627]

534. Secondly, the Asociación de Madres y Padres de Familia por la Educación de nuestros niños, niñas y jóvenes "Volvamos a Clase"[628] [Association of Parents for the Education of Our Children and Youth 'Let's Get Back to Class'] wanted teachers to return to the classroom so that the mandatory 200 days of classes could be completed and the full course curricula taught, 'while refraining from indoctrinating their children with imported ideologies.' This association alleged that the leadership of the teachers' unions was preventing classes from running normally and that teachers who were giving classes had reportedly been threatened[629] and the children allegedly taken out of the classrooms and forced to attend a demonstration.[630] The Association supplied a list of the schools and public education institutions that had allegedly not allowed teachers to return and had not held the mandatory 200 days of class.[631] The list also included the proceedings of the assemblies held at two schools.

535. The third organization was the Federación de Sociedades de Padres de Familia en Defensa de la Educación Nacional [Federation of Parents Associations to Defend National Education],

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[627] Testimony presented by the Asociación de Padres de Familia de la Escuela Normal Mixta Pedro Nufio [Parents Association of the Pedro Nufio Co-educational Teachers' School], received by the IACHR in Tegucigalpa on August 18, 2009 (No. 114).

[628] An association composed of approximately 413 mothers and fathers. Information received by the IACHR in Tegucigalpa on August 20, 2009.

[629] "*Denuncian a maestros por violar derecho a la educación de la niñez*" [Complaints filed against teachers for violating children's right to an education], La Tribuna, August 11, 2009 (No. 115). Some teachers at the Instituto Abelardo R. Fortín, who continued to hold classes for 50 days, reportedly said that they were being threatened by leaders of the teachers' unions. One student at the Instituto Dr. Ramón Rosa in the city of Tocoa complained that the curriculum heads had allegedly been threatened for asking that the normal class routine be reinstated. Testimony of J.M.F.R., taken by the IACHR in Tegucigalpa on August 17, 2009 (No. 122).

Finally, some teachers had allegedly asked the government to guarantee their jobs if they resumed teaching, since the teachers' union leadership had threatened to fire them from the unionized high schools unless they attended the demonstrations against the coup. "Dirigencia amenaza con expulsar a mentores de colegios magisteriales" [Union leadership threatens to expel teachers from unionized schools], La Tribuna, August 6, 2009.

[630] Testimony of Asociación de Madres y Padres de Familia por la Educación de nuestros niños, niñas y jóvenes "Volvamos a Clase" ["Association of Parents for the Education of Our Children and Youth 'Let's Get Back to Class'], taken by the IACHR in Tegucigalpa on August 17, 2009 (No. 115).

[631] Instituto Esteban Mendoza, Colonia Kennedy; Instituto Blanca Adriana, Colonia Kennedy; Instituto Jesús Milla Selva, Colonia Kennedy; Instituto Abelardo Fortín, Colonia Mercado; Escuela John F. Kennedy, Colonia Kennedy; Instituto Abraham Lincoln, Colonia Kennedy; Escuela Juan Ramón Molina, Colonia San Miguel, Instituto Nimia Baquedano, Colonia Villa Olímpica; Escuela Gustavo Simón, Colonia Villa Nueva; Instituto Técnico Honduras, Colonia Kennedy; Instituto Policarpo Paz, Colonia Policarpo Paz; Central Vicente Cáceres, Colonia Tiloarque; Escuela República de Brasil, Colonia Guacerique; Instituto Pineda Ponce, Colonia Villa Nueva; Escuela José Trinidad Gómez, Colonia Las Joyas; Instituto 19 de Septiembre, Colonia 19 de Septiembre; Escuela 19 de Septiembre, Colonia 19 de Septiembre; Instituto Augusto Urbina Cruz, Villa Los Laureles; Escuela Carlos Roberto Reina, Colonia Rosalinda; Centro Básico Carlos Roberto Reina, Colonia Rosalinda; Escuela Rafael Pineda Ponce, Colonia 3 de Mayo; Instituto Monseñor Luis Alonso Santos, Colonia 3 de Mayo; Instituto Mixto Hibueras, Colonia Mercado. Information received by the IACHR in Tegucigalpa on August 17, 2009 (No. 115).

which filed a complaint with the Office of the Special Prosecutor for Children[632] in which it claimed

