



HONDURAS

# After the Coup

Ongoing Violence, Intimidation, and Impunity in Honduras

HUMAN  
RIGHTS  
WATCH



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## **Summary and Recommendations**

The military coup d'état that ousted President Manuel Zelaya on June 28, 2009—and the attacks on journalists, human rights defenders, and political activists in the coup's aftermath—represent the most serious setbacks for human rights and the rule of law in Honduras since the height of political violence in the 1980s.

After the coup, security forces committed serious human rights violations, killing some protesters, repeatedly using excessive force against demonstrators, and arbitrarily detaining thousands of coup opponents. The de facto government installed after the coup also adopted executive decrees that imposed unreasonable and illegitimate restrictions on the rights to freedom of expression and assembly.

Since the inauguration of President Porfirio Lobo in January 2010, there have been new acts of violence and intimidation against journalists, human rights defenders, and political activists. This report documents 47 such cases, including 18 killings. While some of these attacks may be the result of common crime, available evidence—including explicit threats—suggest that many were politically motivated.

Impunity for violations has been the norm. No one has been held criminally responsible for any of the human rights violations committed under the de facto government in 2009. And available information indicates that there has been little or no progress in investigating the attacks and threats that have occurred this year.

This lack of accountability—and the ongoing violence and threats—have had a chilling effect on free speech and political participation in Honduras, particularly among those who opposed the 2009 coup. Until Honduran authorities take concrete steps to reduce impunity and curb the ongoing attacks, it will be difficult for the country to restore trust in its democratic system.

### **Impunity for Post-Coup Abuses**

The Human Rights Unit of the Attorney General's Office—responsible for investigating allegations of human rights violations committed by police or military personnel—has filed charges in 20 cases of alleged violations committed under the de facto government. Judges have acquitted the defendants in eight cases and the rest are still pending before the courts, some of them stalled because the accused are at large.

This lack of progress in prosecuting perpetrators of human rights crimes has not been due to a lack of effort by the Human Rights Unit. Rather, it is primarily the result of the lack of cooperation with, and support for, the unit from other state institutions, particularly during the early stages of the investigations in 2009.

The Human Rights Unit has faced several obstacles that undermine its ability to adequately investigate and prosecute these cases, including:

**Limited resources:** Although the volume of human rights cases increased dramatically after the coup, the unit's staff and budget were not expanded to meet the heavier caseload. Throughout the time period covered by this report, the unit consisted of 15 prosecutors. Each has had to handle approximately 400 cases. The unit possesses only two cars, one in Tegucigalpa and another in San Pedro Sula, which has severely limited prosecutors' ability to carry out travel necessary for their investigations. According to the unit's director, these conditions have left the prosecutors "overwhelmed." A one-year budget increase approved by Congress in October 2010 will be effective as of April 2011.

**Lack of independent investigators:** The unit's prosecutors rely on investigative police who lack the independence necessary to conduct impartial investigations into violations committed by security forces. These investigators are members of the national police force. Like other police, their careers—including promotions, benefits, and disciplinary matters—are determined by the Ministry of Security, which is also responsible for placing them with the Attorney General's Office. Even while working with the Attorney General's Office, they maintain a strong institutional loyalty to the police force. Consequently, prosecutors do not feel they can rely on the police to investigate cases involving other police officers.

**Lack of cooperation by security forces:** Under the de facto government, there was an "absolute" lack of cooperation with investigations by military and police personnel, according to members of the Human Rights Unit. Military or police officers refused to turn over firearms for ballistics tests, provide information on police officers accused of committing violations, or grant access to military installations.

**Lack of judicial independence:** Actions by the Honduran Supreme Court immediately after the coup created a climate in which lower court judges were

discouraged from ruling against de facto authorities and in favor of coup opponents, independent of the facts of the case at hand. The Supreme Court issued public statements immediately after the coup declaring that the military's actions on June 28 had been legal without mentioning that the military physically removed former President Zelaya from the country and forced him into exile. The broad and unqualified endorsement of the military's actions sent a clear message that the Supreme Court did not object to them. The Court then disregarded constitutional appeals challenging the legality of policies by the de facto government. While Honduran law establishes the principle that lower courts should be independent of undue influence from higher courts, it also grants the Supreme Court administrative and disciplinary powers over lower court judges. The Supreme Court exercised this authority in an arbitrary and seemingly political fashion in May 2010 when it fired four judges who publicly questioned the legality of the coup.

**Lack of implementation of a Witness Protection Program:** Honduras's Witness Protection Program has been rendered largely inoperative due to the state authorities' failure to allocate funds to it. Consequently, prosecutors are unable to guarantee even minimal protection for witnesses who may be at risk of reprisal.

## **Ongoing Attacks against Journalists, Human Rights Defenders, and Political Activists**

Since President Lobo was inaugurated in January 2010, there have been at least 18 killings of journalists, human rights defenders, and political activists, several in circumstances that suggest the crimes may have been politically motivated.

For example, on February 15 gunmen shot and killed Julio Benitez, an opponent of the coup who had previously received numerous threatening phone calls warning him to abandon his participation in opposition groups. On March 14, gunmen shot and killed Nahúm Palacios, who directed TV Channel 5 of Aguán and had covered several politically sensitive issues, including anti-coup demonstrations, corruption, drug trafficking, and agrarian conflicts.

Human Rights Watch has also received credible reports of 29 cases involving threats or attacks against journalists, human rights defenders, and political activists in 2010. For instance, on April 8, Father Ismael Moreno—a Jesuit priest and human rights advocate—received a text message threatening to kill the family of a female coup opponent who had been raped by police officers. Father Moreno had been helping the woman and her family to leave Honduras. In early June 2010, Eliodoro Cáceres Benitez, a political activist, received



three death threats by phone, stating that members of organized crime would kill him and his family. His son went missing on June 13; at the time of this writing, his whereabouts remain unknown. On September 15, police and military members attacked the offices of Radio Uno, a station that has been critical of the coup. They launched tear gas into the radio station's offices, broke windows in the building, damaged equipment, and seriously injured one person.

Available information indicates that Honduran authorities have made very little, if any, progress in investigating most of these more recent cases. In the absence of thorough investigations, it is difficult to determine how many of the attacks were politically motivated or whether there was official involvement in any of them. They have occurred in a context of generalized violence associated with common and organized crime; Honduras has for several years been one of the most violent countries in the region.

Yet the ongoing political polarization in Honduras and circumstantial evidence in the majority of the 2010 cases in this report—including explicit statements by perpetrators in some instances—suggest that many victims may have been targeted because of their political views, fueling a climate of fear that has undermined the exercise of basic freedoms in Honduras. One political activist, for example, told Human Rights Watch that she had felt compelled to abandon her political activities after armed men accosted her and her daughters. Another, who was shot in the leg during an assassination attempt, said he had stopped participating in political activities as a result of the attack. A radio journalist told Human Rights Watch that a colleague left his job at the station where they worked after receiving repeated death threats for his political views.

This situation has generated serious concerns in the international community. In October 2010, 30 members of the US Congress urged the US Secretary of State to suspend military and police aid to Honduras until the Lobo administration distances itself from individuals involved in the coup and adequately addresses the ongoing violations. International human rights bodies, including the Inter-American Commission on Human Rights (IACHR) and the Office of the High Commissioner for Human Rights (OHCHR), have called on Honduras to hold perpetrators accountable. Several countries expressed concern regarding the human rights situation in the country during the Universal Periodic Review of Honduras in November 2010. At the time of this writing, Honduras remains suspended from the Organization of American States (OAS).

## Recommendations

Honduran authorities should adopt concrete measures to promote accountability for abuses against human rights defenders, journalists, and political activists.

### *Support the Human Rights Unit*

President Lobo and the Honduran Congress took an important step toward strengthening the Human Rights Unit in October 2010 when they approved a three-fold increase in the unit's 2011 budget. This increase should, among other things, enable it to hire independent investigators, thereby ending its reliance on police investigators.

However, the increase has been approved for only one year, which is not enough time to ensure that the pending investigations move forward. It is therefore critical that the government commit to extending the budget increase beyond 2011.

Other crucial steps needed to support the unit's work include guaranteeing the full cooperation of military and police personnel with ongoing investigations, and allocating sufficient funds to the country's Witness Protection Program.

### *Strengthen Judicial Independence*

Without an independent judiciary, the complex and politically sensitive cases investigated by the Human Rights Unit are unlikely to be tried fairly, and those responsible for the abuses are unlikely to be brought to justice.

Honduras should take steps to ensure that its courts can handle human rights cases without external interference or undue political pressure from within the judicial branch. Specifically, it should implement the 2001 constitutional reform that provided for the creation of the Council of the Judiciary (*Consejo de la Judicatura*), an independent body that would take over many of the Court's disciplinary functions. It should also establish procedures for the appointment, sanctioning, and removal of judges and judicial employees that are transparent and protect against political interference in judicial processes.

### *Establish an International Commission of Inquiry*

In September, the Lobo administration proposed that the United Nations establish an international investigatory commission in Honduras, modeled after the International Commission Against Impunity in Guatemala (*Comisión Internacional contra la Impunidad en*

*Guatemala*, CICIG). A central objective of the proposed commission should be to promote accountability for human rights violations.

The international community should support this proposal and work with Honduras to design and install a commission that has the mandate, resources, and expertise necessary to carry out thorough investigations into human rights cases—including politically motivated attacks and threats against journalists, human rights defenders, and political activists—and to support the efforts of the Human Rights Unit to prosecute such cases. The commission should be given sufficient time—a period of years, not months—to complete its work and contribute meaningfully to accountability.

The commission should also have the power to propose and advocate for legislative reforms that are necessary to deliver accountability for abuses. To ensure transparency, the commission should be required to publicly issue an annual report giving information on the success of prosecution efforts, including specific information on cases arising under the de facto government as well as of attacks against human rights defenders, journalists, and political activists in 2010. The report should also include an analysis of current obstacles to accountability and the extent to which such obstacles continue to undermine the work of prosecutors.

#### **To President Lobo:**

President Lobo should support the work of the Human Rights Unit by:

- Publicly stating his commitment to bringing to justice those responsible for violations committed under the de facto government;
- Instructing the military and police to cooperate fully with the unit's investigations, and to sanction members who have failed to do so in the past;
- Committing to extend the unit's budget increase beyond 2011; and
- Committing to increase funding for the Witness Protection Program administered by the Attorney General's Office.

The president should also:

- Seek to curb attacks and threats against human rights defenders, journalists, and political activists, publicly stating his commitment to bring to justice those responsible for attacks; and
- Work with the United Nations to create an international commission to curb impunity in Honduras, with the expertise, mandate, and reporting requirements described above.

**To the Attorney General:**

The Attorney General should support the work of the Human Rights Unit by:

- Publicly stating his commitment to bring to justice those responsible for the violations committed under the de facto government; and
- Providing extra funding and institutional support to the unit prior to the 2011 budget increase becomes effective in April 2011.

The Attorney General should also seek to curb attacks and threats against human rights defenders, journalists, and political activists by:

- Publicly stating his commitment to bring to justice those responsible for these attacks; and
- Ensuring that all such cases are investigated thoroughly and promptly.

**To the Supreme Court of Justice:**

The Supreme Court should adopt measures to strengthen judicial independence in Honduras. Specifically, it should:

- Ensure that political factors are not, and could not credibly be perceived to be, motivations for use of its disciplinary powers to sanction lower court judges and judicial employees.

**To the Council on Judicial Careers:**

The Council on Judicial Careers should reinstate the four judges who were arbitrarily dismissed in May 2010.

**To Congress:**

Congress should pass legislation to strengthen judicial independence in Honduras, and to promote accountability for violations committed under the de facto government. Specifically, it should:

- Pass legislation ensuring that the Council of the Judiciary is established and operational so that a body independent of the Supreme Court takes over the disciplining of judges;
- Monitor the Attorney General's Office closely to ensure that the increased funding provided to the Human Rights Unit for 2011 actually reaches the unit, and continue to authorize adequate funding for the unit in subsequent years; and
- Authorize specific funding for the office in charge of implementing the Witness Protection Program.

**To the OAS, IACHR, UN, and Other International Actors:**

International actors—including the OAS, the IACHR, the OHCHR, United Nations special rapporteurs, and foreign governments—should continue to monitor closely human rights developments in Honduras. They should advocate for measures to strengthen the prosecution of human rights violations committed during the de facto government, and publicly question policies, statements, or measures taken by authorities from any branch of the Honduran government that undermine these investigations.

International actors, in particular the secretary general of the United Nations, should work with the Honduran government to design and establish an international commission to curb impunity in Honduras, with the expertise, mandate, and reporting requirements described above.

In addition, the OHCHR should establish an office in Honduras to monitor closely the human rights situation in the country, as requested by President Lobo.

**Note on Methodology**

This report is based on extensive interviews conducted during four Human Rights Watch visits to Honduras in October 2009, November-December 2009, and August 2010, as well as prior and subsequent interviews by phone and email.

Human Rights Watch interviewed representatives from local nongovernmental organizations, lawyers, journalists, and diplomats. In August 2010, we conducted in depth interviews with the head of the Human Rights Unit of the Attorney General's Office and several prosecutors in Tegucigalpa and San Pedro Sula. We also met with Supreme Court justices and President Lobo's advisor on human rights at the time, and interviewed by phone the director of prosecutors at the Attorney General's Office, the director of the investigative police at the Ministry of Security, and the director of the Witness Protection Program of the Attorney General's Office. We also directly interviewed dozens of victims or their family members, mostly victims of threats or attacks that occurred in 2010.

This report draws heavily on reports by international bodies, primarily the IACHR and OHCHR, in describing abuses committed immediately after the coup and during the tenure of the de facto government. It also draws on documentation provided by local human rights organizations, including direct testimony gathered from victims or their families immediately after the events, and photographs of incidents that occurred immediately after the coup, provided by a journalist covering the coup in Honduras.

Finally, we reviewed official documents on the status of the investigations in 17 cases of abuses committed during the de facto government in which prosecutors have brought charges. Human Rights Watch was unable to obtain official documentation on three additional cases in which prosecutors have brought charges.

## I. Background

### The Coup

On June 28, 2009, members of the Honduran military arrested democratically elected president José Manuel Zelaya and flew him out of the country.<sup>1</sup> Zelaya had called for a nationwide poll that day on a variety of issues, including the possibility of organizing a constituent assembly to modify the Constitution to allow the president to run for another term. The military opposed the poll, and the country's Supreme Court had ruled it illegal.<sup>2</sup> Roberto Micheletti, the president of Congress, took over the interim presidency of the country that same day.<sup>3</sup>

The international community immediately—and unanimously—condemned the coup d'état that ousted Zelaya. The OAS denounced the coup and sanctioned the de facto government by suspending its OAS membership.<sup>4</sup> The United Nations General Assembly condemned the coup and called on states to not recognize any government other than the one of President Zelaya.<sup>5</sup> Latin American governments also condemned the coup, and withdrew their ambassadors from the country.<sup>6</sup> The United States called for Zelaya to be restored to power, and a few weeks later imposed sanctions, including freezing the visas of military and political actors.<sup>7</sup> The European Union criticized the coup and restricted EU political contacts

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<sup>1</sup> Zelaya was elected president of Honduras in November 2005 and took office on January 27, 2006.

<sup>2</sup> Supreme Court of Justice of the Republic of Honduras, Special Press Release, June 30, 2009. Supporters of the coup argued that the military was executing judicial orders to arrest Zelaya for having disobeyed rulings ordering him not to carry out the poll. Human Rights Watch interview with Justice Jorge Rivera Aviles, president of the Supreme Court of Justice of the Republic of Honduras, Justice Rosa de Lourdes Paz Haslam, Justice José Tomás Arita Valle, and Justice José Antonio Gutiérrez Navas, Tegucigalpa, August 25, 2010.

<sup>3</sup> Micheletti acted as the de facto president of Honduras until Porfirio Lobo took office on January 27, 2010. Lobo won the November 2009 elections organized by the de facto government.

<sup>4</sup> OAS General Assembly, "Resolution on the political crisis in Honduras" (Resolución sobre la crisis política en Honduras), AG/RES. 1(XXXVII-E/09), July 1, 2009; OAS General Assembly, "Suspension of Honduras's right to participate in the Organization of American States" (Suspensión del derecho de Honduras de participar en la Organización de Estados Americanos), AG/RES. 2(XXXVII-E/09) rev.1, July 16, 2009.

<sup>5</sup> UN General Assembly, "Resolution 63/301. Situation in Honduras: democracy breakdown," A/RES/63/301, July 1, 2009, <http://www.unhcr.org/refworld/pdfid/4a535f4a2.pdf> (accessed September 16, 2010).

<sup>6</sup> See, for example, General Secretariat of the Central American Integration System (Sistema de Integración Centroamericana, SICA), "Declaration of SICA presidents, adopting immediate political measures to be taken in light of the situation in Honduras" (Declaración de Presidentes del SICA, adoptando medidas políticas inmediatas a ser tomadas ante la situación en Honduras), June 29, 2009; Bolivarian Alliance of the People of Our America (Alianza Bolivariana de los Pueblos de Nuestra América), "Declaration of the VII Summit of the ALBA on the Coup d'Etat in Honduras" (Declaración de la VII Cumbre del ALBA sobre el Golpe de Estado en Honduras), October 27, 2009, [http://www.mre.gob.ve/union/index.php?option=com\\_content&view=article&id=2086:declaracion-especial-vii-cumbre-de-jefes-de-estado-y-autoridades-del-alba-tcp&catid=95:avances&Itemid=60](http://www.mre.gob.ve/union/index.php?option=com_content&view=article&id=2086:declaracion-especial-vii-cumbre-de-jefes-de-estado-y-autoridades-del-alba-tcp&catid=95:avances&Itemid=60) (accessed September 16, 2010).

<sup>7</sup> US State Department, "Remarks by Secretary Clinton on the Situation in Honduras," June 28, 2009, <http://www.america.gov/st/texttrans-english/2009/June/20090629113134emffeno.2144724.html> (accessed September 28, 2010); US State Department, "Military Coup in Honduras Reminiscent of 'Dark Past,' Obama says," June 30, 2008, <http://www.america.gov/st/peacesec-english/2009/June/20090630155212esnamfuako.91383.html> (accessed September 28,

with representatives of the de facto government and EU member state bilateral development cooperation with Honduran institutions.<sup>8</sup>

## Widespread Post-Coup Abuses

The IACHR and the OHCHR visited Honduras while the de facto government of Micheletti was in power to document the human rights situation in the country. During their missions, they received testimonies of victims of human rights violations, and met with civil society groups, de facto authorities, prosecutors, the human rights ombudsman, representatives of Congress, and members of the Supreme Court. Both bodies also reviewed relevant, official documentation. The IACHR carried out its official visit to Honduras in August 2009, and issued a final report with its findings in December that year.<sup>9</sup> The OHCHR mission was in Honduras in October and November 2009, and published its findings in March 2010.<sup>10</sup>

Both international human rights bodies found that, during the de facto government of Micheletti, military and police forces repeatedly used disproportionate force in responding to protests. This excessive use of force led to several deaths, left dozens wounded, and was accompanied by thousands of arbitrary arrests and temporary detentions of protesters. They also provided detailed information on sexual violence suffered by women, and documented detentions, beatings and threats against journalists.

In addition, military and police forces arbitrarily closed media outlets in the aftermath of the coup. Even though certain restrictions to the rights of freedom of expression and assembly may be acceptable when security forces exercise emergency powers, the military was not acting on the basis of any parliamentary sanction, and the de facto government had failed to declare a legitimate state of emergency at the time that may have legitimized such measures.<sup>11</sup> In addition, months later security forces closed radio and TV stations as a

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2010); US State Department, "Statement on Termination of Assistance to Honduras," September 3, 2009, <http://www.america.gov/st/texttrans-english/2009/September/20090903140404xjsnommiso.4897839.html> (accessed September 28, 2010).

<sup>8</sup> Council of the European Union, "Declaration by the Presidency on behalf of the European Union on the political situation in Honduras," 12255/09 (presse 222), July 24, 2009, <http://europa.eu/rapid/pressReleasesAction.do?reference=PESC/09/84&format=HTML&aged=0&language=EN&guiLanguage=en> (accessed September 16, 2010).