[632] The following institutions are named in the complaint: Escuela José Cecilio del Valle, Ajuterique, Comayagua: classes are not being given; Instituto Pol. Gregorio Consuegra, Ajuterique, Comayagua. Classes are not being given; Escuela Dominga Chirinos, San Francisco de Becerra, Olancho: the principal doesn't want to have classes, but the teachers do; Escuela Ibrahim Gamero Idiáquez, Colonia Zapote Norte, M.D.C.,F.M: classes are only given two days a week; Escuela María Auxiliadora, village of El Carril, Olanchito, Yoro: since June 20, 2009, only 3 days of classes have been held; Instituto Saúl Zelaya Jiménez, Comayagüela, M.D.C.: classes are only held twice a week; Escuela República de Costa Rica, Blv. Morazán, M.D.C.,F.M.: classes are not being held; Escuela 14 de Julio. Bo. El Bosque. Tegucigalpa. MDC: the Principal doesn't want to open the school gates; Instituto Técnico Honduras, Colonia Kennedy, Teg. MDC: the Principal does not want to open the school gates; Escuela John F. Kennedy, Colonia Kennedy, Teg. MDC: the teachers want to have classes, but are being threatened; Escuela R.M. – El Nuevo Rosario, Nuevo Rosario, San Juancito, M.D.C.: since June 28, 2009, only 5 days of classes have been held; Instituto Modesto Rodas Alvarado, Colonia Santa Ana, Chamelecón, Cortés: class is held only twice a week; Escuela Antonia Carias, Aldea Casa Quemada, MDC,FM: classes are given from 8:30 to 11:00 a.m. and no classes are held on Fridays; Instituto Adan Bonilla Contreras, Florida, Opatoro, La Paz: only 3 days of classes have been held since June 28, 2009; Escuela Lempira, Florida , Opatoro, La Paz: only three days of classes have been held since June 28, 2009; Escuela Ramón Calix Figueroa, Colonia Arcieri, MDC,FM: classes will be held on two or three days a week until the end of the year; Escuela Montes de Bendición, Comayagüela, MDC: classes are not being held; Escuela Ramón Ortega. Village of Upausupo, Vado Ancho, El Paraíso: the Assistant Principal is the only one giving classes; Escuela República de México, Guacamaya: no classes are being held; Escuela Emilio Amador Ponce, Las Delicias, San Jerónimo, Comayagua: classes are not being given on Mondays and Fridays; Instituto León Alvarado, Comayagua: some teachers do not show up at school; Escuela Fray Juan de Jesús Zepeda, Comayagua: some teachers do not show up at school; Centro Básico Miguel Paz Barahona, Joya Grande, San Antonio de Oriente, El Paraíso: only the first-grade teacher is giving classes; Escuela Cámara Junio N° 1, Colonia San Luis, Comayagüela, MDC: the principal is being threatened because she is holding classes; Jardín de Niños Miguel Paz Barahona, Village of Las Tapias, MDC: classes are not being given; Escuela Centro Americana, Colonia Centro Americana, Comayagüela, MDC: the course material for the second bimester was not taught; Instituto Abelardo R. Fortín, Comayagüela, MDC: some teachers are not showing up for school; Escuela Gregorio Donaire, village of El Rosario, Comayagua: classes are not being held; Instituto Opoteca, village of El Rosario, Comayagua: classes are not being given; Instituto Técnico Aleman, Blv. Nueva Orleans, San Pedro Sula: the students were assembled to collect food supplies for the demonstrators in exchange for points; Escuela José Cecilio del Valle, Colonia Villa Olímpica, San Pedro Sula: some teachers are not showing up for school; Escuela Dionisio de Herrera, village of El Cobre, San Antonio de Oriente, El Paraíso: no classes were given all year; Municipality of San Francisco Atlántica: no classes were given at any school; Escuela Policarpo Paz García, Trojes, El Paraíso: classes have not been held for more than a month; Instituto Mateo Molina, Perspire, Choluteca: some teachers are not showing up for school; Escuela Agrícola Luis Landa, Nacaome Valle: no classes were held for the entire year; INTAE, Tegucigalpa: the principal objects to the other teachers giving classes; Escuela Carmen de Carias, Agalteca, Cedros, Francisco Morazán: classes have not been held for more than a month; Instituto Rafael Pineda Ponce, Agalteca, Cedros, Francisco Morazán: classes have not been held for a number of days; department of Santa Bárbara: most schools are not holding classes; Escuela José Castro López, Bo. Medina, San Pedro Sula: some teachers are not showing up for school; Escuela José Trinidad Cabañas, Bo. El Guanacaste, MDC: some teachers are not showing up for school; Escuela Juana Donatila Cruz, Colonia Aurora, Tocoa, Colón: this school has not had classes for more than a month; Instituto Técnico Luis Bogran, Comayagüela, MDC: some teachers are not showing up for school; Escuela República de Guatemala, Colonia Torocagua, MDC: some teachers are not showing up for school; Escuela José A. Espinoza, Colonia Las Brisas, San Pedro Sula: classes are not being held; Instituto 21 de Octubre, Colonia 21 de Octubre, MDC.:classes have not been held for more than a month and the teachers are asking the students to listen to Radio Globo and to watch Canal 36; Escuela 3 de octubre, village of Santa Rosa, MDC: some teachers are giving classes in Marxism and have the students sing the national anthem with their fists raised in the air; Instituto Francisco Miranda, village of Sambrano, MDC: some teachers are not showing up for school; Escuela República de Brasil, Comayagüela, MDC: classes have not been held for a month; Escuela República de Guatemala, San Antonio, Nueva Armenia, FM: some teachers only hold classes from Monday to Wednesday year-round; Escuela Polivalente San Martín, Tegucigalpa, MDC: classes have not been held for over a month; Escuela Bessy Watson de Reyna, Colonia Nueva Danlí, MDC: classes are only given 3 days a week and the children only go to play; Escuela República de Chile, Colonia 3 de mayo, MDC: some teachers don't want to hold classes; Instituto Reynaldo Narváez Rosales, Colonia Las Torres, MDC: some teachers don't show up for school; Instituto Augusto Urbina Cruz, Colonia Villa Los Laures, MDC: some teachers don't show up for school; Instituto Gerardo Muñoz Hernández, Siguatepeque, Comayagua: classes have not been held for more than a month; Universidad Nacional de