<sup>9</sup> Inter-American Commission on Human Rights (IACHR), "Human Rights and the Coup d'Etat," OEA/Ser.L/V/II. Doc. 55, December 30, 2009, <http://www.cidh.oas.org/countryrep/Hondurasogeng/Toc.htm> (accessed September 15, 2010).

<sup>10</sup> UN Human Rights Council, "Report of the United Nations High Commissioner for Human Rights on the violations of human rights in Honduras since the coup d'état on 28 June 2009," A/HRC/13/66, March 3, 2010, <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/G10/117/00/PDF/G1011700.pdf?OpenElement> (accessed September 15, 2010).

<sup>11</sup> De facto President Roberto Micheletti held on June 28 that his government would apply a curfew without mentioning any legal basis for such measure. Two days later, the de facto government adopted a decree establishing that no one could be on the streets between 10 p.m. and 5 a.m. The decree also suspended the following rights for 72 hours: the right to personal liberty, the right not to be detained for more than 24 hours without being brought before competent authorities, and the freedoms of association and of movement. Congress approved the decree on July 2. According to the Inter American



consequence of an executive decree adopted by the de facto government, which excessively limited free speech. Under those circumstances, the closures of radio and TV stations constituted abuses of power.

### *Killings*

The IACHR documented at least six deaths that appear to have been the result of use of excessive force during the de facto government's time in office:

- Isis Obed Murillo Mencías died after being shot in the head while participating in a demonstration outside Tegucigalpa's Toncontin Airport on July 5.<sup>12</sup>
- The body of Pedro Magdiel Muñoz, which bore signs of torture, was found on July 25 in the department of El Paraíso. Witnesses told the IACHR that Muñoz had participated in a rally in front of military roadblocks that day and had been arrested by the military.<sup>13</sup>
- Roger Vallejos Soriano, a teacher, was shot in the head during a protest in Comayagüela on July 30.<sup>14</sup>
- Pedro Pablo Hernández was shot in the head by a soldier at a military roadblock in the valley of Jamastran on August 2.<sup>15</sup>
- Francisco Alvarado was shot in the chest during a confrontation between opposition groups and the police in Comayagüela on September 22. Alvarado was apparently not participating in the confrontation.<sup>16</sup>
- Elvis Jacobo Euceda Perdomo was shot twice after having shouted "coup plotters" at several police officers and after allegedly ignoring a police checkpoint in San Pedro Sula on September 22.<sup>17</sup>

### *Excessive Use of Force*

The IACHR found "a pattern of disproportionate use of public force" by the military and police.<sup>18</sup> The OHCHR, for its part, held that "[b]oth the military and the police systematically used excessive force in breaking up demonstrations against the coup."<sup>19</sup>

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Commission on Human Rights, the de facto government continued applying the decree for an additional month, without any legal basis. Inter-American Commission on Human Rights, "Human Rights and the Coup d'Etat," OEA/Ser.L/V/II. Doc. 55, December 30, 2009, <http://www.cidh.oas.org/countryrep/Hondurasogeng/Toc.htm> (accessed on September 15, 2010), paras. 212-214; UN Human Rights Council, "Report of the United Nations High Commissioner for Human Rights on the violations of human rights in Honduras since the coup d'état on 28 June 2009," A/HRC/13/66, March 3, 2010, <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/G10/117/00/PDF/G1011700.pdf?OpenElement> (accessed September 15, 2010), para. 15.

<sup>12</sup> IACHR, "Human Rights and the Coup d'Etat," paras. 239-240.

<sup>13</sup> Ibid., paras. 241-242.

<sup>14</sup> Ibid., paras. 243-244.

<sup>15</sup> Ibid., paras. 245-246.

<sup>16</sup> Ibid., para. 248.

<sup>17</sup> Ibid., para. 249.

Excessive use of force characterized the security forces' suppression of demonstrations in several cities, including Tegucigalpa, San Pedro Sula, Choloma, Comayagua, and the town of El Paraíso. The OHCHR reported that the majority of demonstrations were peaceful and demonstrators were unarmed.<sup>20</sup> According to the IACHR:

In the various departments to which it traveled, the commission received testimony about individuals wounded by lead bullets or injured by blows with police truncheons and other blunt objects made of rubber, iron, and wood, and about the indiscriminate use of tear gas, as customary methods used to deter demonstrations. The commission received testimony from dozens of people with serious injuries to the head as a result of the repression exercised both by police and military personnel.<sup>21</sup>

For example, members of the military and the police violently dispersed a demonstration in favor of the return of former President Zelaya, carried out in front of the Presidential Palace on June 29, 2009. According to the IACHR, law enforcement agents pointed high caliber guns at the demonstrators and launched teargas in their direction (some canisters directly hit the demonstrators). They also pulled their hair, kicked them, and beat them in their stomachs, chests, arms, heads, and toes with police batons, sticks, and iron tubes. Some demonstrators were forced into military cars, where they were beaten, insulted, and threatened.<sup>22</sup>

The following day, police officers tried to disperse pro-Zelaya demonstrators who had met at the central park of the city of El Progreso. The IACHR documented that police threw teargas canisters directly at the demonstrators, beat and kicked them, hit them with police batons in their heads and backs, and stepped on them.<sup>23</sup>

Another incident took place on July 30, 2009, in the department of Comayagua, when anti-coup demonstrators closed the main road to San Pedro Sula. Despite the fact that demonstrators had agreed to end the demonstration at 2 p.m., over 150 police and military personnel confronted the demonstrators at 12:30 p.m. and ordered them to leave in 15 minutes. Before the 15 minutes had elapsed, law enforcement officials opened fire, threw teargas canisters and stones at the demonstrators, beat them with police batons, and forced

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<sup>18</sup> IACHR, "Preliminary Observations on the IACHR Visit to Honduras," August 21, 2009, <http://www.cidh.org/comunicados/English/2009/60-09eng.Preliminary.Observations.htm> (accessed September 15, 2010).

<sup>19</sup> UN Human Rights Council, "Report of the United Nations High Commissioner for Human Rights on the violations of human rights in Honduras since the coup d'état on 28 June 2009," para. 20.

<sup>20</sup> *Ibid.*, para. 30.

<sup>21</sup> IACHR, "Preliminary Observations on the IACHR Visit to Honduras."

<sup>22</sup> IACHR, "Human Rights and the Coup d'Etat," paras. 274-276.

<sup>23</sup> *Ibid.*, paras. 277-278.

those who had hidden in nearby houses out of their hideouts. The military locked approximately 40 demonstrators in a military vehicle with small windows and threw a teargas canister inside. The police then detained several demonstrators who had gone to the hospital to obtain medical treatment.<sup>24</sup>

### *Arbitrary Detentions*

According to the IACHR, military and police forces arbitrarily arrested between 3,500 and 4,000 people during protests, detaining them for periods ranging from 45 minutes to 24 hours. Many detainees were subjected to beatings, threats, and verbal attacks while in custody.<sup>25</sup>

Examples documented by the IACHR include the following:

- On June 29, 2009, law enforcement officials detained 92 people, including nine children and six women, during a demonstration in Tegucigalpa. They took the demonstrators to police cells, where the detention conditions were inadequate, and there was no separation of prisoners based on their age or sex. The detainees did not receive medical attention and were unable to call their families.<sup>26</sup>
- On July 2, law enforcement officials detained between 150 and 200 demonstrators, including nine children, during a demonstration in San Pedro Sula, but prosecutors only brought charges against 78.<sup>27</sup>
- On July 30, law enforcement officials detained approximately 100 demonstrators in Ojo de Agua and took them to the police station in Comayagua, without explaining why they were being detained and without registering the detainees.<sup>28</sup>
- On August 12, law enforcement officials detained 28 people and held them inside the Congress building, where they were beaten, and forced to take their shirts off and lie down on the hot pavement. They were then taken to the offices of the Cobra Command (Comando de Operaciones Cobra)—a special police force—where they were held incommunicado, beaten, and never informed of the reasons for their detention. Afterwards, the detainees were transported to the Metropolitan Police headquarters and placed in small, unventilated cells. They did not have access to sanitary facilities or drinking water.<sup>29</sup>

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<sup>24</sup> IACHR, “Human Rights and the Coup d’Etat,” paras. 286-289.

<sup>25</sup> IACHR, “Preliminary Observations on the IACHR Visit to Honduras,”; See also UN Human Rights Council, “Report of the United Nations High Commissioner for Human Rights on the violations of human rights in Honduras since the coup d’état on 28 June 2009,” paras. 32-34.

<sup>26</sup> IACHR, “Human Rights and the Coup d’Etat,” para. 343.

<sup>27</sup> Ibid., para. 344.

<sup>28</sup> Ibid., para. 350.

<sup>29</sup> Ibid., paras. 358-361.

- On September 22, law enforcement officials detained 165 adults and 43 children in the Olympic stadium in Tegucigalpa for, among other things, allegedly causing disturbances during demonstrations and violating the curfew.<sup>30</sup>

In many of these cases, the due process rights of individuals were also violated. Detainees were not informed of the grounds for their arrest, records were not kept of their imprisonment, and neither judicial authorities nor public prosecutors were informed of their cases. Furthermore, the detainees' right to challenge the grounds for their detention (habeas corpus) was not upheld. In some cases, judges who responded to petitions for habeas corpus were mistreated, threatened, and intimidated so that they would not carry out their duties.<sup>31</sup>

### *Sexual Violence*

The IACHR found that "women were especially subject to acts of violence and humiliation because of their gender."<sup>32</sup>

Both the OHCHR and the IACHR heard testimony about two incidents that reportedly took place in San Pedro Sula in 2009. In one case, a woman said she had been raped by police officers; in the other, a woman said she was stripped from the waist down and beaten with batons. The IACHR confirmed that the police and army groped the breasts and genitals of women in detention. Several women denounced security officers for forcibly spreading women's legs and touching their genitals with police batons.<sup>33</sup>

### *Attacks on the Media*

According to the OHCHR, "[f]reedom of expression was one of the most restricted rights under the emergency measures."<sup>34</sup> The IACHR, for its part, found that attacks on the media during the de facto government's tenure generated "an atmosphere of intimidation that inhibit[ed] the free exercise of freedom of expression."<sup>35</sup>

De facto government leaders, as well as soldiers and police, suspended or closed TV channels and radio stations; threatened, detained, and beat members of the media; and

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<sup>30</sup> Ibid., para. 374.

<sup>31</sup> IACHR, "Preliminary Observations on the IACHR Visit to Honduras."

<sup>32</sup> Ibid.

<sup>33</sup> Ibid.; IACHR, "Human Rights and the Coup d'Etat," paras. 519, 522, and 523. UN Human Rights Council, "Report of the United Nations High Commissioner for Human Rights on the violations of human rights in Honduras since the coup d'état on 28 June 2009," paras. 59-60.

<sup>34</sup> UN Human Rights Council, "Report of the United Nations High Commissioner for Human Rights on the violations of human rights in Honduras since the coup d'état on 28 June 2009," para. 41.

<sup>35</sup> IACHR, "Preliminary Observations on the IACHR Visit to Honduras."

attacked the offices of news outlets critical of the coup. At least eight national TV stations, three major radio stations, and several international news channels were interrupted or suspended during the June 28 coup. Security forces also assaulted at least 10 journalists attempting to cover demonstrations after the coup; at least seven more were detained, and some were beaten by police or soldiers in other circumstances.<sup>36</sup>

While most of the attacks targeted critics of the de facto government, the IACHR also reported attacks on journalists and outlets that supported the coup, such as the newspaper *El Heraldo*, which was attacked on August 14 by a group of masked men who threw Molotov cocktails at its building.<sup>37</sup>

Additionally, the de facto government adopted two decrees that undermined free expression. The first was a presidential decree issued on September 22 prohibiting all public statements deemed to offend human dignity, public officials, or that “run counter [to] the law or government decisions.” It empowered the National Communications Commission (*Comisión Nacional de Telecomunicaciones*, CONATEL) to use the police or military to suspend the operations of broadcasters who did not comply with the decree. On September 28, security forces applying the decree searched and confiscated broadcasting equipment from television Channel 36 and Radio Globo, two media outlets critical of the de facto government. The decree was annulled on October 19.<sup>38</sup>

The second measure was an “executive accord,” similar to a presidential decree, adopted on October 5. It authorized CONATEL and other government offices to revoke permits and operating licenses granted to radio and TV stations “that broadcast messages that seek to justify hatred against the nation and the 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.” The accord aimed at protecting “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.”<sup>39</sup> This decree was never applied and was revoked by President Lobo in September 2010.<sup>40</sup>

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<sup>36</sup> Ibid.; IACHR, “Human Rights and the Coup d’Etat,” paras. 414-419, 427-435, 447-449, 451-452, 453-454, 459-469, 477, 487.

<sup>37</sup> IACHR, “Preliminary Observations on the IACHR Visit to Honduras.”

<sup>38</sup> The decree is called “Executive Decree PCM-M-016-2009.” IACHR, “Human Rights and the Coup d’Etat,” para. 504. UN Human Rights Council, “Report of the United Nations High Commissioner for Human Rights on the violations of human rights in Honduras since the coup d’état on 28 June 2009,” para. 16.

<sup>39</sup> The decree is called “Executive accord 124-2009.” IACHR, “Human Rights and the Coup d’Etat,” para. 504.

<sup>40</sup> IACHR, “Preliminary Observations of the Inter-American Commission on Human Rights about its visit to Honduras on May 15-18, 2010,” para. 43; Human Rights Watch email correspondence with Ana Pineda, human rights advisor to President Porfirio Lobo, August 31, 2010; La Gaceta (Official Gazette), Executive accord 202-2010, September 9, 2010.

### *Abuse of Emergency Powers*

On June 30, the de facto government passed an executive decree that provided for the temporary suspension of basic rights, including the right to personal liberty, freedom of association, freedom of movement, and protections against arbitrary detention. It established that no one could be out on the streets between 10 p.m. and 5 a.m. Although the curfew was supposed to be implemented for only 3 days, the government extended its application for a month without any legal basis.<sup>41</sup>

The military applied the curfew in a discriminatory fashion.<sup>42</sup> Thousands of people were trapped between military checkpoints, which, according to the IACHR, were set up “during the enforcement ... of a continual curfew by virtue of consecutive extensions every 12 hours.” From July 24 to 27, between 4,000 and 5,000 people were caught between military roadblocks near the border with Nicaragua. Participants told the IACHR that the military used teargas on them, denied them food and water, and would not give medical attention to the wounded while they were held at the roadblocks.<sup>43</sup>

### *Lack of Legal Protection*

Honduran judges contributed to the assault on the rule of law by failing to review the actions of the de facto government despite clear violations of Honduran and international law and specific constitutional appeals (*amparos*) seeking legal review of those actions. It failed to assess the legality of the emergency measures implemented by the de facto government, neglecting its responsibility to act as a check on executive power.<sup>44</sup> In the context of this inaction, and as a result of the judiciary’s inadequate response to reported violations, the IACHR concluded that, “the judicial remedies available in Honduras [did] not ... offer efficient and effective protection against human rights violations in the context of the coup d’état.”<sup>45</sup>

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<sup>41</sup> Executive Decree 011-2009, June 30, 2009; IACHR, “Human Rights and the Coup d’Etat,” paras. 214-216; UN Human Rights Council, “Report of the United Nations High Commissioner for Human Rights on the violations of human rights in Honduras since the coup d’état on 28 June 2009,” para. 15.

<sup>42</sup> UN Human Rights Council, “Report of the United Nations High Commissioner for Human Rights on the violations of human rights in Honduras since the coup d’état on 28 June 2009,” para. 19.

<sup>43</sup> IACHR, “Preliminary Observations on the IACHR Visit to Honduras.”

<sup>44</sup> IACHR, “Human Rights and the Coup d’Etat,” para. 215-216; UN Human Rights Council, “Report of the United Nations High Commissioner for Human Rights on the violations of human rights in Honduras since the coup d’état on 28 June 2009,” para. 17. See the section “Independence of the Judiciary Compromised” in this report for additional information on the Supreme Court’s failure to resolve appeals challenging the constitutionality of Executive Decree PCM-M-016-2009.

<sup>45</sup> IACHR, “Preliminary Observations on the IACHR Visit to Honduras.”

## II. Impunity for Post Coup Abuses

At the time of this writing, no one has been held criminally responsible for the human rights violations and abuses of power committed after the coup. In the vast majority of the abuse cases documented by international human rights bodies, prosecutors have not brought charges against anyone. The Human Rights Unit of the Attorney General's Office is working on approximately 200 cases of alleged human rights violations committed by police or military personnel since the coup, but has filed charges in only 20 arising during the de facto government's tenure.<sup>46</sup>

Human Rights Watch obtained documentation on 17 of these cases. In eight of them, the defendants were acquitted. The rest are still pending before the courts, some of them stalled because the defendants are at large.<sup>47</sup>

### Status of Investigations

#### *Killings*

##### **Killing of Pedro Pablo Hernández**

On August 2, 2009, sergeant Fredy Antonio Flores opened fire on a vehicle that failed to stop at a military roadblock in Danlí, El Paraíso, according to the Human Rights Unit. One of the passengers, Pedro Pablo Hernández, was shot in the head and died immediately.<sup>48</sup>

On August 3, 2009, a human rights prosecutor charged Flores with homicide. In an initial hearing, a lower level judge ordered the pretrial detention of the defendants.<sup>49</sup> According to information provided by the Human Rights Unit, Flores was acquitted after trial in September 2010.<sup>50</sup>

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<sup>46</sup> Each case may involve several victims. The vast majority of the abuses under investigation—approximately 90 percent—occurred during the de facto government of Roberto Micheletti. Human Rights Watch interview with Sandra Ponce, head of the Human Rights Unit of the Attorney General's Office, and Juan Carlos Griffin, prosecutor in the Human Rights Unit, Tegucigalpa, August 23, 2010; Human Rights Watch interview with Juan Carlos Griffin and Jaime Ramos, prosecutors of the Human Rights Unit, Tegucigalpa, August 25, 2010; Human Rights Watch telephone interview with Sandra Ponce, head of the Human Rights Unit, Tegucigalpa, October 28, 2010; Human Rights Unit of the Attorney General's Office, "Report" (Informe), November 1, 2010. Information provided to Human Rights Watch by Jaime Ramos, prosecutor in the Human Rights Unit, November 1, 2010.

<sup>47</sup> According to the Code of Criminal Procedure, if the defendant is at large, the case against him or her will be "paralyzed." Code of Criminal Procedure, art. 109.

<sup>48</sup> Human Rights Unit of the Attorney General's Office, Charges filed on Case TST/FM 0703-2009-00068 (J-3) (Requerimiento Fiscal en Expediente TST/FM 0703-2009-00068 (J-3)), August 2, 2009. A criminal court of El Paraíso (Juzgado Primero de Letras Seccional, Danlí, El Paraíso) is in charge of the case.

<sup>49</sup> Judicial Branch, Court of Danlí, El Paraíso (Juzgado Primero de Letras Seccional, Danlí, El Paraíso), "Document on Initial Hearing in Case TST/FM 0703-2009-00068 (J-3)" (Acta de Audiencia Inicial, Expediente No TST/FM 0703-2009-00068 (J-3)), undated.

<sup>50</sup> Human Rights Unit of the Attorney General's Office, "Documents-Honduras June 28, 2009 – January 27, 2010" (Documentos – Honduras 28 de junio del 2009 – enero 27, 2010), undated; Information on the status of cases provided to Human Rights Watch by Sandra Ponce, head of the Human Rights Unit of the Attorney General's Office, August 23, 2010. Human Rights Unit

### **Killing of Elvin Jacobo Perdomo Euceda**

On September 22, 2009, three police officers decided that Elvin Jacobo Perdomo Euceda, who was riding his bicycle with a backpack in San Pedro Sula, was behaving suspiciously. They tried to stop him, and when Euceda did not stop, one of the officers, Danis Omar Montoya Murillo, shot him. Euceda died instantly.<sup>51</sup>

On September 23, 2009, a prosecutor charged Montoya Murillo with murder.<sup>52</sup> As of November 2010, there had been no further developments in the case due to the fact that the accused is at large.<sup>53</sup>

### **Killing of Angel Fabricio Salgado Hernández and Causing Injury to Four Others**

On November 28, 2009, Angel Fabricio Salgado Hernández was driving his car at night near a military installation in Comayagüela when he crashed into an unlit sign that military officers had placed on the street. According to the Human Rights Unit, when Salgado continued driving, soldiers opened fire, shooting repeatedly at the car even after he was already far away from the military installation. He was severely injured and taken to the hospital in a state of unconsciousness, where he died three days later. During the shooting, Salgado crashed into a parked car, which was seriously damaged. Four bystanders were also injured, including one woman who had to be hospitalized.<sup>54</sup>

On February 26, 2010, a prosecutor charged Moisés López Benites, a soldier, with homicide, damage (to the parked vehicle), causing bodily harm, and abuse of authority. At the time of this writing, there have been no further developments in the case because the defendant was at large.<sup>55</sup>

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of the Attorney General's Office, "Report" (Informe), November 1, 2010; Information provided to Human Rights Watch by Jaime Ramos, prosecutor in the Human Rights Unit of the Attorney General's Office, November 1, 2010.

<sup>51</sup> Human Rights Unit of the Attorney General's Office, Charges filed on Case 0501-2009-24950 (Requerimiento Fiscal de Expediente 0501-2009-24950), September 24, 2009.

<sup>52</sup> Ibid. Judge Ana Gloria Maldonado of Criminal Court of San Pedro Sula (Juzgado de Letras Penal Unificado de San Pedro Sula) is in charge of the case.

<sup>53</sup> Human Rights Unit of the Attorney General's Office, "Documents-Honduras June 28, 2009 – January 27, 2010." Memorandum by Jhon Cesar Mejía Milla, director of the San Pedro Sula office of the Human Rights Unit of the Attorney General's Office, to Jenny Almendarez, general directorate of prosecutors, the Attorney General's Office, June 2, 2010. Information provided to Human Rights Watch by Jhon Cesar Mejía Milla, San Pedro Sula, August 27, 2010. Human Rights Unit of the Attorney General's Office, "Report" (Informe), November 1, 2010.

<sup>54</sup> Human Rights Unit of the Attorney General's Office, Charges filed on Case 0801-2009-48997 (Requerimiento Fiscal en Expediente 0801-2009-48997), February 26, 2010. The case is pending before a criminal court in Tegucigalpa (Juzgado de Letras Penal de la Sección Judicial de Tegucigalpa, departamento de Francisco Morazán).

<sup>55</sup> Human Rights Unit of the Attorney General's Office, "Documents-Honduras June 28, 2009 – January 27, 2010"; Human Rights Unit of the Attorney General's Office, "Report" (Informe), November 1, 2010.



## *Excessive Use of Force, Ill-Treatment, and Arbitrary Detentions*

### **Arbitrary Detention of Rodolfo Augusto Pandilla Sunseri**

On June 28, Rodolfo Augusto Padilla Sunseri—the mayor of San Pedro Sula and responsible for organizing and distributing material for the poll that former President Zelaya intended to carry out that day—was detained by a group of soldiers. The soldiers, who did not have an arrest warrant or a judicial order permitting them to enter Sunseri’s home, took Sunseri out of his house and detained him for several hours at the Brigade 105 (a military base), according to the Human Rights Unit. While he was detained, Sunseri’s wife contacted the US embassy—as Sunseri is an American citizen—and an American diplomat confirmed that he was being detained at the military base. The military released Suneri around 10 a.m.<sup>56</sup>

On October 28, 2010, the Human Rights Unit charged Coronel Edgar José Isaula Inestroza with abuse of authority.<sup>57</sup> At the time of this writing, the judge has not yet set a date for a preliminary hearing.<sup>58</sup>

### **Beating of Osman Alexander López Merino**

On July 3, 2009, police officers detained Osman Alexander López Merino and two friends in San Pedro Sula for allegedly violating the curfew established by the de facto government. The three men were taken to the police station at San José del Boquerón. The officers then allegedly took López Merino to another station and on the way there—according to the information collected by the Human Rights Unit—beat him severely with their firearms. López Merino was so seriously injured that officers in the other station did not want to take him into the building. Afterwards, the officers who beat Merino took him back to the San José de Boquerón station, where they kept him for the rest of the night. He filed a complaint after he was released.<sup>59</sup>

On September 14, 2009, a prosecutor charged six police officers with abuse of authority and causing bodily harm (*lesiones*).<sup>60</sup> The prosecutor then requested that the judge suspend the prosecution, applying Honduran law that authorizes the suspension of prosecutions in

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<sup>56</sup> Human Rights Unit of the Attorney General’s Office, Charges filed on Case Jo501-2010-22747 (Requerimiento Fiscal en Expediente Jo501-2010-22747), October 28, 2010.

<sup>57</sup> Ibid. The case is pending before Judge Issa Jhenie Hernández of the the Criminal Court of San Pedro Sula (Juzgado de Letras Penal Unificado de San Pedro Sula).

<sup>58</sup> Human Rights Unit of the Attorney General’s Office, “Report” (Informe), November 1, 2010.

<sup>59</sup> Human Rights Unit of the Attorney General’s Office, Charges filed on Case o501-2009-17458 (Requerimiento Fiscal No de Expediente o501-2009-17458), September 14, 2009.

<sup>60</sup> The officers were Victor Zuniga, Nilo Hernandez Corea, Alex García, Oswaldo Gomez, José Francisco Cruz, and Rigoberto Cabellero. Ibid. Judge Ruth Fidelina Padilla of the Criminal Court of San Pedro Sula (Juzgado de Letras Penal Unificado de San Pedro Sula) was in charge of the case.

instances in which the alleged crime is not subject to a high sentence, the accused has not been convicted before, and is not “dangerous.”<sup>61</sup> The judge suspended the prosecution on January 28, 2010, and ordered the defendants to pay the victim monetary compensation of 9000 lempiras (approximately US\$470) and paint a school building.<sup>62</sup> On March 4, 2010, the judge acquitted the defendants.<sup>63</sup> At the time of this writing, an appeal presented by prosecutors is pending before an appeals court.<sup>64</sup>

### Mass Detention of Demonstrators in Comayagua

On July 30, 2009, police officers detained 98 people while dispersing a demonstration in Comayagua. While the protesters were detained, one of the police officers threw pepper gas into the cells, causing severe itching in the eyes of approximately 40 detainees, according to the Human Rights Unit. Despite repeated calls for help, police officers failed to assist the detainees. The officers eventually released most of the demonstrators, and only 12 were brought to appear before prosecutors.<sup>65</sup>

On December 11, 2009, a prosecutor charged six police officers with violation of the duties of public officials (*violación de los deberes de funcionarios públicos*).<sup>66</sup> A lower level judge ordered the detention of the defendants.<sup>67</sup> At the time of this writing, the case is ready to go to trial.<sup>68</sup>

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<sup>61</sup> Honduran criminal law allows for the suspension of criminal prosecutions when the average sentence for the crime is less than six years, the defendant has not been convicted before for commission of a crime or fault, and the “nature or circumstances of the crime, the characteristics and criminal record [of the defendant], as well as the motives that led to the crime, allow the judge to conclude that [the defendant] is not dangerous.” If the judge suspends the criminal prosecution, he or she will impose certain conditions that the defendant must follow for a specific amount of time, which may not exceed six years. The measures could include, for example, living in a certain place, prohibiting alcohol or drugs, requiring public service activities, or prohibiting foreign travel. Code of Criminal Procedure, arts. 36-37.

<sup>62</sup> Criminal Court of San Pedro Sula (Juzgado de Letras Penal Unificado de San Pedro Sula), “Document on Hearing to Suspend Criminal Prosecution – Case 0501-2009-17468” (Acta de Audiencia de Suspensión de la Persecución Penal - Expediente No. 0501-2009-17468), January 26, 2010.

<sup>63</sup> Memorandum by Jhon Cesar Mejía Milla, director of the San Pedro Sula office of the Human Rights Unit of the Attorney General’s Office, to Jenny Almendarez, general directorate of prosecutors, Attorney General’s Office, June 2, 2010.

<sup>64</sup> Human Rights Unit of the Attorney General’s Office, “Report” (Informe), November 1, 2010.

<sup>65</sup> Human Rights Unit of the Attorney General’s Office, “Charges filed on Case 0301-2009-04440” (Requerimiento Fiscal No de Expediente 0301-2009-04440), December 11, 2009.

<sup>66</sup> The defendants are José Matilde Hernández, Malcon Danilo Lopez Portillo, Wilmer Gerardo Alvarez, Jaime Agenor Llanos Moncada, Efraín Orellana Banegas, and Karla Kelly Villatoro. Ibid. Judge Guillermo Felipe Bustillo of the Criminal Court of Comayagua (Juzgado de Letras Unificado de la Sección Judicial de Comayagua) is in charge of the case.

<sup>67</sup> Criminal Court of Comayagua (Juzgado de Letras Unificado de la Sección Judicial de Comayagua), “Document on Initial Hearing – Case 0301-2009-04440” (Acta de Audiencia Inicial No de Expediente 0301-2009-04440), March 18, 2010.

<sup>68</sup> Human Rights Unit of the Attorney General’s Office, “Documents-Honduras June 28, 2009 – January 27, 2010”; Human Rights Unit of the Attorney General’s Office, “Report” (Informe), November 1, 2010.

### **Excessive Force to Disperse a Demonstration in Lempira**

On July 31, several police officers violently dispersed a peaceful demonstration of approximately 300 people in a gas station near the city of Gracias, department of Lempira. According to the case file of the Human Rights Unit, police used teargas on the demonstrators, beat them, stepped on them, and dragged them on the ground to another location (the case file does not specify where). The Human Rights Unit determined that the police detained 51 demonstrators without a legal basis.<sup>69</sup>

A prosecutor charged two police officers—Guillermo Egberto Arias Aguilar and Reynaldo Rubio—with illegal detention, causing bodily harm, and abuse of authority, but a lower level judge acquitted the defendants.<sup>70</sup> The judge argued that there was no evidence that Arias Aguilar and Rubio had abused the detainees. The Human Rights Unit said it had provided testimonies of witnesses and victims, official documentation prepared by the investigative police, forensic medicine analysis of the injuries suffered by the victims, and a copy of a DVD that showed police abusing the demonstrators to support their claim that the two men were responsible for the abuses. An appeals court upheld the ruling.<sup>71</sup> At the time of this writing, an appeal is pending before the Supreme Court.<sup>72</sup>

### **Arbitrary Detention and Ill-treatment of 24 people in Congress**

At approximately 1:30 p.m. on August 12, 2009, police officers detained and beat 24 individuals participating in a demonstration in Tegucigalpa or walking in the city's central park.<sup>73</sup> According to the Human Rights Unit, the detainees were first taken to the Congress building, where the police repeatedly kicked and beat them with their batons and firearms.

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<sup>69</sup> Human Rights Unit of the Attorney General's Office, Charges filed on Case 0401-2009-00607 (Requerimiento Fiscal en Expediente 0401-2009-00607), undated. A criminal court in Santa Rosa de Copán (Juzgado de Letras Primero Seccional de Santa Rosa de Copán) is in charge of the case.

<sup>70</sup> Prosecutors accused the officers of arbitrarily detaining María Albertina Hernández, Augusto Cesar Pineda Contreras, José Víctor Rodríguez Santiago, José Ismael Quintanilla Miranda, María Onoria Posadas Hernández, Doris Alicia Murillo García, Norma Argentina Lopez Mateo, Carlos Alfredo Sarmiento, José Lejandro Espinoza Benitez, and others; of affecting the interior security of the state and the public administration, and of injuring Francis Edgardo Martínez and Magno Archila Pérez. Human Rights Unit of the Attorney General's Office, Charges filed on Case 0401-2009-00607 (Requerimiento Fiscal en Expediente 0401-2009-00607), undated; Judiciary Branch, First Court of Santa Rosa de Copan (Juzgado de Letras Primero Seccional de Santa Rosa de Copan), "Document on Initial Hearing - Case 0401-2009-00607" (Acta de Audiencia Inicial - Expediente No 0401-2009-00607), undated.

<sup>71</sup> Human Rights Unit of the Attorney General's Office, Appeal Recourse 0401-2009-0060, October 7, 2010. Human Rights Unit of the Attorney General's Office, "Documents-Honduras June 28, 2009 – January 27, 2010."

<sup>72</sup> Human Rights Unit of the Attorney General's Office, "Report" (Informe), November 1, 2010.

<sup>73</sup> The victims were Gerardo Arturo Flores Valeriano, Mabel Carolina López, Nelson Gustavo Rivera López, José Natividad Perez Lorenzo, Oscar Manuel Murillo, Santos Ricardo Peña Pavón, Darwin Issac Amata Alvarado, Alba Leticia Ochoa Camacho, Sergio Raúl Gerezano, Darwin Said Hernández Carbaja, Oslin Daniel George Cantillano, Rosario Vásquez, Vásquez, Emerson Rosicler Barahona, Daniel Angel Carcamo Sanchez, Allan Samael Cruz, Magdaleno Lazo Pineda, Wilmer Orlando López, Marroquin, José Lino Ávila, Santos Rene Herrera Almendarez, Justo Pastor Mondragon Artgeaga, Mario Rodrigo Ardon Betancourth, Florentino Izaguirre, Avilio Izaguirre, and Lizandro Gómez.

They were subsequently driven to installations under the control of the Cobra Command, where the police insulted them, threatened them, and pressured them to sign documents without informing them of what they were being accused of. At 2 a.m., the detainees were taken before a prosecutor and charged with carrying out illicit demonstrations, sedition, damage to private property, theft, and terrorism. An appeals court acquitted the demonstrators, according to the unit.<sup>74</sup>

On October 20, 2010 the Human Rights Unit charged Elder Madrid Guerra—the police commander in charge of the operation—and five other officers with abuse of authority and violation of the duties of public officials.<sup>75</sup> In addition, various officers were charged with illegal detention and mistreatment (*vejámenes*) of some protesters, and a number of other officers were charged with torture. At the time of this writing, the judge has yet to set a date for a preliminary hearing.<sup>76</sup>

### **Arbitrary Detention and Torture of Antonia Damary Coello Mendoza**

On August 12, 2009, Antonia Damary Coello Mendoza was participating in an anti-coup demonstration when police began using teargas. Coello fled the scene and hid in a nearby house. The Human Rights Unit file alleges that police found her there, pulled her hair, and beat her between her legs with a baton. They then threw her into a police car, where police officer Delmi Yamileth Martínez is alleged to have covered her head, beaten her, and threatened her. After she shouted for help, she was pushed towards the floor of the car. The Human Rights Unit maintains that the officers in the car threw pepper spray at her eyes, threatened her with death, and then kicked her out of the car.<sup>77</sup>

On October 8, 2009, the Human Rights Unit charged Delmi Yamileth Martínez with illegal detention and torture.<sup>78</sup> A lower level judge ordered the detention of Martínez on January 28, 2010. The unit has repeatedly requested that the judge set a date for a preliminary hearing. As of November 2010, no trial date had been set.<sup>79</sup>

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<sup>74</sup> Human Rights Unit of the Attorney General's Office, Charges filed on Case 0801-2009-34622 (Requerimiento Fiscal en Expediente 0801-2009-34622), October 20, 2010. The case is pending before the Criminal Court of Tegucigalpa (Juzgado de Letras de lo Penal de la Sección Judicial de Tegucigalpa).

<sup>75</sup> The other officers are José Ventura Flores Maradiaga, Carlos Isaías Polanco Padilla, Estela Esperanza Ramos, Juana María Alvarado Barahona, and Suyapa Marina Elvid Escalante. Ibid.

<sup>76</sup> Human Rights Unit of the Attorney General's Office, "Report" (Informe), November 1, 2010.

<sup>77</sup> Human Rights Unit of the Attorney General's Office, Charges filed on Case 0501-2009-27321 (Requerimiento Fiscal en Expediente 0501-2009-27321), October 8, 2009.

<sup>78</sup> Ibid. Judge Dalila Azucena Paredes of the Criminal Court of San Pedro Sula (Juzgado de Letras Penal Unificado de San Pedro Sula) is in charge of the case.

<sup>79</sup> Human Rights Unit of the Attorney General's Office, "Documents-Honduras June 28, 2009 – January 27, 2010." Memorandum by Jhon Cesar Mejía Milla, director of the San Pedro Sula office of the Human Rights Unit of the Attorney

### **Arbitrary Detention and Beating of Milko Duran**

At 4:15 p.m. on August 12, 2009, Milko Duran, a Colombian tourist, was detained when he walked by a military and police roadblock. He was first held inside the Congress building and was then taken to the offices of the Cobra Command. According to the Human Rights Unit case file, Deputy Police Commissioner Elder Madrid Guerra and police officer Denis Casula allegedly took Duran into a room, asking him whether he worked for the Revolutionary Armed Forces of Colombia (FARC) and whether he was paying U.S. dollars to demonstrators. Duran responded “no” to both questions, and Madrid Guerra left. According to the Human Rights Unit, Casula stayed in the room, pulled Duran’s hair, beat his head with a ruler and the fingers of his hands with a firearm, and threatened to use electric shocks if Duran refused to sign a document incriminating him in serious crimes. He was tortured until he signed that document, and he was later forced to sign another paper that authorized the police to search his hotel room. He remained in detention and was unable to contact his consulate until 2 a.m. that night, when Madrid Guerra and Casula released him, without registering his detention or notifying prosecutors.<sup>80</sup>

On November 23, a prosecutor charged Madrid Guerra and Casula with abuse of authority and violations of the duties of public officials.<sup>81</sup> A lower level judge ordered the detention of the defendants, but the defense appealed the decision. At the time of this writing, the appeal is pending before an appeals court.<sup>82</sup>

### **Arbitrary Detention and Torture of Francisco C. and Carlos D.**

At approximately 11:30 p.m. on February 2, 2010, Francisco C. and Carlos D.—both political activists critical of the June 28 coup—met a friend at a gas station in Tegucigalpa to exchange information regarding the coup. A group of police officers detained Francisco C. and Carlos D., put them in a police vehicle, removed their shirts, covered their heads with a hood, and beat them, threatening them and pointing at them with their firearms. According to the Human Rights Unit, the officers then took the detainees to an unknown location, where over the course of three hours they tied them up, covered their eyes with tape,

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General’s Office, to Jenny Almendarez, general directorate of prosecutors, Attorney General’s Office, June 2, 2010; Human Rights Unit of the Attorney General’s Office, “Report” (Informe), November 1, 2010.

<sup>80</sup> Human Rights Unit of the Attorney General’s Office, Charges filed on Case 0801-2009-48242 (Requerimiento Fiscal No de Expediente 0801-2009-48242), November 23, 2009.

<sup>81</sup> Ibid. Judge Suyapa María Matute Vásquez of the Criminal Court of Tegucigalpa (Juzgado de Letras Penal de la Sección Judicial de Tegucigalpa) is in charge of the case.