Continued…

…continuation
Agricultura, Catacamas, Olancho: the director announced that classes would only resume when they return President Zelaya to office; Escuela José Trinidad Cabañas, village of Azacualpa, Santa Elena, La Paz: some teachers don't show up for school; Instituto Polivante 15 de septiembre, Santa Elena, La Paz: classes are only give three days a week and no classes have been held since June 28, 2009; Escuela Cirilo Vindel, Colonia Altos del Loarque, Comayagüela, DC: the teachers are not holding class; Escuela Oscar A. flores, Colonia Izaguirre, Tegucigalpa, MDC: some teachers don't show up for school; Escuela Amor Viviente, hamlet of El Río, village of Victamo, La Unión, Olancho: classes are not being held; Escuela Atenea and Centro Básico, village of Quinito, Santa Fe, Colón: classes are not being held; Escuela Esteban Guardiola, village of San Juan de Río Grande, MDC: some teachers only hold classes from Tuesday to Thursday; Escuela José Trinidad Cabañas, village of El Durazno, MDC, FM: some teachers are not holding classes; Escuela José C. del Valle, San José de Guaymaca, Guaymaca, FM: no classes have been held since June 28, 2009; Escuela Agustín Alonzo, Barrio el Manchen, Tegucigalpa: classes have not been held since June 28, 2009; Instituto Francisco Morazán, Sabanagrande, FM: 7 of the 42 teachers are not holding class; Escuela Pablo Zelaya Sierra, Ojojona, FM. Classes have not been held for over a month; Escuela Básica Lempira, Colonia Bella Vista, Choloma, Cortés: classes have not been held for more than a month; Escuela Francisco Morazán, village of Progreso de Capire, Trojes, El Paraíso: in the entire year, on 58 days of class have been held and since June 28, 2009 only six days; Instituto José Castro López, Cofradía, Cortés: a stoppage was declared for an indefinite period of time; Centro Básico Rogelio Pineda Muñoz, Saba, Colón: only 2 of the 10 teachers are giving class and are being threatened; Instituto 21 de Febrero, Colonia 21 de Febrero, Comayagüela, DC: classes are only held on Tuesday and Wednesday; Escuela La Libertad, village of Guanijiquil, Reitoca, FM. Classes are not held; Escuela Salvador Corleto, Aldea Suntule, Azacualpa: classes have not been held in over a month; Escuela Francisco Morazán, village of La Montera, Zambrano, FM. Only the 4th, 5th and 6th grade teacher is holding classes; Escuela Juan Ramón Molina, Colonia San Miguel, Tegucigalpa, DC: classes have not been held for a month; Escuela Jorge Fidel Duron, Colonia Las Ayestas, Comayagüela, DC: the teachers who want to hold classes are receiving death threats; Instituto Luis Alfonso Santos, Colonia 3 de mayo, Comayagüela, DC: the teachers who want to hold classes are receiving death threats; Instituto José Santos Guardiola, Gravembe, Roatán: classes are not given routinely; Escuela Ramón Rosa, Langue, Valle: only 3 of the 23 classes are giving classes; Olanchito, Yoro: classes are not being held in this municipality; Instituto Héctor Pineda Ugarte, Tegucigalpa: some teachers are not showing up for school; Escuela Alvaro Contreras, Bo. Abajo, Tegucigalpa: classes have not been held for a month; Instituto El Bosque, El Bosque, Tegucigalpa: classes have not been held for a month; Instituto 4 de septiembre, Saba, Colón: no classes have been held since June 28, 2009; Escuela Marco Aurelio Soto, village of Guasculile, DC, FM: no classes have been held for a month; Escuela Centro Básico Agusto C. Coello, village of Las Flores, DC, FM: only three days of class have been held since June 28, 2009; Instituto Técnico Nueva Suyapa, Colonia Nueva Suyapa, Tegucigalpa: classes are not routinely held; Escuela La Fraternidad, Colonia La Fraternidad: only one teacher is not holding class; Instituto San José del Pedregal, Colonia El Pedregal, Comayagüela, DC: prior to June 28, 2009, more than two weeks of classes were lost and only three days of classes have been held since; Escuela Los Angeles, Valle de Angeles, FM: classes are not being held; Instituto Nimia de Baquedano, Villa Olímpica, Tegucigalpa: classes have not been held for a month now; Centro Básico Emilio Larach, Montes de Sinaí, Comayagüela, DC: classes are not routinely held; Instituto Patria, La Lima, Cortes: only three days of classes have been held since June 28, 2009; Escuela Gabriela Mistral, La Lima Cortés: only three days of classes have been held since June 28, 2009; Escuela José Trinidad Reyes, Colonia 11 de abril, Choloma, Cortés: four men threatened the teachers who wanted to hold classes; Escuela José C. del Valle, Bo. Guanacaste, Tegucigalpa, FM: only grades 1 to 4 are having classes; Instituto Jesús Aguilar Paz, Comayagüela, DC, FM: no classes have been held since the start of April and since June 28, 2009, only two days of class have been held; Escuela Rafael Pineda Ponce, Colonia La Independencia, Comayagüela, DC: one teacher does not want to have class; Escuela Manuel Zelaya Rosales, Colonia Calpules, Comayagüela, DC: three teachers are not holding classes; Escuela Juan Lindo, La Laguna de El Chaparral, Danlí: teachers are holding class from Tuesday to Thursday; Escuela Manuel García, Locomapa, Yoro: no classes are held on Mondays and Fridays; Escuela República de Chile, Colonia Flor #2, Comayagüela, DC: only three teachers are not holding classes; Escuela Gral. José San Martín, Colonia Ayestas, Tegucigalpa: classes are not being held; Escuela Miguel Paz Barahona, Los Encinos, Santa Ana, FM: classes have not been held since June 28; Instituto 21 de Octubre and Escuela República de Honduras, Marcala, La Paz: classes are not being held; Instituto Rafael Pineda Ponce, Colonia Villa Nueva, sector 2: only two days of classes have been held since June 28, 2009; Escuela Pablo Pérez Murillo, la Unión Trinidad, Santa Bárbara: classes are not being held; Escuela Centro Básico Manuel Paz Barahona, Hoya Grande, Moroceli, El Paraíso: classes are held only two days a week; Escuela República de Brasil, Bo. Guacerique, Tegucigalpa: only six days of classes have been held since June 28. Memorandum from the Office of the Special Prosecutor for the Protection of Children, No. 299-FEN-2009, dated August 10, 2009. Information received by the IACHR in Tegucigalpa on August 20, 2009 (No. 174).

that: i) teachers are not showing up at schools; ii) the schools remain closed; iii) on the few occasions when classes have been held, the striking teachers have asked students for food for the demonstrators in exchange for earning points; iv) the teachers claim that they answer to the teachers' union, which pays their salaries; v) the schools are being used as shelters for groups of demonstrators; vi) teachers are indoctrinating the students and use them to engage in violence; vii) the teachers who are participating in the strike are threatening those who continue to give classes.[633]