<sup>82</sup> Human Rights Unit of the Attorney General’s Office, “Response on Case 0801-2009-48242” (Contestación de Expresión de Agravios No de Expediente 0801-2009-48242), March 15, 2010; Human Rights Unit of the Attorney General’s Office, “Documents-Honduras June 28, 2009 – January 27, 2010”; Human Rights Unit of the Attorney General’s Office, “Report” (Informe), November 1, 2010.

covered their heads with a plastic bag, and stepped on their fingers. The officers repeatedly asked them who paid them for their work after the June 28 coup, and where they had hidden dollars and arms. They eventually forced the victims back into the vehicle, drove them around for some time, and threw them out of the car. According to the Human Rights Unit, police officers had previously harassed these victims in the past.<sup>83</sup>

On October 21, 2010, the Human Rights Unit charged four police officers with illegal detention, torture, and abuse of authority.<sup>84</sup> At the time of this writing, the judge has not yet set a date for a preliminary hearing.<sup>85</sup>

### *Attacks on the Media*

#### **Closure of Radio Juticalpa**

On June 28, 2009, unknown individuals opened fire at the installations of Radio Juticalpa in Juticalpa, department of Olancho. Later that morning, according to the case file compiled by the Human Rights Unit, Lieutenant Coronel René Javier Palao Torres and Deputy Official (*Sub-oficial*) Juan Alfredo Acosta Acosta forcefully entered the station and ordered the station's manager to stop broadcasting. Under Honduran law, the military officers had no authority to issue such an order.<sup>86</sup>

On November 19, 2009, a prosecutor charged both officers with abuse of authority.<sup>87</sup> Despite an initial decision to try the accused, a lower level judge acquitted them, arguing that the case was covered by an amnesty decree adopted by the Honduran Congress in January 2010.<sup>88</sup> The decree explicitly states that the amnesty is not applicable to acts that constitute crimes against humanity or human rights violations and the prosecutor's position was that the alleged arbitrary closure of the radio station was a human rights violation within the meaning of the decree. The court did not accept this, seemingly preferring a more limited

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<sup>83</sup> The names of the victims are withheld by the Human Rights Unit to safeguard them against possible retaliation. Human Rights Unit of the Attorney General's Office, Charges filed on Case 0801-2010-04592 (Requerimiento Fiscal en Expediente 0801-2010-04592), October 21, 2010. The case is pending before the Criminal Court of Tegucigalpa (Juzgado de Letras Penal de la Sección Judicial de Tegucigalpa, Departamento de Francisco Morazán).

<sup>84</sup> The four officers are David Antonio Picado Espino, Juan Carlos Sánchez López, Santos Alexis Morgan Mairena, and Melquín Esau Triminio Gutiérrez.

<sup>85</sup> Human Rights Unit of the Attorney General's Office, "Report" (Informe), November 1, 2010.

<sup>86</sup> According to the Human Rights Unit, the officers had no order from the Honduran National Telecommunications Company (Comisión Nacional de Telecomunicaciones, CONATEL) to close the station and cut off its power supply. Human Rights Unit of the Attorney General's Office, Charges filed on Case 288-09 (Requerimiento Fiscal No de Expediente 288-09), November 19, 2009.

<sup>87</sup> Ibid. Judge José Salvador Zelaya of the Criminal Court of Juticalpa, Olancho (Juzgado de Letras de lo Penal Seccional de Juticalpa, Olancho) was in charge of the case.

<sup>88</sup> National Congress of Honduras, Decree 2/2010, January 27, 2010.

interpretation of the decree. An appeals court upheld the ruling.<sup>89</sup> At the time of this writing, a constitutional appeal presented by prosecutors is pending before the Supreme Court.<sup>90</sup>

### **Closure of TV Station Cholusat Sur and Radio La Catracha**

On June 28, 2009, military personnel occupied the offices of TV channel Cholusat Sur and Radio La Catracha, claiming that they had orders to stop the broadcast of both media outlets, according to the Human Rights Unit. The military kept the stations off the air for eight days. Prosecutors verified that Lieutenant Coronel José Arnulfo Jiménez had been inside the offices with a group of military officers on June 30. Jiménez told prosecutors he had prohibited personnel from Cholusat Sur and La Catracha from entering the building to enforce compliance with a Supreme Court ruling ordering all media outlets to refrain from publicizing information about the national poll that former President Zelaya had been pursuing prior to the coup. At the same time, Deputy Lieutenant Darvin Ismael Valerio Ardón and another group of military officers took control of the TV station's transmitters, located in the nearby town Santa Gallo Santa Lucía.<sup>91</sup>

On November 20, 2009, a prosecutor charged Jiménez and Ardón with abuse of authority and “crime against the media and other public services” (*delito contra los medios de comunicación y otros servicios públicos*), a crime that imposes a penalty of up to five years in prison on anyone who “destroys or damages” any “radio or other telecommunications” service.<sup>92</sup> In January 2010, a lower level judge acquitted the defendants, arguing that their actions had been in compliance with the Supreme Court ruling. The judge also held that there was no damage to the property of the media outlets, and prosecutors had failed to provide sufficient evidence to prove that the stations had been taken off the air.<sup>93</sup>

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<sup>89</sup> Ruling by the Third Court of Appeals (Corte Tercera de Apelaciones), File Number 42-2010 (Exp.N.42-2010 Reposición), April 23, 2010.

<sup>90</sup> Criminal Court of Juticalpa, Olancho (Juzgado de Letras de lo Penal Seccional de Juticalpa, Olancho), “Document on Initial Hearing – Rene Javier Palao Torres, File No. 288-09” (Acta de Audiencia Inicial-René Javier Palao Torres, Expediente No 288-09), February 1, 2010; Human Rights Unit of the Attorney General’s Office, “Documents-Honduras June 28, 2009 – January 27, 2010”; Human Rights Unit of the Attorney General’s Office, “Report” (Informe), November 1, 2010.

<sup>91</sup> Human Rights Unit of the Attorney General’s Office, Charges filed on Case 0801-2009-48097 (Requerimiento Fiscal No de Expediente 0801-2009-48097), November 20, 2009.

<sup>92</sup> Criminal Code of Honduras, art. 271; Ibid. Judge Lilian Emelina Maldonado of the Criminal Court of Tegucigalpa (Juzgado de Letras Penal de la Sección Judicial de Tegucigalpa) was in charge of the case.

<sup>93</sup> Additionally, according to the judge, prosecutors did not prove that the transmitters were turned off, or that the defendant had ordered the closure of the stations. Criminal Court of Tegucigalpa (Juzgado de Letras Penal de la Sección Judicial de Tegucigalpa), “Document on Initial Hearing - Case 0801-2009-48097” (Acta de Audiencia Inicial- Expediente No 0801-2009-48097), January 1, 2010.

The Human Rights Unit appealed the decision.<sup>94</sup> An appeals court upheld the acquittal of one suspect (Ardón) but ordered the judge to continue with the prosecution of the other (Jiménez).<sup>95</sup> Nevertheless the judge then shelved the case against Jiménez, despite the fact that according to the Human Rights Unit there was no new evidence in his favor that would overturn the appeal court's decision to try him.<sup>96</sup> At the time of this writing, an appeal presented by the Human Rights Unit is pending before an appeals court.<sup>97</sup>

### **Closure of Radio Tocoa and Televisora del Aguan and Arbitrary Detention of Journalists**

On June 29, 2009, Captain Héctor Manuel Tercero López ordered Nahúm Palacios Arteaga, the manager of Radio Tocoa and TV channel Televisora del Aguan Channel 5, to stop transmitting protests in favor of former President Zelaya. The stations stopped their transmissions, but nevertheless, a few minutes later, a group of military officers forcefully entered the offices shared by both stations and removed the radio's equipment. At 6 a.m. that day, another group of military officers stopped a car with four journalists working for the station and took them to a military installation in the city of Tocoa. Two hours later, Palacios Arteaga received two calls from a prosecutor in Tocoa, telling him that they would return the equipment and release the journalists if he went to the military installation. According to the Human Rights Unit, once there, Tercero López detained Palacios Arteaga for five hours, ordering him to sit on the floor, insulting him, threatening him, and pointing his gun at him to force him to say that the president of Honduras was Roberto Micheletti.<sup>98</sup>

On November 26, 2009, the Human Rights Unit charged Hector Manuel Tercero López with illegal detention, mistreatment, and abuse of authority.<sup>99</sup> A lower level judge acquitted the defendant. At the time of this writing, an appeal presented by the Human Rights Unit is pending before an appeals court.<sup>100</sup>

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<sup>94</sup> Appeal presented by Dione Berenice Bustillo, prosecutor in the Human Rights Unit, Tegucigalpa, January 13, 2010.

<sup>95</sup> Human Rights Unit of the Attorney General's Office, Appeal on Case 0801-2009-48097 (Recurso de Apelación Expediente No 0801-2009-48097), January 13, 2010; Human Rights Watch email correspondence with Juan Carlos Griffin, prosecutor in the Human Rights Unit, September 2, 2010.

<sup>96</sup> Human Rights Watch email correspondence with Juan Carlos Griffin, prosecutor in the Human Rights Unit, Tegucigalpa, September 2, 2010.

<sup>97</sup> Human Rights Unit of the Attorney General's Office, "Report" (Informe), November 1, 2010.

<sup>98</sup> Human Rights Unit of the Attorney General's Office, Charges filed on Case 0801-2009 (Requerimiento Fiscal en Expediente 0801-2009), November 26, 2009. The case is pending before the Criminal Court of Tegucigalpa (Juzgado de Letras de lo Penal de la Sección Judicial de Tegucigalpa).

<sup>99</sup> Ibid.

<sup>100</sup> Human Rights Unit of the Attorney General's Office, "Report" (Informe), November 1, 2010.



## Closure of Radio Progreso

On July 16, 2009, Coronel Hilmer Enrique Hermidas, chief of the Armando Escalón Espinal air base, ordered a group of approximately 20 military officers to close Radio Progreso and take it off the air on the grounds that it was “inciting insurrection.” Military officers forcibly entered the station at 10:30 a.m. and Lieutenant Denis Mauricio Valdez Rodas ordered the radio staff to stop broadcasting.<sup>101</sup>

On August 6, 2009, a prosecutor charged Hermidas and Valdez Rodas with abuse of authority and a “crime against the media and other public services.”<sup>102</sup> A lower level judge acquitted the suspects, arguing that the staff at El Progreso had voluntarily stopped the radio’s broadcast.<sup>103</sup> According to the journalists of El Progreso, it is true that staff members turned off the broadcast. However, they did so only after the officers ordered them to do so.<sup>104</sup> A court of appeals upheld the ruling. At the time of this writing, a constitutional appeal is pending before the Supreme Court.<sup>105</sup>

## Closure of Radio Globo, Radio La Catracha, Radio Choluta Sur, and Channel 36

At 6 a.m. on September 28, 2009, several members of the military and the police and two representatives of the National Telecommunications Commission (*Comisión Nacional de Telecomunicaciones*, CONATEL) forcefully entered the buildings where three radio stations (Radio Globo Gruperá, Radio La Catracha, and Radio Choluta Sur) and one TV channel (Channel 36) were operating. They stopped the transmissions, disconnected the equipment, and took it to the Communications Battalion of the Armed Forces, according to the Human Rights Unit. The officials were implementing two CONATEL resolutions issued that day, which ordered the stations to stop their transmissions. The resolutions were based on an executive decree of the de facto government.

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<sup>101</sup> Human Rights Unit of the Attorney General’s Office, Charges filed before the Criminal Court of El Progreso (no file number), August 6, 2009. The document that presents formal charges does not state the date in which the events occurred, but a memorandum provided by the Human Rights Unit to Human Rights Watch states they took place on July 16, 2009; Human Rights Unit of the Attorney General’s Office, “Documents-Honduras June 28, 2009 – January 27, 2010.”

<sup>102</sup> Human Rights Unit of the Attorney General’s Office, Charges filed before the Criminal Court of El Progreso (no file number), August 6, 2009.

<sup>103</sup> Ruling by Judge Juan Carlos Castillo, undated. Information at Human Rights Watch’s offices.

<sup>104</sup> Human Rights Watch group interview with Radio Progreso staff, San Pedro Sula, August 26, 2010.

<sup>105</sup> Human Rights Unit of the Attorney General’s Office, “Documents-Honduras June 28, 2009 – January 27, 2010”; Human Rights Unit of the Attorney General’s Office, “Report” (Informe), November 1, 2010.

On December 15, 2009, the Human Rights Unit charged five representatives of CONATEL with abuse of authority.<sup>106</sup> A lower level judge acquitted the defendants, stating that an executive decree of the de facto government that led to the closures legitimately limited the right to freedom of expression to protect “public order” and “the interest of society.”<sup>107</sup> Although it is true that the right to freedom of expression may be subject to certain limitations, the IACHR had criticized the executive decree that the CONATEL representatives used as a basis for the closures for excessively limiting free speech.<sup>108</sup> At the time of this writing, an appeal presented by prosecutors is pending before an appeals court.<sup>109</sup>

### *Obstructing the Work of Prosecutors*

On September 30, 2009, Captain Carlos Roberto Rivera Cardona did not allow prosecutors from the Human Rights Unit to enter the Communications Battalion of the Armed Forces. Prosecutors, who were legally authorized to enter, wanted to verify if the equipment that military and police personnel had confiscated from Radio Globo Grupera, Radio La Catracha, Radio Cholutec Sur, and TV Channel 36 two days earlier was there. Rivera told the prosecutors that they required authorization from high-level military authorities to enter, and that the equipment was not there.<sup>110</sup>

On June 30, 2010, a prosecutor charged Rivera with “violation of the duties of public officials” for failing to cooperate with prosecutors. At the time of this writing, the judge has yet to conduct the first hearing, in which Rivera is required to testify.<sup>111</sup>

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<sup>106</sup> The five men accused are Miguel Ángel Rodas Martínez, Héctor Eduardo Pavón Aguilar, Gustavo Lara López, José Antonio Sanabria, and Germán Enrique Martel Beltrán. Human Rights Unit of the Attorney General’s Office, Charges filed on Case 08001-2009-05200 (Requerimiento Fiscal de Expediente 08001-2009-05200), December 15, 2009.

<sup>107</sup> Criminal Court of Tegucigalpa (Juzgado de Letras de lo Penal de la Sección Judicial de Tegucigalpa), “Document on Initial Hearing – Case Number 0801-2009-48097” (Acta de Audiencia Inicial - Expediente No 0801-2009-48097), April 12, 2010.

<sup>108</sup> Human Rights Unit of the Attorney General’s Office, Charges filed on Case 08001-2009-05200 (Requerimiento Fiscal de Expediente 08001-2009-05200), December 15, 2009. See the “Background” chapter in this report for additional information on Executive Decree PCM-M-016-2009.

<sup>109</sup> Human Rights Unit of the Attorney General’s Office, “Documents-Honduras June 28, 2009 – January 27, 2010”; Human Rights Unit of the Attorney General’s Office, “Report” (Informe), November 1, 2010.

<sup>110</sup> Human Rights Unit of the Attorney General’s Office, Charges filed on Case 0801-2010-21216 (Requerimiento Fiscal en Expediente 0801-2010-21216), June 30, 2010. Judge 19 of the Criminal Court of Tegucigalpa (Juzgado de Letras Penal de la Sección Judicial de Tegucigalpa, departamento de Francisco Morazán) is in charge of the case.

<sup>111</sup> Human Rights Unit of the Attorney General’s Office, “Documents-Honduras June 28, 2009 – January 27, 2010”; Human Rights Unit of the Attorney General’s Office, “Report” (Informe), November 1, 2010.

## Obstacles to Accountability

### *Lack of Sufficient Resources*

The Human Rights Unit's ability to investigate the post-coup cases has been severely hampered by lack of resources, a problem that has plagued the unit since its creation in 1994. With little funding for personnel, vehicles, and expenses, prosecutors have been "totally overwhelmed," according to Sandra Ponce, the head of the unit.<sup>112</sup>

The 2010 annual budget for the Human Rights Unit is US\$500,000. According to Ponce, most of the budget is spent on salaries. Until at least the end of 2010, the unit staff consisted of 15 prosecutors, 10 based in Tegucigalpa and five in San Pedro Sula.<sup>113</sup>

Throughout this period, all of the prosecutors in the Human Rights Unit shared two cars (one in each city) to work on all cases.<sup>114</sup> In August 2010, the Ministry of Security offered the unit a second car to be used in Tegucigalpa—but prosecutors had to rent it and only had access to it for a month.<sup>115</sup> Prosecutors say they need the cars to get to crime scenes promptly, provide transportation to witnesses or victims who would otherwise be unable to cooperate with them, and transport forensic experts to analyze evidence.<sup>116</sup>

Another major problem is that the Human Rights Unit lacks sufficient investigators to support the work of prosecutors. The Ministry of Security told Human Rights Watch that there were 40 investigative police officers assisting human rights prosecutors.<sup>117</sup> However, according to the Human Rights Unit, the ministry provided the unit with only eight investigators (six based in Tegucigalpa and two in San Pedro Sula).<sup>118</sup> Even if the ministry

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<sup>112</sup> Human Rights Watch interview with Sandra Ponce, head of the Human Rights Unit of the Attorney General's Office, and with Juan Carlos Griffin, prosecutor in the Human Rights Unit, Tegucigalpa, August 23, 2010.

<sup>113</sup> Ibid.

<sup>114</sup> Ibid. The director of the San Pedro Sula office told Human Rights Watch that there were seven prosecutors in his office. Human Rights Watch interview with John César Mejía, director of the San Pedro Sula office of the Human Rights Unit of the Attorney General's Office, San Pedro Sula, August 27, 2010.

<sup>115</sup> Human Rights Watch interview with Sandra Ponce, head of the Human Rights Unit of the Attorney General's Office, and Juan Carlos Griffin, prosecutor in the Human Rights Unit, Tegucigalpa, August 23, 2010; Human Rights Watch telephone interview with Sandra Ponce, head of the Human Rights Unit of the Attorney General's Office, Tegucigalpa, October 28, 2010.

<sup>116</sup> Human Rights Watch telephone interview with Sandra Ponce, head of the Human Rights Unit, Tegucigalpa, October 28, 2010; Human Rights Watch telephone interview with Jaime Ramos, prosecutor in the Human Rights Unit, Tegucigalpa, October 27, 2010.

<sup>117</sup> Human Rights Watch telephone interview with General Commissioner Marco Tulio Palma Rivera, director of the National Directorate of Criminal Investigations, Tegucigalpa, September 10, 2010.

<sup>118</sup> Human Rights Watch interview with Sandra Ponce, head of the Human Rights Unit of the Attorney General's Office, and Juan Carlos Griffin, prosecutor in the Human Rights Unit, Tegucigalpa, August 23, 2010. The director of the San Pedro Sula office told Human Rights Watch that they had only one investigator working with them. Human Rights Watch interview with John César Mejía, director of the San Pedro Sula office of the Human Rights Unit of the Attorney General's Office, San Pedro Sula, August 27, 2010.

figure were correct, investigative police officers lack the independence necessary to conduct rigorous investigations into police and military misconduct, a subject addressed in more detail in the following section.

Other specialized units do not face such limitations. The unit in charge of investigating crimes against women, for example, has a budget of \$1.35 million. It has 46 prosecutors, who work with 15 independent investigators and several psychologists. Prosecutors in this unit have nine cars at their disposal in different locations throughout the country.<sup>119</sup>

The lack of resources in the Human Rights Unit has become more urgent since the coup and the substantial increase in the unit's workload. According to Ponce, the unit received approximately 250 more cases in the second half of 2009 than in the first half of the year. Each human rights prosecutor handles an average of 400 cases, including many dating from before the coup.<sup>120</sup>

In October 2010, the Honduran Congress approved a three-fold increase in the Human Rights Unit's budget, effective April 2011, raising it to 31 million lempiras (\$ 1.63 million). According to the spending plan presented by the Human Rights Unit to President Lobo, who submitted it to Congress, once the funds are available, the Human Rights Unit should be able to hire approximately 20 independent investigators to work with prosecutors, eight additional prosecutors, three psychologists, three doctors, and three social workers; open an office in La Ceiba; buy 10 additional vehicles; and purchase a camera to take pictures and film to produce evidence.<sup>121</sup>

### *Lack of Independent Investigative Police*

Another major obstacle to advancing these cases has been the lack of independent investigators to support the work of the Human Rights Unit. Prosecutors rely on an investigative police force that is part of the Ministry of Security: such investigators face an inherent conflict of interest when called on to investigate alleged violations committed by other police officers, who belong to the same ministry.

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<sup>119</sup> The 2009 budget of the women's rights unit was 9,575,000 lempiras from the regular budget and 16,000,000 from a special fund to investigate murders of women. Human Rights Watch email correspondence with Ela Paredes and Danelia Ferreira, general director of prosecutors (directora general de fiscalías) at the Attorney General's Office, September 17 and 22, 2010.