536. Finally, the Executive Board of the Parents Association said that on August 18, they wanted to sign a compromise agreement with officials at the *Escuela Estado de Israel* in the *Colonia Flor del Campo* in Comayagüela in which the teachers would pledge to teach five days a week. In the event of noncompliance, the parents would have the authority to take over the institution, allow into the school only those teachers who abided by the agreement, and seek immediate dismissal of the teachers who did not turn up for class. The teachers didn't want to sign that compromise agreement.[634]

537. The IACHR also received complaints from teachers in the rural municipalities of Colón, El Paraíso, Copán and Yoro, and the towns of Jocón and Olanchito[635] and other teachers who were forced to transfer to other teaching establishments,[636] were mistreated, threatened, persecuted, harassed, defamed[637] and charged with crimes[638] by arm forces,[639] the *de facto* authorities[640] and parents.[641] There were also complaints that some educational institutions had been militarized, which obstructed the learning process.[642] Finally, it was reported that payment of teachers' loans are not being transferred to the high schools that train teachers; as a result teachers appear to be in default or in arrears and therefore they are unable to obtain or use credit cards.[643]

538. The Supreme Court wrote the following in its observations: "As for the supposed complaints from the IACHR to the effect that teachers from the rural municipalities of Colón, El Paraíso, Copán and Yoro, and the residents of Jocón and Olanchito, were transferred against their will to other educational institutions, and were abused, threatened, persecuted, harassed, defamed, and charged with crimes by the security forces, the necessary investigations cannot be conducted

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[633] Testimony of the Federación de Sociedades de Padres de Familia en Defensa de la Educación Nacional [Federation of Parents Organizations in Defense of National Education], taken by the IACHR in Tegucigalpa on August 20, 2009 (No. 174).

[634] Testimony of the Executive Board of the Sociedad de Padres de Familia [Parents Association], taken by the IACHR in Tegucigalpa on August 20, 2009 (No. 174).

[635] COFADEH, *Informe preliminar [Preliminary Report], op. cit.*

[636] Testimony of A.I.L., taken by the IACHR in Tegucigalpa on August 19, 2009 (No. 2).

[637] Testimony of V.L.F.L., taken by the IACHR in Tegucigalpa on August 19, 2009 (No. 3).

[638] Testimony of M.N.A.M., taken by the IACHR in Tegucigalpa on August 21, 2009 (No. 233).

[639] Testimony of R.A.T.H., taken by the IACHR in Tegucigalpa on August 19, 2009 (No. 272).

[640] Testimony of M.J.Z., taken by the IACHR in Tegucigalpa on August 19, 2009 (No. 441).

[641] Testimony of L.O., cited in CIPRODEH, *Reporte de Violaciones [Report on Violations], op. cit.* Testimony of E.S., taken by the IACHR in El Paraíso on August 20, 2009. Testimony of M.E.M., taken by the IACHR in El Paraíso on August 20, 2009. Testimony of H.R.N.Z., taken by the IACHR in Tegucigalpa on August 21, 2009 (No. 228).

[642] Testimony of D.A.C., taken by the IACHR in Tegucigalpa on August 19, 2009 (No. 307). Testimony of O.R.R.M., taken by the IACHR in El Paraíso on August 20, 2009.

[643] Information that COFADEH supplied to the IACHR on November 5, 2009.

because no dates, places and specific names were provided, which makes investigation of these cases difficult at best."[644]

539. The IACHR also has information to the effect that campaigns are being waged in the media against teachers,[645] that the contracts of temporary teachers have not been renewed,[646] that investigations and criminal actions have been instituted against striking teachers through inspections[647] and documents[648] drawn up by CONADEH and the Office of the Special Prosecutor for Human Rights and the Office of the Special Prosecutor for Children.[649]

540. Complaints were also filed alleging persecution of demonstrators who were asked to name union leaders and to point out certain teachers.[650] Departmental directors of education were asked to supply information on the measures taken to ensure the normal functioning of the educational system[651], and on the activities of teachers in each department.[652] One of those communications reads as follows:

> Given the scandalous absence of some teachers from the classroom and other misconduct on their part during the recent demonstrations, I would respectfully request that **by no later than Tuesday, the 18th** you inform this office of any corrective or disciplinary measures that you, as educational authority in this department, have taken to establish administrative responsibility, as required under the Teacher's Statute, your regulations, the Primary Education Regulations, the Secondary Education Regulations and other applicable laws.[653]

541. In a case brought by the Superior Court of Accounts, a fine of 3,523,794.37 lempiras was imposed on the head of a school "for not having taken any action with the Office of the Deputy Director of Teaching Personnel of the Secretariat of Education to stop payment of salaries to

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[644] Observations made by the State of Honduras to the IACHR's Report, dated December 22, 2009 and signed by the Chief Justice of the Supreme Court, p. 18, paragraph 45.

[645] Testimony of L.O. and F.P. Information received by the IACHR on November 3, 2009.

[646] Note from J.J.M.Z., dated August 24, 2009. Information received by the IACHR on November 3, 2009.

[647] Public Prosecutor's Office, record of the inspection of the Escuela Urbana Juan Manuel Galvez on August 3, 2009. Information received by the IACHR on November 3, 2009.

[648] Juvenile Court Judge, record of August 21, 2009. Complaint from N.M.P.P., dated August 24, 2009. Information received by the IACHR on November 3, 2009.

[649] Office of the Special Prosecutor for Children, Memorandum of August 17. Information received by the IACHR on November 3, 2009.

[650] Secretariat of Security, National Bureau of Criminal Investigation, Memorandum of July 28, 2009. Memorandum from the Public Prosecutor's Office dated August 6, 2009.

[651] Testimony of G.L.G., S.F., G.P., cited in CIPRODEH, *Reporte de violaciones [Report on violations], op. cit*. CONADEH, Memorandum 45 CONADEH D.R.L.A. dated July 24, 2009.

[652] Office of the Departmental Director of Education of Atlántida, Memorandum 061-DDEA-09 of July 17, 2009.

[653] Memorandum from the Public Prosecutor's Office to the Departmental Director of Education of Atlántida, dated August 14, 2009.

the teachers and administrative staff of the school who did not work in July of this year."[654] The ruling was based on the following:

> [Legislative Decree 141-2009] makes it obvious that the teachers' strike is illegal. Apart from the fact that the government's decision with respect to the presidential succession has proved to be the wise course of action to preserve constitutional order, the supposed reason for the strike has no justification because teachers' unions should remain on the sidelines when the situation involved is eminently political. Strikes called for political causes are violations of the education laws. More importantly, they are detrimental to the educational growth and development of Honduran children. The evidence against former President Manuel Zelaya Rosales was credible enough for the National Congress to have taken the decision to remove him from office…[655]

542. Concerning the operations conducted at a number of educational institutions, on July 30 the Administrative Manager in the Operations Planning and Evaluation Unit with the Office of the Departmental Director of Education of Atlántida filed a complaint with CIPRODEH to the following effect:

> At no time was any charge ever presented or even mentioned. No institutional representations were made much less an express order produced stating what they were looking for, or any order of confiscation. High-handedness and arrogance were constantly in evidence (…) These were 4 agents from the National Bureau of Criminal Investigation, wearing bullet-proof vests. Not one would show any identification. However, from the time they came in they had their weapons on display for intimidation purposes. There were also two regional prosecutors, two prosecutors from Tegucigalpa, and two other people who said they were from the Superior Court of Accounts (…) They were apparently looking for the lists of teachers, as they appeared to have little interest in any other kind of information.

543. This information was confirmed by the Office of the Attorney General of the Republic, which stated that measures were taken to ask the competent courts to restore the right to education, "by issuing court orders or rulings to order the implicated teachers to return to the schools and resume classes."[656]

544. The Commission received information about one specific criminal case in which two teachers from the Instituto Central Vicente Cáceres, one of them a union leader, had been charged with mistreatment. The case, which was heard in the Second Trial Court for Child Protection, began on the basis of an interview that was broadcast on Radio Cadena Voces, where a mother had said that these teachers were trying to prevent the other teachers from holding classes. On July 30, the judge ordered the teachers to teach their full class schedule to all students, in keeping with those

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[654] Superior Court of Accounts, Memorandum 251/2009-DPC, dated August 28, 2009. Information received by the IACHR on November 3, 2009.

[655] Superior Court of Accounts, Memorandum 251/2009-DPC, dated August 28, 2009. Information received by the IACHR on November 3, 2009.