<sup>120</sup> Human Rights Watch interview with Sandra Ponce, head of the Human Rights Unit of the Attorney General's Office, and Juan Carlos Griffin, prosecutor in the Human Rights Unit, Tegucigalpa, August 23, 2010.

<sup>121</sup> Human Rights Watch telephone interview with Sandra Ponce, head of the Human Rights Unit of the Attorney General's Office, Tegucigalpa, October 28, 2010; Human Rights Watch email correspondence with Sandra Ponce, head of the Human Rights Unit of the Attorney General's Office, October 30, 2010.

A 1998 reform removed the investigative police force from the Attorney General's Office and placed it under the jurisdiction of the Ministry of Security.<sup>122</sup> The National Directorate of Criminal Investigations (*Dirección Nacional de Investigación Criminal*), one of six offices within the Ministry of Security, has 2000 police investigators. This includes approximately 100 in Tegucigalpa, 100 in San Pedro Sula, and the remainder in rural and municipal areas throughout the country.<sup>123</sup>

Under Honduran law, police investigators work under the direct supervision of prosecutors.<sup>124</sup> The director of the National Directorate of Criminal Investigations told Human Rights Watch that police investigators face no difficulties when they investigate other police officers because they always work with “objectivity.”<sup>125</sup>

But a conflict of interest is built-in to the system. As with all other police, the careers of these investigators—including promotions, benefits, and disciplinary matters—are determined by the Ministry of Security, which is also responsible for placing them with the Attorney General's Office.<sup>126</sup> Furthermore, they partake of an institutional culture that emphasizes loyalty, one that undoubtedly yields influences even while working with the Attorney General's Office.

Prosecutors do not trust the investigative police force to carry out thorough and independent investigations in cases in which other police officers are suspects. Danelia Ferrera, the general director of prosecutors (*Directora General de Fiscalías*) at the Attorney General's Office, told Human Rights Watch that this creates enormous difficulties for investigations, particularly those carried out by the Human Rights Unit, as members of the investigative police “are investigating their fellow officers.”<sup>127</sup>

Consequently, instead of relying on investigators, prosecutors prefer to investigate the cases themselves.<sup>128</sup> As a result, prosecutors can only focus on a limited number of cases because

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<sup>122</sup> The 1998 Organic Law of the Police establishes that the General Directorate of Criminal Investigation (*Dirección General de Investigación Criminal*) reports directly to the Ministry of Security. Organic Law of the Police (*Ley Orgánica de Policía*), art. 30.

<sup>123</sup> Human Rights Watch telephone interview with General Commissioner Marco Tulio Palma Rivera, director of the National Directorate of Criminal Investigations, Tegucigalpa, September 10, 2010.

<sup>124</sup> Code of Criminal Procedures, art. 279.

<sup>125</sup> Human Rights Watch telephone interview with General Commissioner Marco Tulio Palma Rivera, director of the National Directorate of Criminal Investigations, Tegucigalpa, September 10, 2010.

<sup>126</sup> *Ibid*; Human Rights Watch telephone interview with General Commissioner Marco Tulio Palma Rivera, director of the National Directorate of Criminal Investigations, Tegucigalpa, November 1, 2010.

<sup>127</sup> Human Rights Watch telephone interview with Danelia Ferrera, general director of prosecutors (*directora general de fiscalías*) at the Attorney General's Office, Tegucigalpa, September 7, 2010.

<sup>128</sup> Human Rights Watch interview with Sandra Ponce, head of the Human Rights Unit of the Attorney General's Office, and Juan Carlos Griffin, prosecutor in the Human Rights Unit, Tegucigalpa, August 23, 2010; Human Rights Watch interview with John César Mejía, director of the San Pedro Sula office of the Human Rights Unit of the Attorney General's Office, San Pedro Sula, August 27, 2010.

their workload is much heavier than it would be if they could rely on independent investigators.

As mentioned above, the budget increase for 2011 would allow the Human Rights Unit to hire 20 independent investigators to cooperate directly with prosecutors.<sup>129</sup>

### *Obstruction of Investigations by Military and Police Personnel*

Military and police personnel have failed to cooperate with investigations into human rights violations. This obstruction violates the obligation that all civilian and military authorities have under Honduran law to cooperate with prosecutors.<sup>130</sup>

During the de facto government of Roberto Micheletti, the lack of cooperation of military and police personnel was “absolute” and “a common practice,” according to prosecutors in the Human Rights Unit.<sup>131</sup> Despite the fact that since President Lobo took office law enforcement officers gradually have begun cooperating with prosecutors, prosecutors from the Human Rights Unit told Human Rights Watch that they still face some resistance. And, in certain instances, the lack of cooperation during the initial months of the investigations had a serious, and possibly irreversible, impact on the investigations.<sup>132</sup>

### **Failing to Turn over Firearms for Ballistics Tests**

To identify the military officers who killed Isis Obed Murillo during a pro-Zelaya demonstration near the Tegucigalpa airport on July 5, 2009, the Human Rights Unit requested that the military turn over firearms used that day to analyze if they matched the bullets they found at the crime scene.<sup>133</sup> The military refused.

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<sup>129</sup> Human Rights Watch telephone interview with Sandra Ponce, head of the Human Rights Unit of the Attorney General's Office, Tegucigalpa, October 28, 2010.

<sup>130</sup> Law of Public Prosecutors (Ley del Ministerio Público), <http://www.mp.hn/Biblioteca/Ley%20del%20Ministerio%20Publico.htm> (accessed September 1, 2010), art. 3: “... all civilian and military authorities of the Republic are obliged to provide cooperation and support required by public prosecutors to ensure the best performance of their functions. Those public officials and employees who fail to cooperate without justification will be sanctioned for having violated their duties and for disobeying authority”; Criminal Procedures Code of the Republic of Honduras (Código Procesal Penal de la República de Honduras), [http://www.oas.org/juridico/mla/sp/hnd/sp\\_hnd-int-text-cpp.pdf](http://www.oas.org/juridico/mla/sp/hnd/sp_hnd-int-text-cpp.pdf) (accessed September 1, 2010), art. 147: “Government authorities and public officials will cooperate with judges, prosecutors and the national police in the fulfillment of their obligations, for which they must respond without delay to the requests that they make.”

<sup>131</sup> Human Rights Watch interview with Juan Carlos Griffin and Jaime Ramos, prosecutors of the Human Rights Unit, Tegucigalpa, August 25, 2010.

<sup>132</sup> Human Rights Watch interview with Sandra Ponce, head of the Human Rights Unit of the Attorney General's Office, and Juan Carlos Griffin, prosecutor in the Human Rights Unit, Tegucigalpa, August 23, 2010; Human Rights Watch interview with John César Mejía, director of the San Pedro Sula office of the Human Rights Unit of the Attorney General's Office, San Pedro Sula, August 27, 2010.

<sup>133</sup> Ibid; Human Rights Watch interview with Juan Carlos Griffin and Jaime Ramos, prosecutors of the Human Rights Unit, Tegucigalpa, August 25, 2010.

The Human Rights Unit then asked the courts to order the military to cooperate with the investigation, but the courts rejected the request. In October 2009, a lower court judge held that because the Armed Forces needs its weapons to provide security to the nation, the request must “be more specific” and “individualize the weapon or weapons that were supposedly used the day of the events.”<sup>134</sup> The prosecutor turned to an appeals court, which responded that prosecutors could not challenge a lower court judge’s decision regarding specific evidence.<sup>135</sup>

The military only began turning over the firearms in early August 2010, approximately one year after the initial request. At this point, according to the prosecutors in charge of the investigation, there is no guarantee that the ballistics tests will shed any light as to which gun was used in the shooting of Isis Obed Murillo, given that the military has had more than enough time to alter the firearms in a way that could modify the test results.<sup>136</sup>

### **Failing to Respond to Requests to Identify Police Officers**

Prosecutors have repeatedly asked police authorities for the names of officers involved in human rights violations, without obtaining an adequate response.<sup>137</sup>

For example, in June 2010 a prosecutor in Tegucigalpa requested that the director of the national police identify four officers who are seen in a video beating protesters.<sup>138</sup> The Human Rights Unit twice asked for the complete names of the officers, the place where they were assigned, and the number of years they had worked in the force, arguing that the

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<sup>134</sup> Request by Carlos Roberto Flores, prosecutor in the Human Rights Unit, to the Judge of the Judicial Section of the Department Francisco Morazán (Juez de letras de la Sección Judicial del Departamento Francisco Morazán), October 9, 2009. Decision by Judge Nelly Lizbeth Martínez, Criminal Court of the Judicial Section of Tegucigalpa, Department Francisco Morazán, on File 42,334-09, October 15, 2009. On appeal the same judge upheld her previous decision. The judge argued that if the military had stated they would turn over the guns, they “intended to collaborate” with prosecutors (even if they had not actually cooperated). And she reiterated the argument that the military needs its guns, despite the fact that prosecutors had requested that the military turn over 50 firearms at a time, which would have a minimal impact on national security. Decision by Judge Nelly Lizbeth Martínez, Criminal Court of the Judicial Section of Tegucigalpa, Department Francisco Morazán, on File 42,334-09, October 20, 2009.

<sup>135</sup> First Appeals Court of the Department Francisco Morazán (Corte Primera de Apelaciones del departamento de Francisco Morazán), Notice (cédula de notificación) on File 508-09, December 10, 2009. After a final appeal by the prosecutor (recurso de reposición), the court upheld its decision in January 2010. First Appeals Court of the Department Francisco Morazán (Corte Primera de Apelaciones del departamento de Francisco Morazán), Notice (cédula de notificación) on File 508-09 R, January 14, 2010. At the time of this writing, an appeal is pending before the Supreme Court of Justice. Constitutional appeal (acción constitucional de amparo) presented by Carlos Roberto Flores Chávez, prosecutor in the Human Rights Unit, before the Supreme Court of Justice of the Republic of Honduras, March 15, 2010.

<sup>136</sup> Human Rights Watch interview with Juan Carlos Griffin and Jaime Ramos, prosecutors of the Human Rights Unit, Tegucigalpa, August 25, 2010.

<sup>137</sup> Ibid.

<sup>138</sup> Ibid.

information was “urgently needed” for a criminal investigation.<sup>139</sup> According to the prosecutor in charge of the case, several police officers unofficially identified all the officers involved. But it took the human resources office of the Ministry of Security a month and a half to identify anyone, and even then it named only two of the four people in the video.<sup>140</sup>

Another incident involves police officers accused of violently dispersing a demonstration in the central park of San Pedro Sula on November 29, 2009. A prosecutor requested several times that police authorities provide information on the officers sent to the park, as well as those in charge of the operation, including their names and ranks, the type of weapons they carried, and the numbers on their helmets and jackets. The legal advisor of the national police and a police commissioner responded to the first requests stating they were not the competent authority to provide the information.<sup>141</sup> As of August 2010, prosecutors had still not received the requested information.<sup>142</sup>

### **Denying Access to Military Installations**

On September 30, 2009, Captain Carlos Roberto Rivera Cardona denied prosecutors access to the Communications Battalion in Las Mesas, municipality of San Antonio. Prosecutors intended to verify if the broadcasting equipment of Radio Globo and Channel Cholutec Sur, which had been confiscated two days earlier by military and police officers, was being kept at the battalion. Captain Rivera told prosecutors that the equipment was not there, and that they required authorization from high level military officials (*Estado Mayor Conjunto*) to enter the military installation. According to prosecutors of the Human Rights Unit, such authorization is not required. Captain Rivera is currently under criminal investigation for not cooperating with prosecutors.<sup>143</sup>

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<sup>139</sup> Human Rights Unit of the Attorney General's Office, Document FEDH 496-2010 (Oficio FEDH 496-2010), June 2, 2010; Human Rights Unit of the Attorney General's Office, Document FEDH 698-2010 (Oficio FEDH 698-2010), July 29, 2010.

<sup>140</sup> Human Rights Watch interview with Juan Carlos Griffin and Jaime Ramos, prosecutors of the Human Rights Unit, Tegucigalpa, August 25, 2010.

<sup>141</sup> Letter from Danelia Ferrera Turcios, general director of prosecutors (directora general de fiscalías) at the Attorney General's Office, to Commissioner Manuel Fuentes Aguilar, national director of the preventive police force, August 19, 2010. The letter mentions five previous information requests sent by prosecutors of the Human Rights Unit requesting the same information.

<sup>142</sup> Human Rights Watch interview with John César Mejía, director of the San Pedro Sula office of the Human Rights Unit of the Attorney General's Office, San Pedro Sula, August 27, 2010.

<sup>143</sup> Human Rights Unit of the Attorney General's Office, Charges filed on Case 0801-2010-21216 (Requerimiento Fiscal en Expediente 0801-2010-21216), June 30, 2010. Judge 19 of the Criminal Court of Tegucigalpa (Juzgado de Letras Penal de la Sección Judicial de Tegucigalpa, departamento de Francisco Morazán) is in charge of the case. See “Obstructing the Work of Prosecutors” in this chapter for additional information on the case.



## Threatening Prosecutors

Immediately after the coup, in at least two instances military officers threatened human rights prosecutors who were doing their job. On June 29, 2009, a prosecutor who was monitoring developments outside the Presidential Palace noticed that military officers were beating an elderly woman. He immediately requested that the men stop. A captain who was nearby walked up to the prosecutor and threatened to beat him.<sup>144</sup>

Another example occurred in early July 2009 when prosecutors investigating the closure of Radio El Progreso sought to enter a military battalion to review records that would have the names of the military officers who closed the radio station.<sup>145</sup> At that time, an army officer told a prosecutor of the Human Rights Unit, “I wish I were in the Cold War, the days of Pinochet, the days when you could just disappear (someone).” The prosecutor interpreted this as a direct threat.<sup>146</sup>

## *Independence of the Judiciary Compromised*

### **The Court’s Dual Administrative and Judicial Role**

The Supreme Court has a dual judicial and administrative function. It is the highest appellate court in the country and yet it also administers the entire judicial system. This has significant workload implications and, particularly in the post-coup environment, has raised serious due process concerns.

Time spent on administrative and disciplinary issues limits the time available to rule on cases. The president of the Supreme Court informed Human Rights Watch that all justices spend a day and a half per week in plenary meetings on administrative matters, such as sanctioning judges and judicial employees who commit administrative faults, deliberating on promotions, and grading prospective notaries.<sup>147</sup>

An essential part of the administrative function of the Supreme Court is its power to appoint and remove judges. Whenever a vacancy occurs in the judicial branch, the office of

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<sup>144</sup> Human Rights Watch interview with Sandra Ponce, head of the Human Rights Unit of the Attorney General’s Office, and Juan Carlos Griffin, prosecutor in the Human Rights Unit, Tegucigalpa, August 23, 2010.

<sup>145</sup> See “Closure of Radio El Progreso” in this chapter.

<sup>146</sup> Human Rights Watch interview with Sandra Ponce, head of the Human Rights Unit of the Attorney General’s Office, and Juan Carlos Griffin, prosecutor in the Human Rights Unit, Tegucigalpa, August 23, 2010. The officer said: “Ojala que estuviera en la guerra fría, los días de Pinochet, los días cuando podrías desaparecer (a alguien)”.

<sup>147</sup> The president of the Court is solely in charge of reviewing administrative files to present to the plenary every week (he presides over the plenary meetings and fills in when other justices are unavailable to participate in deliberations of cases). Human Rights Watch interview with Justice Jorge Rivera Aviles, president of the Supreme Court of Justice of the Republic of Honduras, Justice Rosa de Lourdes Paz Haslam, Justice José Tomás Arita Valle, and Justice José Antonio Gutiérrez Navas, Tegucigalpa, August 25, 2010.

personnel of the Supreme Court draws up a list of three potential candidates, from which the Court selects and appoints one.<sup>148</sup>

The Court is also in charge of the process of removing judges, which has serious due process implications. First, the Court can fire judges by applying vague definitions of “fault” provided for in Honduran law,<sup>149</sup> including carrying out “activities that are incompatible with the honor of the position or that somehow affect its dignity.”<sup>150</sup>

Secondly, there is no adequate appeals mechanism. A dismissed judge may appeal the decision before the Council on Judicial Careers (*Consejo de la Carrera Judicial*), but that body reports to the Supreme Court and is made up of five members appointed by the Court, including two Supreme Court Justices.<sup>151</sup> A decision adopted by the council, in turn, can only be appealed through a constitutional appeal (*amparo*) to the same Supreme Court.<sup>152</sup>

The Court, therefore, exercises absolute control over personnel matters. While this is not necessarily inconsistent with judicial independence, a recent study on Honduras by the Due Process of Law Foundation, a nongovernmental organization based in Washington, D.C., found that the way the Honduran Supreme Court exercises its power has created a system of rewards and sanctions that directly undermines judicial independence.<sup>153</sup>

A 2001 reform to the Constitution provided for the creation of the Council of the Judiciary (*Consejo de la Judicatura*), a body that would take over many of the Court’s disciplinary functions.<sup>154</sup> However, the body has yet to be created. There have been several proposed laws to regulate the organization, mandate, and powers of this council, but to date none have been adopted.<sup>155</sup>

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<sup>148</sup> Law of Judicial Careers (Ley de Carrera Judicial), arts. 27-29.

<sup>149</sup> Implementing Regulations of the Law of Judicial Careers (Reglamento de la Ley de Carrera Judicial), art. 188.

<sup>150</sup> *Ibid.*, art. 172 (f).

<sup>151</sup> *Ibid.*, art. 190; Law of the Judicial Career (Ley de Carrera Judicial), arts. 7, 8 and 67.

<sup>152</sup> Any person can present a constitutional appeal if he or she thinks that basic constitutional rights were violated. Law on Constitutional Appeals (Ley de Amparo), art. 1.

<sup>153</sup> Due Process of Law Foundation, “Reforms to the Justice Systems in Honduras and Bolivia: Reasons that have obstructed their success and how to address them” (Las Reformas a la Administración de Justicia en Honduras y Bolivia: Razones que han obstaculizado su éxito y como enfrentarlas), October 2008, <http://www.dplf.org/uploads/1227112057.pdf> (accessed September 14, 2010), p. 59.

<sup>154</sup> Constitution of the Republic of Honduras, art. 317: “The Council of the Judiciary is created, whose members will be appointed by the Supreme Court of Justice. The law will establish its organization, its mandate, and its powers. Judges and Magistrates may not be removed, suspended, sent to another location or to a lower level position, nor dismissed, for other reasons than those established in the law.”

<sup>155</sup> For example, in April 2006 the Supreme Court and the nongovernmental organization Association of Judges in Favor of Democracy presented draft proposals for a Law of the Council of the Judiciary and the Judicial Career. Association of Judges in Favor of Democracy, “Draft Proposal of Law of the Judiciary and the Judicial Career (Anteproyecto de Ley del Consejo de la Judicatura y de la Carrera Judicial),” 2006.

## The Supreme Court's Support of the Coup

In the wake of the 2009 coup, the Honduran Supreme Court issued strong public statements declaring that the military's actions on June 28 had been legal.<sup>156</sup> These statements avoided any specific reference to the fact that the military forcibly flew President Zelaya out of Honduras, forcing him into exile, which was the reason military leaders could claim that there was a power vacuum that they had a duty to fill.

The Supreme Court's statements justified the creation of the de facto government, arguing that the appointment of Roberto Micheletti constituted a "constitutional succession of power." In a meeting with Human Rights Watch in August 2010, members of the Supreme Court claimed that those statements had merely recognized the fact that "the president was out of the country, for whatever reason" and that under those circumstances, according to the Constitution, the appointment of the president of Congress as the president of the Republic was "a constitutional succession of power."<sup>157</sup>

In September 2009 the Supreme Court failed to resolve in a timely manner appeals challenging the constitutionality of an executive decree of the de facto government that limited basic rights. On September 28, two days after the decree was issued, several people presented an appeal challenging its constitutionality, arguing that it limited freedom of expression by broadly and unjustifiably prohibiting all public statements that offend human dignity, public officials, or "run counter the law or government decisions."<sup>158</sup> Over ten additional appeals were subsequently presented before the court. According to Honduran law, courts must resolve constitutional appeals that deal with purely legal issues within three days.<sup>159</sup> But the Supreme Court waited more than three weeks—and only after the

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<sup>156</sup> The day of the coup, the Supreme Court issued a press release stating that, given that a court had ordered the military to stop the executive's attempt to carry out a national poll that day, "the Armed Forces, defending the Constitution, have acted in defense of the rule of law, forcing the fulfillment of the law by those who have publicly stated and acted against ... the Constitution." In addition, the press release states that, "if the origin of the acts that occurred today is a judicial order issued by a competent judge, carrying out [these measures is the consequence of] ... existing legal norms." Judicial Branch of the Nation (Poder Judicial de la Nación), Press Release, June 28, 2009. On June 30, the Court issued another press release explaining the judicial process that led to the events of June 28. The Court argued that on June 26, a lower court had ordered the Armed Forces to "suspend all activities related to a consultation that would take place on June 28, and to proceed to seize all materials to be used in the previously declared illegal consultation." It also stated that on June 26, the Court had ordered the military to detain Zelaya, who had been accused by the attorney general of committing several crimes, including treason and abuse of authority. Supreme Court of Justice of the Republic of Honduras, Special Press Release, June 30, 2009. See also Supreme Court of Justice of the Republic of Honduras, Press Release, July 20, 2009.

<sup>157</sup> Human Rights Watch interview with Justice Jorge Rivera Aviles, president of the Supreme Court of Justice of the Republic of Honduras, Justice Rosa de Lourdes Paz Haslam, Justice José Tomás Arita Valle, and Justice José Antonio Gutiérrez Navas, Tegucigalpa, August 25, 2010.

<sup>158</sup> See the "Background" chapter for additional information on executive decree PCM-016-2009.

<sup>159</sup> Law on Constitutional Appeals (Ley de Amparo), <http://www.ciprodeh.org.hn/Leyes%20Descargables/Ley%20de%20Amparo.pdf> (accessed September 23, 2010), art. 29.

executive branch itself revoked the decree—to resolve the appeals, ruling that they lacked merit precisely because the decree was no longer in force.<sup>160</sup>

### Abusing Disciplinary Powers

After the coup, the Supreme Court applied a double standard when it used its disciplinary powers. It fired four judges who opposed the coup, arguing that judges may not get involved in politics. But it failed to sanction judges who supported the appointment of Roberto Micheletti as the de facto president of Honduras, despite the fact that those statements were as “political” as statements questioning the coup.

During the de facto government, the Supreme Court opened administrative investigations into the statements and actions of four judges who opposed the coup.<sup>161</sup> It investigated:

- Tirza del Carmen Flores Lanza, magistrate of the San Pedro Sula Court of Appeals, for presenting a constitutional appeal challenging the ouster of former President Zelaya, and for formally requesting that the Attorney General’s Office investigate government authorities involved in the coup.<sup>162</sup>
- Guillermo López Lone, lower court judge in San Pedro Sula, for participating in a demonstration against the coup near the Tegucigalpa airport on July 5, 2009, the day President Zelaya was supposed to return to Honduras.<sup>163</sup>

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<sup>160</sup> Supreme Court of Justice of the Republic of Honduras, Report by Daniel Arturo Sibrian Bueso, secretary of the Constitutional Chamber, to Justice Jose Antonio Gutiérrez Nava, president of the Constitutional Chamber, August 26, 2010; Information provided to Human Rights Watch by Justice Gutiérrez Nava, September 20, 2010.

<sup>161</sup> The four judges are members of the Association of Judges in favor of Democracy (Asociación de Jueces por la Democracia), a nongovernmental organization that openly criticized the coup.

<sup>162</sup> Human Rights Watch interview with Tirza del Carmen Flores Lanza, San Pedro Sula, August 26, 2010; Deputy Directorate of Personnel, Judicial Career, “Notice” (Cedula de Citacion), November 20, 2009. The constitutional appeal, presented by seven individuals, argued that the events of June 28 had violated several constitutional guarantees, including the right of all Hondurans not to be extradited out of the country (provided for in article 102 of the Honduran Constitution). Constitutional Appeal (Recurso de Amparo), June 30, 2009. The request to investigate government officials was presented by 14 people. Request for investigation (Denuncia), June 30, 2009. Judge Guillermo López Lone also signed both documents, but was not investigated for having done so. Copy on file at Human Rights Watch. The Court held that Flores was out the office that day without permission; litigated a case, which judges are not allowed to do; gave the court’s address to receive notifications about the case; presented a complaint before the Attorney General’s Office; and commented on decisions adopted by other judicial bodies and the Supreme Court. Supreme Court of Justice of the Republic of Honduras, Document No. 1181-SCSJ-2010 (Oficio No. 1181-SCSJ-2010), June 4, 2010. Flores appealed the Supreme Court’s decision before the Council on Judicial Careers on June 30, 2010. At the time of this writing, the appeal is still pending. Human Rights Watch email correspondence with Tirza Flores Lanza, November 2, 2010.

<sup>163</sup> Human Rights Watch telephone interview with Guillermo López Lone, San Pedro Sula, May 12, 2010; Human Rights Watch interview with Guillermo López Lone, San Pedro Sula, August 26, 2010; Deputy Directorate of Personnel, Judicial Career, “Notice” (Cedula de Citacion), November 24, 2009. The Court held that a statement López made during the administrative hearing differed from the information he had included in an insurance document, which violated his obligation to act independent and impartially. Supreme Court of Justice of the Republic of Honduras, Document No. 1290-SCSJ (Oficio No. 1290-SCSJ), June 16, 2010. According to information reviewed by Human Rights Watch, there was no such discrepancy. During the administrative hearing, López said he had broken his leg when demonstrators started to run after the military opened fire to disperse the demonstration. And in the insurance document, López had one line to explain the facts and said that he “was walking, fell, injured [his] knee and could no longer walk.” López appealed the Supreme Court’s decision before the Council

- Ramón Enrique Barrios, lower court judge in San Pedro Sula and constitutional law professor at the University of San Pedro Sula, for stating in an academic conference that what happened on June 28 had been a coup d'état.<sup>164</sup> The investigation began after a newspaper reproduced his statements in its print edition.<sup>165</sup>
- Luis Alonso Chévez de la Rocha, judge in the Special Tribunal against Domestic Violence in the Department of Cortes, for participating in a demonstration on August 12, 2009, in which he asked police officers to stop beating protesters.<sup>166</sup> Chévez was detained for six hours for his behavior during the demonstration, until a judge ordered his release, stating that his detention had been arbitrary.<sup>167</sup>

The Supreme Court fired the four judges in May 2010 (10 justices voted in favor of firing them, and 5 voted against),<sup>168</sup> and notified the judges of the decision the following month.<sup>169</sup> Three United Nations human rights experts issued a joint statement criticizing the Court's decision.<sup>170</sup> The joint statement notes that, "none of the resolutions [firing the judges] ...

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on Judicial Careers on June 30, 2010. At the time of this writing, the appeal is still pending. Human Rights Watch email correspondence with Tirza Flores Lanza, November 2, 2010.

<sup>164</sup> Human Rights Watch telephone interview with Ramón Enrique Barrios, San Pedro Sula, May 12, 2010; Human Rights Watch interview with Ramón Enrique Barrios, San Pedro Sula, August 26, 2010; Deputy Directorate of Personnel, Judicial Career, "Notice" (Cedula de Citacion), October 27, 2009. The Court held that judges may only discuss current events with their students from a legal point of view, but this right "does not extend to audiences other than duly registered students." According to the Court, his decision to accept an invitation to participate in "events that could lead to altering public order" and to authorize a newspaper to reproduce his statements were incompatible with the honor of being a judge. Supreme Court of Justice of the Republic of Honduras, Oficio No. 1291-SCSJ-2010, June 16, 2010. Barrios appealed the Supreme Court's decision before the Council on Judicial Careers on June 30, 2010. At the time of this writing, the appeal is still pending. Human Rights Watch email correspondence with Tirza Flores Lanza, November 2, 2010.

<sup>165</sup> Opinion of Ramón Enrique Barrios (Opinion de Ramón Enrique Barrios), "There was no constitutional succession" (No hubo sucesión constitucional), *Tiempo*, August 28, 2009.

<sup>166</sup> Human Rights Watch telephone interview with Luis Chévez, San Pedro Sula, May 12, 2010; Human Rights Watch interview with Luis Chévez, San Pedro Sula, August 26, 2010; Deputy Directorate of Personnel, Judicial Career, "Notice" (Cedula de Citacion), October 27, 2009. The Court held that Chévez had not fulfilled his obligations as a judge when he participated in "acts that alter public order" and for having "provoked discussions with fellow judicial officials... for his political position regarding the facts that occurred in the country." Supreme Court of Justice of the Republic of Honduras, Document No. 1183-SCSJ-2010 (Oficio No. 1183-SCSJ-2010), June 4, 2010. Chévez appealed the Supreme Court's decision before the Council on Judicial Careers on June 30, 2010. At the time of this writing, the appeal is still pending. Human Rights Watch email correspondence with Tirza Flores Lanza, November 2, 2010.

<sup>167</sup> Decision adopted by Judge Katya Sánchez Martínez (Juez ejecutor), San Pedro Sula, Cortes, August 12, 2009.

<sup>168</sup> Secretariat of the Supreme Court of Justice of the Republic of Honduras, Certified Copy of Document 24 (describing the court's deliberations on May 5-7, 2010), June 25, 2010.

<sup>169</sup> Supreme Court of Justice of the Republic of Honduras, Document No. 1181-SCSJ-2010 (Oficio No. 1181-SCSJ-2010), June 4, 2010; Supreme Court of Justice of the Republic of Honduras, Document 1290-SCSJ (Oficio No. 1290-SCSJ-2010), June 16, 2010; Supreme Court of Justice of the Republic of Honduras, Document 1291-SCSJ-2010 (Oficio No. 1291-SCSJ-2010), June 16, 2010; Supreme Court of Justice of the Republic of Honduras, Document 1183-SCSJ-2010 (Oficio No. 1183-SCSJ-2010), June 4, 2010; Human Rights Watch interview with Justice Jorge Rivera Aviles, president of the Supreme Court of Justice of the Republic of Honduras, Justice Rosa de Lourdes Paz Haslam, Justice José Tomás Arita Valle, and Justice José Antonio Gutiérrez Navas, Tegucigalpa, August 25, 2010. In addition to the appeals before the Council on Judicial Careers, the four judges took their case to the Inter American Commission on Human Rights in July. Letter signed by the four judges and representatives of the non governmental organization CEJIL to Santiago Canton, executive director of the Inter American Commission on Human Rights, July 5, 2010.

<sup>170</sup> The Special Rapporteur on the Independence of Judges and Lawyers; Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; and Special Rapporteur on the Situation of Human Rights Defenders issued a joint statement on July 29, 2010.

includes legal arguments that explain why the conduct under investigation was serious” and that the removal of the judges, “appears to be related to their public opposition to the events that occurred during the political crisis of June 2009.”<sup>171</sup>

The president of the Supreme Court and four other justices told Human Rights Watch that the four judges were not fired for opposing the coup, but rather for participating in politics, which is prohibited by Honduran law.<sup>172</sup> The Constitution states that judges “may not participate for any reason in any type of partisan activities.”<sup>173</sup> And the Law on the Organization and Attributions of Courts states that judicial authorities may not participate “in meetings, demonstrations, or other political acts, even if other citizens are allowed to do so.”<sup>174</sup>

According to the four judges, their criticism of the coup was not a “partisan” or “political” act because they were advocating for the return of the rule of law.<sup>175</sup> When judges are sworn in, they promise “to be faithful to the Republic, [and] to comply with and to enforce the Constitution and the laws.”<sup>176</sup> The judges told Human Rights Watch that they opposed the coup as citizens who wanted to restore the country’s constitutional order.<sup>177</sup>

In any case, if the Court was in fact attempting to sanction judges who, in broad terms, participated in politics, it should have also sanctioned all the judges who openly supported the coup. For example, on July 6, 2009, Judge Norma Iris Coto, head of the Association of Judges and Magistrates of Honduras (*Asociación de Jueces y Magistrados de Honduras*, ASOJMAH), told the newspaper *La Prensa* that, “in the end the world will understand that what happened in Honduras [on June 28] was, strangely, the restoration of constitutional

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<sup>171</sup> According to the experts, “this would represent an inadmissible attack against the independence of Honduran judges and magistrates, as well as to the freedoms of opinion, expression, assembly, and association...” Joint press release by the Gabriela Knaul, Special Rapporteur on the Independence of Judges and Lawyers; Frank La Rue, Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; and Margaret Sekaggya, Special Rapporteur on the Situation of Human Rights Defenders, “Firing of Judges in Honduras sends an intimidating message to the Judiciary, warn UN experts” (*Despido de jueces en Honduras envía mensaje intimidatorio al Poder Judicial, advierten expertos de la ONU*), July 29, 2010, <http://www.ohchr.org/SP/NewsEvents/Pages/DisplayNews.aspx?NewsID=10235&LangID=S> (accessed September 14, 2010).

<sup>172</sup> Human Rights Watch interview with Justice Jorge Rivera Aviles, president of the Supreme Court of Justice of the Republic of Honduras, Justice Rosa de Lourdes Paz Haslam, Justice José Tomás Arita Valle, and Justice José Antonio Gutiérrez Navas, Tegucigalpa, August 25, 2010.

<sup>173</sup> Constitution of the Republic of Honduras, art. 319.

<sup>174</sup> Law on the Organization and Attributions of Courts (*Ley de Organización y Atribuciones de los Tribunales*), art. 3 (6).

<sup>175</sup> Human Rights Watch interview with Guillermo López Lone, Tirza Flores, Luis Chévez, and Ramón Barrios, San Pedro Sula, August 26, 2010.

<sup>176</sup> Constitution of the Republic of Honduras, art. 322.

<sup>177</sup> Constitution of the Republic of Honduras, art. 2: “supplanting popular sovereignty and usurping constituted powers constitutes treason. The responsibility in these cases is not subject to statutes of limitation and may be deduced ab officio or per request of any citizen.” Constitution of the Republic of Honduras, art. 3: “No one must obey an usurping government, nor those who assume functions or public positions by force or using medium or procedures that violate... this Constitution and the laws.... The people have a right to recur to insurrection to defend the constitutional order.”

order.”<sup>178</sup> ASOJMAH, which has approximately 500 members, also issued a press release stating that the acts carried out by the Armed Forces and the police on June 28 “were based on judicial orders from competent authorities” and their purpose was to uphold judicial rulings that the executive had ignored.<sup>179</sup>

But the Court did not sanction Judge Coto or other coup supporters. According to the Court itself, of the 25 judges dismissed in 2009 and 2010, only Flores Lanza, López Lone, Barrios, and Chévez de la Rocha were sanctioned for statements or actions related to the events of June 28, 2009.<sup>180</sup> The Inter-American Commission on Human Rights found that several judges and magistrates who publicly supported the coup were not subject to similar investigations.<sup>181</sup>

The Court also appeared to issue an open invitation to participate in demonstrations supporting the coup. On June 30, 2009, Sandra Lizeth Rivera Gallo, head of human resources of the Supreme Court distributed via email an invitation to all judges and employees of the judiciary to participate in a pro-coup march in Honduras.<sup>182</sup> Rivera Gallo claimed she had received orders from the secretary of the Supreme Court president to distribute the email.<sup>183</sup> Supreme Court justices told Human Rights Watch, however, that the decision to distribute the invitation did not come from the Court and that they had initiated an administrative investigation into Rivera Gallo’s responsibility for sending out the invitation.<sup>184</sup>

### *Inadequate Implementation of a Witness Protection Program*

In 2007, the Honduran Congress passed a law creating a Witness Protection Program to increase the likelihood that eyewitnesses would be willing to give testimony in criminal

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<sup>178</sup> “Le salió mejor no estar acá” (It was better for him not to be here), *La Prensa*, July 6, 2009. “Ya no era presidente cuando fue detenido” (He was no longer president when he was detained), *La Prensa*, July 7, 2009.

<sup>179</sup> Statement by the ASOJMAH, undated; Documentation in Human Rights Watch’s offices; The current president of ASOJMAH denied they had issued a statement on the events of June 28, 2009. Human Rights Watch telephone interview with Teodoro Bonilla, president of ASOJMAH, Tegucigalpa, September 30, 2010.

<sup>180</sup> Supreme Court of Justice of the Republic of Honduras, “List of documents-decisions of removal of magistrates of appeals courts and judges, 2009-2010” (Relación de oficios-acuerdos de cancelación de Magistrados-Magistradas de Cortes de Apelaciones, Jueces y Juezas, Años 2009-2010), undated; Information sent to Human Rights Watch via international courier, received on September 20, 2010.

<sup>181</sup> Inter-American Commission on Human Rights (IACHR), “Preliminary Observations of the Inter-American Commission on Human Rights about its visit to Honduras on May 15-18, 2010,” June 3, 2010, <http://cidh.org/pdf%20files/HondurasObservacionesVisitaCIDH2010.pdf> (accessed September 15, 2010), para. 84.

<sup>182</sup> The invitation reads: “Based on instructions from above, public officials and employees of the judicial branch are invited to participate in the “March for the Peace in Honduras” that will take place in the central park of Tegucigalpa, today, Tuesday, June 30, 2009, between 9:30 a.m. and 1 p.m.” IACHR, “Preliminary Observations of the Inter-American Commission on Human Rights about its visit to Honduras on May 15-18, 2010,” para. 83.

<sup>183</sup> Judicial Branch, Directorate of Personnel (Dirección de Administración de Personal), “Statement” (Manifestación), April 12, 2010.

<sup>184</sup> Human Rights Watch interview with Justice Jorge Rivera Aviles, president of the Supreme Court of Justice of the Republic of Honduras, Justice Rosa de Lourdes Paz Haslam, Justice José Tomás Arita Valle, and Justice José Antonio Gutiérrez Navas, Tegucigalpa, August 25, 2010.

cases.<sup>185</sup> But the office in charge of implementing the Witness Protection Program still has no resources specifically assigned to it.

The 2007 law establishes, among other measures, that individuals who participate in the Witness Protection Program may be relocated, offered a new identity, or assigned police protection; in some circumstances, cases are to be heard on an expedited basis to minimize the threats they face.<sup>186</sup> The program would be implemented by a director, regional units, and an advisory council (composed of the attorney general, the general director of prosecutors, and the director of the Witness Protection Program).

At the time of this writing—three years after the law was passed—the program staff consists of only two people (a director and a driver). The Attorney General’s Office has been using limited funds that were intended to cover other costs to implement the program.<sup>187</sup>

Due to this lack of resources, the Witness Protection Program has failed to provide adequate protection to witnesses in human rights cases. For example, the director of the Human Rights Unit in San Pedro Sula told Human Rights Watch that they had requested protection in two serious cases in 2009, but both requests were denied because the Witness Protection Program lacked sufficient resources.<sup>188</sup> According to the prosecutor, both women who were denied protection were “indispensable” to build the cases and faced “a high risk for [their] life and physical integrity.”<sup>189</sup>

In one case, a prosecutor sought protection for a woman who claimed she had been raped in her home by a police officer on August 31, 2009. The prosecutor had been able to identify three suspects, all of whom were active members of the police and constantly threatened the woman.<sup>190</sup> In the other case, a prosecutor requested protection for a woman who was detained by police officers while she was participating in a demonstration on August 14,

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<sup>185</sup> Law to Protect Witnesses in Criminal Procedures (Ley de Protección a Testigos en el Proceso Penal), July 18, 2007, <http://www.poderjudicial.gob.hn/NR/rdonlyres/E3AA256D-FC8A-4397-91FB-8F41558A1581/1129/LeydeProteccionaTestigosenelProcesoPenal.pdf> (accessed September 10, 2010).

<sup>186</sup> Law to Protect Witnesses in Criminal Procedures, arts. 11 and 12.

<sup>187</sup> Human Rights Watch telephone interview with Yuri Manuel Moreno Gallegos, director of the Witness Protection Program, Tegucigalpa, October 6, 2010; Human Rights Watch telephone interview with Danelia Ferrera, general director of prosecutors (directora general de fiscalías) at the Attorney General’s Office, Tegucigalpa, September 7, 2010.