[656] Information supplied to the IACHR during the meeting with the Office of the Attorney General in Tegucigalpa on August 18, 2009 (No. 485).

provisions of the Constitution that concern the promotion and dissemination of culture and in fulfillment of their obligations under the Honduran Teachers Statute.[657]

545. The Commission also received a copy of court records in which union leaders were fined and teachers at the schools that remained closed were convicted of gross misconduct. The court ordered that "the children's right to an education be immediately restored," reasoning that "the conduct of the accused constitutes negligence that utterly compromises every child's welfare. These are cases in which the stimuli necessary for educational and recreational development are being denied and thus constitute intellectual abuse by virtue of negligence."[658]

546. In this context, on August 1 the Chairman of CODEH filed a constitutional petition seeking *amparo* relief with the Constitutional Chamber of the Supreme Court challenging the measures taken by a prosecutor from the Public Prosecutor's Office and the Municipal Commission of Danlí alleging harassment and threats. The petition argues that these authorities assembled 113 teachers in the gymnasium of the Instituto Departamental de Oriente (IDO), along with the Department Director of Education of El Paraíso, the President of the Parents' Association and representative from the Office of the National Commissioner for Human Rights to inform them that documents had been prepared to show that the teachers had been absent from class, and that the educational authorities would be obliged to impose the corresponding administrative sanctions.[659]

547. Concerning the dispute, CONADEH maintained that "if a public employee is not in his or her place, performing his or her functions, this may be grounds for dismissal and withholding of salaries for work unperformed. That is the rule of law."[660]

548. On October 4, the *de facto* authorities concluded that "given the political and social situation in the country, administrative measures must be taken that do not affect the interests of the principal actors in education; automatic promotion is justified so that students are able to move to the next grade or course level." They therefore decided "to suspend educational activities for the remainder of the school year, effective October 17 of this year and to end the school year at all public schools at all levels of the national educational system on October 31, the date on which the school keys are to be handed over to the Supreme Electoral Tribunal."[661]

549. The Commission was also informed that classes have been interrupted as a result of the curfews[662] and the militarization of schools and universities.

550. The Commission observes that the institutional breakdown has doubtless affected the normal functioning of Honduran daily life. One example is the information concerning the way that the children's right to an education has been adversely affected. The Commission understands that these allegations are surfacing in an atmosphere in which the teachers, parents and

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[657] Testimony of M.A.P.M., taken by the IACHR in Tegucigalpa on August 20, 2009 (No. 271).

[658] Case Files LNR 0101-2009-00108, Judgment of September 11, 2009, La Ceiba Trial Court for the Protection of Children and Adolescents.

[659] CODEH, e-mail received at the IACHR on September 1, 2009.

[660] "Maestros no deben cobrar salario: Custodio" [Custodio: Teachers Ought Not to Be Paid], El Heraldo, July 15, 2009.

[661] "El 31 de octubre termina año escolar en Honduras" [School year ends on October 31 in Honduras], El Heraldo, October 5, 2009. Executive Decree PMC-M-021-2009 was published in the Official Gazette on October 7, 2009.

[662] Testimony of M.A.P.M., taken by the IACHR in Tegucigalpa on August 20, 2009 (No. 271).

the students themselves are on different sides of an intense social debate. The genesis of the matter, in the Commission's view, is that opportunities for a democratic exchange of ideas are being closed off, thereby preventing the dispute from being resolved.

VI. CONCLUSIONS

551. During its visit, the IACHR was able to confirm that since the *coup d'état* in Honduras, serious violations of the human rights of its inhabitants have occurred, including deaths, an arbitrary declaration of a state of emergency, supression of public demonstrations through disproportionate use of force, criminalization of public protest, arbitrary detentions of thousands of persons, cruel, inhuman and degrading treatment and grossly inadequate conditions of detention, militarization of Honduran territory, a surge in the incidents of racial discrimination, violations of women's rights, serious and arbitrary restrictions on the right to freedom of expression, and grave violations of political rights. The IACHR also established that the judicial remedies were ineffective in protecting human rights.

552. As a consequence of the disproportionate use of force by the security forces to suppress public demonstrations, at least seven people were killed. According to the information received, there is no indication that the internal investigations have made any significant headway in terms of identifying and punishing those responsible.

553. The security forces conducted thousands of unlawful and arbitrary detentions, without an order from a competent authority. The detainees were not brought before a judge to review the lawfulness of their detention, were not told of the reasons for their detention and were not read their rights. Furthermore, many were held incommunicado. The majority of the detainees were released in under 24 hours, but no record was ever made of their detention, a fact that in many cases made execution of the writs of *habeas corpus* difficult and provided an opportunity for violations of the detainees' physical, mental and moral integrity, especially sexual abuse of women.

554. The materiel and strategies that the Army, the Police, and the Cobra Special Strike Force deployed revealed a disproportionate use of force. This, combined with the conditions under which the persons were detained, meant that thousands of them were subjected to inhuman, cruel and degrading treatment and even torture. In this context, the aggression took a much heavier toll on women, who in many cases were victims of sexual violence. Other minority groups, like the Garifuna, members of the gay community and foreign nationals were subjected to discriminatory practices.