<sup>188</sup> Human Rights Watch interview with John César Mejía, director of the San Pedro Sula office of the Human Rights Unit of the Attorney General’s Office, San Pedro Sula, August 27, 2010.

<sup>189</sup> Memorandum “FERDH-355-09” from Johnny Bladimir Dubon, prosecutor in the Human Rights Unit, to Yuri Manuel Moreno, director of the Witness Protection Program, November 18, 2009; Memorandum “FERDH-354-09” from Johnny Bladimir Dubon, prosecutor in the Human Rights Unit, to Yuri Manuel Moreno, director of the Witness Protection Program, November 18, 2009.

<sup>190</sup> Memorandum “FERDH-355-09” from Johnny Bladimir Dubon, prosecutor in the Human Rights Unit, to Yuri Manuel Moreno, director of the Witness Protection Program, November 18, 2009.



2009, driven to an undisclosed location, and raped. The prosecutor had identified four suspects, all of whom were active members of the police.<sup>191</sup>

According to prosecutors in the Human Rights Unit, witnesses are generally afraid of suffering reprisals if they testify against the police or the military.<sup>192</sup> Ponce, the head of the Human Rights Unit, stated that an adequate Witness Protection Program would be a very useful tool to help convince witnesses to testify in cases that the unit is currently investigating.<sup>193</sup>

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<sup>191</sup> Memorandum “FERDH-354-09” from Johnny Bladimir Dubon, prosecutor of the Human Rights Unit, to Yuri Manuel Moreno, director of the Witness Protection Program, November 18, 2009.

<sup>192</sup> Human Rights Watch interview with Sandra Ponce, head of the Human Rights Unit of the Attorney General’s Office, and Juan Carlos Griffin, prosecutor in the Human Rights Unit, Tegucigalpa, August 23, 2010; Human Rights Watch interview with John César Mejía, director of the San Pedro Sula office of the Human Rights Unit of the Attorney General’s Office, San Pedro Sula, August 27, 2010.

<sup>193</sup> Human Rights Watch telephone interview with Sandra Ponce, head of the Human Rights Unit of the Attorney General’s Office, Tegucigalpa, October 28, 2010.

### III. Ongoing Attacks

Human Rights Watch documented 18 cases in which journalists, human rights defenders, and political activists have been killed since President Lobo took office in January 2010. We have also received credible reports of 29 cases in which journalists, human rights defenders, and political activists have been threatened or attacked. Information collected by local human rights organizations suggests the number of attacks could be significantly higher.<sup>194</sup>

Despite repeated requests, Human Rights Watch has been unable to obtain complete information from Honduran authorities as to the status of the investigations in the majority of these cases. However, available information suggests that little or no progress has been made; thus, in most of the cases, it is not yet possible to determine whether the attacks or threats were politically motivated or whether there was any official involvement.

Some of the cases may be the result of common crime, a major and longstanding problem in Honduras. For years, Honduran authorities have failed to protect the right to life of its citizens. The homicide rate in Honduras—one of the highest in the world—has increased every year since 2003.<sup>195</sup> An important factor that contributes to the rising violence is that most perpetrators are never brought to justice.<sup>196</sup>

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<sup>194</sup> According to the Committee of Family Members of the Disappeared in Honduras (Comité de Familiares Detenidos-Desaparecidos de Honduras, COFADEH), between January 30 and July 31, 2010, there were 23 politically motivated killings, 8 journalists killed, 92 death threats, including 59 against human rights defenders, and 76 instances of intimidation or persecution. COFADEH, “Human rights violations in Honduras not only continue in the aftermath of the coup... they are too many” (Violaciones a DDHH en Honduras no solo continúan en la continuidad del golpe... son demasiado), August 30, 2010, p. 13. See also Human Rights Platform (Plataforma de Derechos Humanos), “Press Release,” August 26, 2010, [http://www.defensoresenlinea.com/cms/documentos/Plataforma\\_DDHH\\_Comunicado\\_26\\_agosto\\_2010.pdf](http://www.defensoresenlinea.com/cms/documentos/Plataforma_DDHH_Comunicado_26_agosto_2010.pdf) (accessed September 24, 2010). The members of the Human Rights Platform are leading human rights non governmental organizations in Honduras: Center for the Rights of Women (Centro de Derechos de Mujeres, CDM), Center to Investigate and Promote Human Rights (Centro de Investigación y Promoción de los Derechos Humanos, CIPRODEH), Committee for the Defense of Human Rights in Honduras (Comité para la Defensa de los Derechos Humanos en Honduras, CODEH), COFADEH, Center for the Prevention, Treatment, and Rehabilitation of Torture Victims and their Families (Centro de Prevención, Tratamiento y Rehabilitación de las Víctimas de la Tortura y sus Familiares, CPTRT), and Food First Information & Action Network (FIAN) – Honduras. COFADEH, “There is a systematic state policy of violating human rights” (Existe una política de Estado de violación sistemática a los derechos humanos), August 6, 2010, [http://www.resistenciahonduras.net/index.php?option=com\\_content&view=article&id=771:cofadeh-existe-una-politica-de-estado-de-violacion-sistemica-a-los-derechos-humanos&catid=60:derechos-humanos&Itemid=244](http://www.resistenciahonduras.net/index.php?option=com_content&view=article&id=771:cofadeh-existe-una-politica-de-estado-de-violacion-sistemica-a-los-derechos-humanos&catid=60:derechos-humanos&Itemid=244) (accessed September 20, 2010). Defensoresenlinea.com, “Criminalization and Lack of Protection surrounds the lives of human rights defenders” (Criminalización e indefensión rodean la vida de los defensores y defensoras de ddhh), April 13, 2010, [http://www.defensoresenlinea.com/cms/index.php?option=com\\_content&view=article&id=696:criminalizacion-e-indefension-rodean-la-vida-de-los-defensores-y-defensoras-de-ddhh&catid=71:def&Itemid=166](http://www.defensoresenlinea.com/cms/index.php?option=com_content&view=article&id=696:criminalizacion-e-indefension-rodean-la-vida-de-los-defensores-y-defensoras-de-ddhh&catid=71:def&Itemid=166) (accessed September 24, 2010).

<sup>195</sup> The homicide rate in Honduras per 100,000 people was 33.6 in 2003, 31.9 in 2004, 35.1 in 2005, 42.9 in 2006, 50 in 2007, and 60.9 in 2008, and 67 in 2009. United Nations Office on Drugs and Crime, “Homicide Statistics, Dataset for advanced users, by country and source (2003-2008),” undated., [http://www.unodc.org/documents/data-and-analysis/Crime-statistics/Data\\_Table-final.xls](http://www.unodc.org/documents/data-and-analysis/Crime-statistics/Data_Table-final.xls) (accessed September 24, 2010). See also United Nations Development Program, “Human Development Report 2010,” [http://hdr.undp.org/en/media/HDR\\_2010\\_ES\\_Complete.pdf](http://hdr.undp.org/en/media/HDR_2010_ES_Complete.pdf) (accessed November 15, 2010), 2010, pp. 201-203. In 2009, 5265 people were killed. Instituto Universitario de Democracia, Paz y Seguridad, “Observatorio de la Violencia, Edición No. 17,” March 2010, <http://iudpas.org/pdfs/NEd17EneDic2009.pdf> (accessed September 8, 2010). According to the Honduran ombudsman, 2929 people were killed between January and June 2010. National Human Rights

Yet the broader political context and the specific circumstances in which the crimes occurred suggest that many may not be random crimes. In the majority of the cases, there is circumstantial evidence—including explicit statements by the perpetrators in some instances—that suggests that the victims may have been targeted because of their political views. In the majority of the cases involving threats and attacks, and in several of the killings, the victims were opponents of the coup and members of the National Front of Popular Resistance (*Frente Nacional de Resistencia Popular*, FNRP), an organization that includes thousands of individuals, including members of political groups, teacher unions, and NGOs who oppose the coup and the policies of the de facto government.<sup>197</sup> In at least one case, the victim was a supporter of the coup. It is critical that criminal investigations into these cases gather and carefully examine any evidence that the victims were targeted for political reasons.

Whatever the motive of the attacks and threats, the cumulative effect has been to generate a climate of fear that has had a chilling effect on the exercise of basic rights in Honduras.

## Killings

Human Rights Watch documented the following 18 killings of journalists, coup opponents, and human rights defenders in 2010:

- On February 3, the body of **Vanesa Yáñez**, a member of the Union of Social Security Workers (*Sindicato de Trabajadores del Seguro Social*) and the FNRP, was reportedly dumped from a car. According to witnesses interviewed by the Committee for the Defense of Human Rights in Honduras (*Comité para la Defensa de los Derechos Humanos en Honduras*, CODEH), her body showed signs of torture.<sup>198</sup> Yáñez's mother

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Commissioner (Comisionado Nacional de los Derechos Humanos), "Public Security: A priority in the national agenda" (*La Seguridad Pública: Una prioridad en la Agenda Nacional*), October 2010, p. 21. According to the United Nations Office on Drugs and Crime, the homicide rates decreased between 2003 and 2008 for most countries in the world, with the exception of a number of Caribbean and Latin American countries, including Belize, Guatemala, Honduras, Jamaica, and Venezuela, all of which all showed significant increases in homicide rates. UN Office on Drugs and Crime, "Global homicide rates stable or decreasing, new UNODC report says," February 16, 2010, <http://www.unodc.org/unodc/en/frontpage/2010/February/global-homicide-rates-stable-or-decreasing-new-unodc-report-says.html> (accessed September 28, 2010).

<sup>196</sup> For example, the United Nations Committee against Torture held in 2009 that the government of Honduras had recognized that impunity was "widespread." United Nations Committee against Torture, "Consideration of Reports Submitted by State Parties under Article 19 of the Convention. Concluding Observations of the Committee against Torture," CAT/C/HND/CO/1, June 23, 2009, <http://www2.ohchr.org/english/bodies/cat/cats42.htm> (accessed September 20, 2010), para. 20.

<sup>197</sup> Since the coup, the FNRP has organized several demonstrations criticizing the coup and the policies of the de facto government. It has also questioned the legitimacy of the Lobo administration, and has advocated for the establishment of a Constituent Assembly. Resistenciahonduras.net, "Definition of the National Front of Popular Resistance (FNRP)" (*Definición del Frente Nacional de Resistencia Popular (FNRP)*), March 2, 2010, [http://www.resistenciahonduras.net/index.php?option=com\\_content&view=article&id=173:definicion-del-frente-nacional-de-resistencia-popular-fnrp&catid=53:documentos-constitutivos&Itemid=261](http://www.resistenciahonduras.net/index.php?option=com_content&view=article&id=173:definicion-del-frente-nacional-de-resistencia-popular-fnrp&catid=53:documentos-constitutivos&Itemid=261) (accessed November 19, 2010).

<sup>198</sup> Human Rights Watch telephone interview with Andres Pavon, president of CODEH, February 18, 2010.

told Human Rights Watch that her daughter had left the home the day before to buy notebooks, and never returned.<sup>199</sup>

- On February 15, **Julio Benítez**, a member of the FNRP and the Workers Union of the National Service of Aqueduct and Sewer Systems (*Sindicato de Trabajadores del Servicio Autónomo Nacional de Acueductos y Alcantarillados*), was shot by men on a motorcycle in front of his home. He died in the hospital shortly afterwards. Benítez's wife told Human Rights Watch he had received numerous threatening phone calls warning him to abandon his participation in opposition groups.<sup>200</sup>
- On February 24, **Claudia Larissa Brizuela** was shot to death in front of her two young children upon answering the door of her father's house. Her father, Pedro Brizuela, is a prominent leader of the FNRP, of which she was also a member.<sup>201</sup>
- On March 1, unknown gunmen shot and killed **Joseph Hernández Ochoa** while he was driving with Karol Cabrera, another journalist who was injured in the attack. Ochoa hosted an entertainment show on TV Channel 51, and Cabrera hosts a radio show on Cadena Voces. Cabrera, who openly supported the coup and hosted a TV show on a public station during the de facto government of Roberto Micheletti, had reported receiving multiple death threats since the coup.<sup>202</sup>
- On March 11, **David Meza Montesinos**, a reporter for TV Channel 10 and the local radio station El Patio and a correspondent for the national station Radio America, was driving his car when a truck opened fire on him. The gunfire caused Meza to lose control of his vehicle and crash into a building, resulting in his death. According to the OAS Special Rapporteur on Freedom of Expression, Meza had reportedly been threatened after he

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<sup>199</sup> Human Rights Watch telephone interview with Vanesa Yáñez's mother, February 19, 2010. The case is also mentioned in a report by the Inter American Commission on Human Rights, but uses a different name (Vanesa Zepeda). Inter-American Commission on Human Rights, "Preliminary Observations of the Inter-American Commission on Human Rights about its visit to Honduras on May 15-18, 2010," June 3, 2010, <http://cidh.org/pdf%20files/HondurasObservacionesVisitaCIDH2010.pdf> (accessed September 15, 2010), para. 54.

<sup>200</sup> Human Rights Watch telephone interview with Lidia Marina Fúnez, February 19, 2010; CODEH, Testimony by Lidia Marina Fúnez, March 23, 2010. IACHR, "para. 55.

<sup>201</sup> IACHR, "Preliminary Observations of the Inter-American Commission on Human Rights about its visit to Honduras on May 15-18, 2010," para. 56. CODEH, "Claudia Larissa Brizuela Gonzalez, member of the National Resistance Front, is killed" (Asesinan a Claudia Larissa Brizuela Gonzalez, miembro del Frente Nacional de Resistencia), February 24, 2010, [http://codeh.hn/v1/index.php?option=com\\_k2&view=item&id=82:asesinan-a-claudia-larissa-gonzales-miembro-del-frente-nacional-de-resistencia&Itemid=1](http://codeh.hn/v1/index.php?option=com_k2&view=item&id=82:asesinan-a-claudia-larissa-gonzales-miembro-del-frente-nacional-de-resistencia&Itemid=1) (accessed September 21, 2010). Additional information on Pedro Brizuela's case is available in the section "Threats and Attacks" of this chapter.

<sup>202</sup> IACHR, "Preliminary Observations of the Inter-American Commission on Human Rights about its visit to Honduras on May 15-18, 2010," para. 24. Committee to Protect Journalists, "Journalist murders spotlight Honduran government failures," July 27, 2010, <http://www.cpj.org/reports/2010/07/journalist-murders-underscore-honduras-government.php> (accessed September 22, 2010); National Section (Nacionales), "Journalist Cabrera blames the 'resistance' for criminal attack" (Periodista Cabrera culpa a la "Resistencia" por atentado criminal), *La Tribuna*, March 4, 2010.

published several stories on drug trafficking.<sup>203</sup> Meza had also reported on government and police violations.<sup>204</sup>

- On March 14, gunmen repeatedly shot **Nahúm Palacios** while he was driving his car. He died at the scene. Palacios, who directed TV Channel 5 of Aguán, covered several politically sensitive issues, including pro-Zelaya demonstrations, corruption, drug trafficking, and agrarian conflicts. Two days after the coup—which Palacios had criticized—military officials searched his home, seized his work equipment, threatened him, and pointed their guns at his children. On July 24, 2009, the Inter-American Commission on Human Rights (IACHR) had ordered Honduras to protect him. Palacios continued to receive threats until his death.<sup>205</sup>
- On March 17, **José Francisco Castillo**, an active member of the FNRP, was shot to death on the street by unknown individuals. Prior to his death, he and his wife had reported being followed by unmarked cars and motorcycles and had asked a human rights group in Honduras for protection.<sup>206</sup>
- On March 23, **José Manuel Flores** was murdered in front of colleagues and students on the patio of the school where he worked. Flores was an active member of the FNRP and belonged to the Socialist Workers Party (*Partido Socialista de los Trabajadores*).<sup>207</sup>
- On March 26, **José Bayardo Mairena** and **Manuel Juárez** were killed while driving in the department of Olancho, when gunmen fired repeatedly at them from a passing car. They were journalists with the radio station Excelsior and the Channel 4 R.Z. television station;

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<sup>203</sup> Office of the Special Rapporteur for Freedom of Expression, “Press Release R29/10,” March 15, 2010, <http://www.cidh.org/relatoria/showarticle.asp?artID=787&IID=2> (accessed September 24, 2010).

<sup>204</sup> Ministry of Security, Document D-DNIC-198-2010 (Oficio No. D-DNIC-198-2010), June 11, 2010; IACHR, “Preliminary Observations of the Inter-American Commission on Human Rights about its visit to Honduras on May 15-18, 2010,” para. 24. Committee to Protect Journalists, “Journalist murders spotlight Honduran government failures,” July 27, 2010, <http://www.cpj.org/reports/2010/07/journalist-murders-underscore-honduras-government.php> (accessed September 22, 2010).

<sup>205</sup> IACHR, “Preliminary Observations of the Inter-American Commission on Human Rights about its visit to Honduras on May 15-18, 2010,” para. 24; Inter American Commission on Human Rights, MC 196-09, March 19, 2010, <http://www.cidh.org/medidas/2010Hond.sp.htm> (accessed September 21, 2010). Committee to Protect Journalists, “Journalist murders spotlight Honduran government failures,” July 27, 2010, <http://www.cpj.org/reports/2010/07/journalist-murders-underscore-honduras-government.php> (accessed September 22, 2010); CODEH, “IACHR already knew about the threats against journalist killed last night in Tocoa, Colón” (CIDH ya sabía de las amenazas a periodista asesinado anoche en Tocoa, Colón), March 16, 2010, [http://codeh.hn/v1/index.php?option=com\\_k2&view=item&id=92:cidh-ya-sabía-de-las-amenazas-a-periodista-asesinado-anoche-en-tocoa-colón&Itemid=1](http://codeh.hn/v1/index.php?option=com_k2&view=item&id=92:cidh-ya-sabía-de-las-amenazas-a-periodista-asesinado-anoche-en-tocoa-colón&Itemid=1) (accessed September 24, 2010).

<sup>206</sup> Letter by CODEH to the IACHR, December 20, 2009; CODEH, “Killings of members of the resistance continue” (Continúan asesinatos a miembros de la Resistencia en Honduras), March 18, 2010, [http://codeh.hn/v1/index.php?option=com\\_k2&view=item&id=95](http://codeh.hn/v1/index.php?option=com_k2&view=item&id=95) (accessed September 15, 2010); IACHR, “Preliminary Observations of the Inter-American Commission on Human Rights about its visit to Honduras on May 15-18, 2010,” para. 57.

<sup>207</sup> Human Rights Watch telephone interview with Aurora Agustina Narvaes Arguijo, widow of José Manuel Flores, August 10, 2010; CODEH, “Social Sciences teacher José Manuel Flores, active member of the National Resistance against the Coup d’Etat” (Asesinan a profesor de ciencias sociales José Manuel Flores miembro activo de la Resistencia Nacional Contra el Golpe de Estado), March 23, 2010, [http://codeh.hn/v1/index.php?option=com\\_k2&view=item&id=103:asesinan-a-profesor-de-ciencias-sociales-josé-manuel-flores-miembro-activo-de-la-resistencia-nacional-contra-el-golpe-de-estado&Itemid=1](http://codeh.hn/v1/index.php?option=com_k2&view=item&id=103:asesinan-a-profesor-de-ciencias-sociales-josé-manuel-flores-miembro-activo-de-la-resistencia-nacional-contra-el-golpe-de-estado&Itemid=1) (accessed September 20, 2010); IACHR, “Preliminary Observations of the Inter American Commission on Human Rights about its visit to Honduras on May 15-18, 2010,” para. 58.