555. The IACHR confirmed serious violations of political rights, such as the right to participate in political life and the right to serve in public office. Ministers, governors, members of Congress and mayors were targets of reprisals, threats, acts of violence, budgetary cuts and military occupation of their offices. Also, *de facto* and *de jure* restrictions were imposed on the activities of the political parties, groups and leaders of the opposition to the *de facto* government. The family of President Zelaya reported the harassment and smear campaign being waged against everyone in the family.

556. The state of emergency illegitimately decreed in the country was used as a justification for the control mechanisms that the *de facto* authorities introduced and that the security forces put into practice. The IACHR repeats that no *de facto* government has legitimacy *ab initio* to declare a state of emergency. Furthermore, under Article 27 of the American Convention, the scope of the suspensions must be that strictly necessary to relieve the emergency situation, and this implies limiting the scope of time and space, and the rights that are suspended.

557. The IACHR also confirmed that dissonant or critical opinions were prohibited and the security forces were authorized to search and confiscate broadcasting and transmission equipment when, in the opinion of the *de facto* authorities, the media were engaging in behavior prohibited under existing laws. These measures are an egregious, arbitrary, unnecessary and disproportionate restriction, in violation of international law, of the right of every Honduran to express himself or herself freely and to receive information from a plurality and diversity of sources. The IACHR repeats that any restriction on the right to freedom of expression, even in a state of emergency, must be adopted by a legitimate government and be proportionate and strictly necessary to protect the democratic institutions of government.

558. The violations of the rights to life, humane treatment, freedom of assembly and association, personal liberty, judicial guarantees, freedom of expression, political rights, the rights of women and the rights of minority groups were exacerbated by the absence of democratic institutions capable of processing complaints, investigating facts, punishing those responsible and making reparations to the victims. Those sectors of Honduran society that condemn the *coup d'état* told the Commission of their fear of reprisals on the part of security agents and their mistrust of institutions that did not energetically condemn the interruption of the democratic order and have not responded to public outcries.

559. Based on the American Convention on Human Rights, which the state of Honduras ratified in 1977, the state has an international obligation to prevent violations of human rights and, should they occur, to investigate, try and punish those responsible. Nevertheless, the *de facto* authorities and the Supreme Court of Honduras consistently deny the existence of those violations. Inactivity and tolerance enable the repetition of human rights violations with impunity

560. The organs of the inter-American system for the protection of human rights have repeatedly held that the democratic system of government is the best guarantee of the exercise and enjoyment of human rights. Indeed, this report reveals how the human rights violations reported in Honduras are a direct consequence of the interruption of constitutional order. The Commission therefore considers that the restoration of democratic institutions in Honduras is a condition *sine qua non* for effective protection and observance of the human rights of all inhabitants of Honduras.

Oficio PCSJ -464-2009

CORTE SUPREMA DE JUSTICIA
PRESIDENCIA

OFICIO PCSJ - 464-2009

Tegucigalpa, M. D. C,
13 de Julio de 2009

Doctora
ELIZABETH ABI-MERSHED
Secretaria Ejecutiva -Adjunta
Comisión Interamericana de Derechos Humanos
Washington, D.C., 2006 EE UU.

Doctora Abi-Mershed:

De la manera más atenta hago referencia a su nota de fecha 30 de junio del 2009 sobre la visita a nuestra República; al respecto esta Honorable Corte Suprema de Justicia no ve ningún inconveniente en el sentido que ustedes cuando lo estimen oportuno visiten nuestro país.

Honduras conforme a su Constitución según Art. 15 hace suyos los principios y prácticas del Derecho Internacional que propenden a la solidaridad humana y respeto a la autodeterminación de los pueblos, a la no intervención y al afianzamiento de la Paz y Democracia Universal.

En esa virtud esta Corte estará en la mejor disposición de recibirles y brindarles todas las atenciones que ustedes estimen necesarias para ampliar el propósito de su visita.

Asimismo recordamos a la Honorable Comisión Interamericana, que Honduras es un País respetuoso de los Derechos Humanos y de sus compromisos internacionales, al agradecer la amable atención que esa Honorable Comisión Interamericana dispense a la presente en espera de su respuesta y programa de su visita reciban las muestras de nuestra mas alta y distinguida consideración.

CORTE SUPREMA DE JUSTICIA - PRESIDENCIA - República de Honduras

JORGE RIVERA AVILES
Presidente, CSJ

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