Bayardo covered general interest stories, including organized crime, and Juárez was a news presenter.<sup>208</sup>

- On April 11, **Luis Antonio Chévez**, a journalist with Radio W105 in San Pedro Sula, and his cousin **Julio César Chévez** were murdered. The two were returning from an evening at a nightclub where—according to press accounts—they had been involved in an argument with other patrons. According to press accounts, when the cousins arrived home, gunmen were waiting for them and fired at them repeatedly.<sup>209</sup>
- On April 20, **Jorge Alberto “Georgino” Orellana** was shot in the head and killed while walking to his car. He was leaving his office at the Honduras Television in San Pedro Sula, where he hosted a nightly news program.<sup>210</sup>
- On May 8, masked gunmen killed the environmental activist **Adalberto Figueroa** less than a mile away from his home. According to information received by the IACHR, Figueroa’s death could be related to the fact that he had previously denounced the illegal exploitation of forested areas by timber companies.<sup>211</sup>
- On May 13, **Gilberto Alexander Núñez Ochoa** was shot 17 times and killed. He was a member of the security and discipline committee of the FNRP.<sup>212</sup>
- On May 26, **Pedro Antonio Durón Gómez**, a member of the FNRP, and his brother-in-law, **Oscar Tulio Martínez**, an agent with the General Office of Special Investigation Services, were shot and killed while driving in their car. Gómez and Martínez were the brother and brother-in-law respectively of Maria Arcadia Gómez, a minister in President Zelaya’s government.<sup>213</sup>
- On June 14, **Luis Arturo Mondragón** was killed outside the Channel 19 television station he owned. According to the Committee to Protect Journalists, Mondragón had told his family prior to his death that he had been receiving threats.<sup>214</sup>

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<sup>208</sup> IACHR, “Preliminary Observations of the Inter-American Commission on Human Rights about its visit to Honduras on May 15-18, 2010,” para. 24; Committee to Project Journalists, “In Honduras, a wave of deadly violence against media,” March 29, 2010, <http://cpj.org/2010/03/honduras-deadly-violence-against-news-media.php> (accessed September 22, 2010).

<sup>209</sup> UNESCO, “The general director of UNESCO condemns the killing of Honduran journalist Luis Antonio Chévez Hernández” (La Directora General de la UNESCO condena el asesinato del periodista Hondureño Luis Antonio Chévez Hernández), April 21, 2010, [http://www.unesco.org/new/es/unesco/about-us/who-we-are/director-general/news-single-view/news/director\\_general\\_condemns\\_murder\\_of\\_honduran\\_journalist\\_luis\\_antonio\\_chevez\\_hernandez/](http://www.unesco.org/new/es/unesco/about-us/who-we-are/director-general/news-single-view/news/director_general_condemns_murder_of_honduran_journalist_luis_antonio_chevez_hernandez/) (accessed October 7, 2010); “Fight in discoteque could have been the cause of Luis Chévez’s death” (Discusión en discoteca pudo ser móvil de la muerte de Luis Chévez), *Tiempo*, undated; <http://www.tiempo.hn/web2/index.php/secciones/sucesos/14121-discusion-en-discoteca-pudo-ser-movil-de-la-muerte-de-luis-chevez-huevo.html> (accessed September 22, 2010).

<sup>210</sup> IACHR, “Preliminary Observations of the Inter-American Commission on Human Rights about its visit to Honduras on May 15-18, 2010,” para. 24; Committee to Project Journalists, “Journalist murders spotlight Honduran government failures,” July 27, 2010, <http://www.cpj.org/reports/2010/07/journalist-murders-underscore-honduras-government.php> (accessed September 22, 2010).

<sup>211</sup> IACHR, “Preliminary Observations of the Inter-American Commission on Human Rights about its visit to Honduras on May 15-18, 2010,” para. 59.

<sup>212</sup> *Ibid.*, para. 60.

<sup>213</sup> CODEH, Testimony by María Arcadia Gómez Medina, June 22, 2010; *Ibid.*, para. 61.

<sup>214</sup> Committee to Project Journalists, “Journalist murders spotlight Honduran government failures,” July 27, 2010, <http://www.cpj.org/reports/2010/07/journalist-murders-underscore-honduras-government.php> (accessed September 22,

- On August 24, **Israel Zelaya Díaz**'s body was found along the side of a road in a rural area of San Pedro Sula. He had been fatally shot in the head and chest. Zelaya was a reporter for Radio Internacional.<sup>215</sup>

## Threats and Attacks

Human Rights Watch has received credible information regarding the following 29 cases of threats or attacks against journalists, human rights defenders, and political activists in 2010:

- On February 2, **Manuel de Jesús Varela Murillo** and **Ricardo Antonio Rodríguez**—both videographers with Globo TV and members of the FNRP—were detained by plainclothes men who identified themselves with police badges and ordered the journalists into a vehicle. The men were then taken to a house where they were tortured and interrogated about arms, money, and videos supposedly possessed by the FNRP. The men beat the journalists, covered their eyes with tape, put on a hood that made it difficult for them to breathe, and told the journalists to stay away “from the resistance.” The journalists said they were told their families would be killed if they denounced their abuse. On February 25, the IACHR ordered the Honduran government to protect them.<sup>216</sup>
- On February 9, **Maria C.** was abducted along with other family members by seven men in military dress near San Pedro Sula.<sup>217</sup> The men forced the group out of their car and brought them to an undisclosed location in the surrounding mountain area. One of the abductors allegedly told the victims: “This is happening to you because you spoke out.” During their nine hours of captivity, Maria C. was raped at gunpoint by one of her captors and forced to take cocaine and perform oral sex. According to the victim, her sister-in-law was also raped by four of the uniformed men. The victims were freed when a group of villagers came looking for them and exchanged gunfire with the abductors, who then fled.<sup>218</sup>
- On February 12, a car drove towards **Hermes Reyes**, a member of the “Movement of Artists in Resistance” and the “Broad Movement for Divinity and Justice,” as he was leaving a meeting of the FNRP. A passenger emerged from the car and whipped him across the

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2010). “Another journalist is killed, now in El Paraíso” (Matan a otro periodista, esta vez en El Paraíso), *Tiempo*, June 15, 2010, <http://www.tiempo.hn/web2/secciones/portada/17882-matan-a-otro-periodista-esta-vez-en-el-paraiso.html> (accessed September 22, 2010).

<sup>215</sup> Committee to Project Journalists, “Honduran radio reporter shot in latest journalist murder,” August 25, 2010, <http://cpj.org/2010/08/honduran-radio-reporter-shot-in-latest-journalist.php> (accessed September 22, 2010).

<sup>216</sup> Human Rights Watch telephone interview with Andres Pavon, president of CODEH, February 18, 2010; Inter American Commission on Human Rights, MC 38-10, March 19, 2010, <http://www.cidh.org/medidas/2010Hond.sp.htm> (accessed September 28, 2010); CODEH, Testimony of Manuel de Jesús Varela, February 3, 2010.

<sup>217</sup> Maria C. is a pseudonym used to safeguard the victim against possible retaliation.

<sup>218</sup> Testimony of Maria C., given before prosecutors on February 12, 2010, provided to Human Rights Watch by John César Mejía, director of the San Pedro Sula office of the Human Rights Unit of the Attorney General's Office, August 27, 2010.

face with a wire cable. Reyes fell to the ground and his attacker said, “Now we know where you are, you sons of whores.”<sup>219</sup>

- **Pedro Antonio Brizuela**, an active member of the FNRP, has received repeated threats on his cell phone before and after his daughter—also a member of the FNRP—was killed on February 24. On March 19, the IACHR ordered the government of Honduras to protect Brizuela, but he told Human Rights Watch in July that no government official had contacted him to implement protective measures.<sup>220</sup>
- In February, **Marta B.**—a teacher, former member of a human rights NGO, and active member of the FNRP—received a text message the day Claudia Larissa Brizuela, another FNRP member, was killed, which said, “You are next.” Marta B. told Human Rights Watch that when she reported this threat to human rights organizations, she found out that four other women had received the same text message.<sup>221</sup>
- On February 26, five individuals attacked **Tomás Enrique García Castillo**, a member of the FNRP. The five men hit him hard on the face and back, brutally kicked him, and insulted him. García Castillo told Human Rights Watch that he has also received several threats via phone.<sup>222</sup>
- During the first week of March, **Rebeca Becerra Lanza**, a former official in the Zelaya administration, was in a taxi with her two daughters when an unknown individual drove up in a motorcycle and pointed a rifle at her. In several instances she noticed that she was being followed and that individuals were monitoring her home. She has also received intimidating phone calls since the coup. She had presented a formal complaint to the Human Rights Unit of the Attorney General’s Office in December 2009, and continued to receive threats after that.<sup>223</sup>
- **Ricardo Emilio Oviedo**, president of the Colón Communicators Association and host of a cable television program in the city of Tocoa, has been repeatedly threatened and

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<sup>219</sup> Human Rights Watch telephone interview with Hermes Reyes, February 19, 2010.

<sup>220</sup> Human Rights Watch telephone interviews with Pedro Brizuela, April 8, 2010, and July 27, 2010. IACHR, MC 91-10, March 19, 2010, <http://www.cidh.org/medidas/2010Hond.sp.htm> (accessed September 21, 2010). See other section on “Killings,” in this chapter for more information on Claudia Larissa Brizuela’s case.

<sup>221</sup> Human Rights Watch telephone interview with Marta B., May 13, 2010. Marta B. is a pseudonym used to safeguard the victim against possible retaliation; CODEH, Testimony of Marta B., undated.

<sup>222</sup> Human Rights Watch telephone interview with Tomas Enrique García Castillo, August 11, 2010. IACHR, MC 91-10, March 19, 2010, <http://www.cidh.org/medidas/2010Hond.sp.htm> (accessed September 21, 2010). (The Commission talks about “Mateo” Enrique García Castillo); CODEH, “Persecution and Uncertainty, two nightmares for the Honduran people” (La persecución e incertidumbre dos pesadillas para el pueblo de Honduras), March 18, 2010, [http://codeh.hn/v1/index.php?option=com\\_k2&view=item&id=93:la-persecución-e-incertidumbre-dos-pesadillas-para-el-pueblo-de-honduras&Itemid=1](http://codeh.hn/v1/index.php?option=com_k2&view=item&id=93:la-persecución-e-incertidumbre-dos-pesadillas-para-el-pueblo-de-honduras&Itemid=1) (accessed September 21, 2010). CODEH, Testimony of Tomás Enrique García Castillo, February 28, 2010.

<sup>223</sup> Human Rights Watch telephone interviews with Rebecca Becerra, April 28, 2010, and July 27, 2010; IACHR, MC 196-09; CODEH, “Precautionary Measures for Rebecca Becerra” (Medidas cautelares para Rebecca Becerra), April 3, 2010, [http://codeh.hn/v1/index.php?option=com\\_k2&view=item&id=114:medidas-cautelares-para-rebeca-becerra&Itemid=1](http://codeh.hn/v1/index.php?option=com_k2&view=item&id=114:medidas-cautelares-para-rebeca-becerra&Itemid=1) (accessed September 21, 2010); CODEH, Testimony by Rebecca Ethel Becerra Lanza, December 2009.



harassed since the coup. He has received death threats via telephone and, after he reported on the murder of his colleague Nahúm Palacios on March 14, two strangers approached his 13-year-old daughter on her way to school and told her they were going to kill her father. Oviedo has repeatedly been followed by vehicles, which caused him to fall off his motorcycle on April 13, and on several occasions has heard gunfire outside the television studio. On May 1, Oviedo requested and was granted police protection, but dismissed it after a few days stating that it was a nuisance to his neighbors.<sup>224</sup>

- Journalist **Jorge Ott Anderson** has received death threats repeatedly since the coup last year, when the small cable TV channel he owns in the state of Colón was shut down by the military and remained off the air for two months. Since reporting on the murder of journalist Nahúm Palacios, the threats have intensified. In an on-air call during the live broadcast of Anderson's show on April 18, an unidentified caller warned he would kill the journalist soon. He received another death threat on May 13.<sup>225</sup>
- On March 17, **Cecilia P.**, a member of the FNRP and radio journalist, received a text message stating, "little girl, shut your mouth if you don't want someone else to shut it for you."<sup>226</sup> Three days later, unknown individuals entered her home and stole her laptop computer. Cecilia P. had previously received threats during the de facto government, including one that said, "stay away if you want to live."<sup>227</sup>
- On March 23, unknown individuals shot at **Arturo H.**, an active member of the FNRP, while he was standing on the porch of his home. Two days later, an unknown person walked into his shop and told him he had heard that someone would burn down his home and anyone who was inside. He has since moved to a different location. He told Human Rights Watch that he never filed a formal complaint with the authorities because he fears for his life and that of his family.<sup>228</sup>
- On March 28, **José Alemán**, a correspondent for the newspaper *Tiempo* and the radio station Radio América in San Marcos de Ocotepeque, received a menacing call warning him not to continue with his reporting after the radio broadcast his report on fighting between the police and criminals in the area. Later that day, gunmen broke into his house

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<sup>224</sup> Committee to Protect Journalists, "Two Honduran TV reporters receive death threats," May 4, 2010, <http://cpj.org/2010/05/two-honduran-tv-reporters-receive-death-threats.php> (accessed September 28, 2010). See section on "Killings" in this chapter for more information on Nahúm Palacio's case. IACHR, "Preliminary Observations of the Inter-American Commission on Human Rights about its visit to Honduras on May 15-18, 2010," paras. 30-31.

<sup>225</sup> IACHR, "Preliminary Observations of the Inter-American Commission on Human Rights about its visit to Honduras on May 15-18, 2010," para. 29; Committee to Protect Journalists, "Two Honduran TV reporters receive death threats," May 4, 2010, <http://cpj.org/2010/05/two-honduran-tv-reporters-receive-death-threats.php> (accessed September 28, 2010). See section on "Killings" in this chapter for more information on Nahúm Palacio's case.

<sup>226</sup> The text message in Spanish reads: "muchachita cállate el pico si no querés que te lo callen."

<sup>227</sup> Human Rights Watch telephone interview with Cecilia P., April 6, 2010. Cecilia P. is a pseudonym used to safeguard the victim against possible retaliation.

<sup>228</sup> Human Rights Watch telephone interview with Arturo H., April 14, 2010. CODEH, Testimony of Arturo H., April 12, 2010. Arturo H. is a pseudonym used to safeguard the victim against possible retaliation.

and fired shots into his bedroom while he was not at home. A car also cut him off in a threatening manner while he was riding his bicycle that same afternoon. Alemán fled Honduras that day.<sup>229</sup>

- **José Oswaldo Martínez** is an active member of the FNRP and a voluntary journalist with Radio Uno, where he participates in a daily political program. Since the coup he has sporadically received threats on his cell phone, but the threats intensified at the end of March. The journalist received anonymous phone calls in which he was warned, “Your days are numbered, we’re going to shoot you in the head.” And “If you don’t shut up, asshole, we’re going to shoot you in the head ... we know what car you drive in and we know where you live.” The last threatening call he received was on March 31.<sup>230</sup>
- On April 8, **Father Ismael Moreno**, a Jesuit priest and human rights advocate who works at the Jesuit organization Team of Studies, Investigation and Communication (*Equipo de Reflexión, Investigación y Comunicación*, ERIC), received a text message stating “Melo son of a bitch you’ll regret having helped ivonne ‘cause you forgot the sons of bitches that she leaves behind in honduras we will gladly kill them who will defend those trashy sons of bitches mommy will be far away (sic).”<sup>231</sup> Father Moreno had been supporting the efforts of a woman (who was a member of the FNRP and had been raped by police officers) and her family to leave Honduras. On April 10, Father Moreno received another text message and several calls saying someone would kill the woman’s husband.<sup>232</sup>
- On April 14, **Gerardo Chévez**, a reporter with Radio El Progreso, got a message that said, “Resistance: We are eliminating the Chévez, then we will go for the priests.”<sup>233</sup> Three days earlier his cousin, radio host Luis Alberto Chévez, was murdered by unidentified gunmen outside his home.<sup>234</sup> Gerardo Chévez had received a number of threatening text messages since the coup. On May 3, the IACHR ordered Honduras to protect Chévez.<sup>235</sup>

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<sup>229</sup> Committee to Protect Journalists, “Honduran journalist flees the country after attacks,” April 1, 2010, <http://cpj.org/2010/04/honduran-journalist-flees-the-country-after-threat.php> (accessed September 28, 2010).

<sup>230</sup> Human Rights Watch telephone interviews with José Oswaldo Martínez, April 6 and July 27, 2010; Defensoresenlinea.com, “Oligarchy focused on closing Radio Uno, whatever it takes” (Oligarquía empecinada en cerrar Radio Uno a como dé lugar), March 20, 2010, [http://www.defensoresenlinea.com/cms/index.php?option=com\\_content&view=article&id=671:oligarquia-empecinada-en-cerrar-radio-uno-a-como-de-lugar&catid=54:den&Itemid=171](http://www.defensoresenlinea.com/cms/index.php?option=com_content&view=article&id=671:oligarquia-empecinada-en-cerrar-radio-uno-a-como-de-lugar&catid=54:den&Itemid=171) (accessed September 28, 2010).

<sup>231</sup> The text message in Spanish reads: “aja Melo hijo deputa te vas arrepentir de abele prestado ayuda a ivonne pues sête ólvodo de los hijos de puta que deja aquí en honduras los mataremos con gusto quien los va defender ahora a esos basura hijos de puta mamita va estar lejos.”

<sup>232</sup> Human Rights Watch email correspondence with Father Ismael Melo, April 8, 2010; Human Rights Watch interview with Father Ismael Melo, San Pedro Sula, August 26, 2010; Attorney General’s Office, Testimony by Ismael Melo, April 9, 2010; Complaint presented by Valentin Menéndez, S.J., representative of the Compañía de Jesús, before the Human Rights Unit of the Attorney General’s Office, April 16, 2010.

<sup>233</sup> The original threat in Spanish reads: “Resistencia estamos eliminando a los chebes luego van los curas.”

<sup>234</sup> See section on “Killings” in this chapter for more information on Luis Alberto Chévez’s case.

<sup>235</sup> Radio Progreso, “Why we feel threatened” (Actuaciones por las cuales nos sentimos amenazados), undated; Information provided to Human Rights Watch by Father Ismael Melo, director of Radio El Progreso, San Pedro Sula, August 26, 2010. IACHR, “Preliminary Observations of the Inter American Commission on Human Rights about its visit to Honduras on May 15-18, 2010,”

- On April 24, **Lucy Mendoza**, a human rights defender who has provided legal support to journalists of Radio El Progreso, received a text message stating, “Coronel: Do you think we don’t know who you are? You go to the park, we know at what time you arrive and we see when and with whom you arrive. Better leave all of that resistance stuff.” Mendoza has also been followed and has received other threats.<sup>236</sup>
- On May 13, television news presenter **Jessica Johanna Pavón Osorto** received a series of threatening text messages. Pavón, a presenter on the news programs *Notiseis Matutino* y *Notiseis Nocturno* on Channel 6 in Tegucigalpa, has reported on police stories and union negotiations seeking a minimum wage. The first message said, “You can really feel death today bitch, because you’re wearing white and we’re going to kill you, bitch.” Pavón was in fact dressed in white that day. Pavón received menacing texts and calls throughout the day and was escorted home by the police. She has continued to receive threats since then and has filed a report with the Attorney General’s Office.<sup>237</sup>
- **Arturo Rendón Pineda** and **Manuel Gavarrete**, two journalists with Radio La Voz de Occidente in Santa Rosa de Copán who have been critical of the coup, have received several threatening telephone calls. While recording their show on May 17, they received three phone calls from unknown individuals who threatened to kill Gavarrete and his family. According to Gavarrete, his wife also received a call from an anonymous caller who said he would kill her and her husband if the journalist didn’t “shut up.” Rendon has heard rounds of gunfire outside the studio and his house, and has since filed a report with the Attorney General’s Office.<sup>238</sup>
- In early June, **Eliodoro Cáceres Benitez**, an active member of the FNRP in Tela, received three death threats by phone, stating that members of organized crime would kill him and his family. His son went missing on June 13, and as of December, his whereabouts remained unknown.<sup>239</sup>

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para. 36; IACHR, MC 196-09; International Freedom of Expression Exchange (IFEX), “Journalist receives death threat,” April 26, 2010, [http://www.ifex.org/honduras/2010/04/26/chevez\\_death\\_threat/](http://www.ifex.org/honduras/2010/04/26/chevez_death_threat/) (accessed September 28, 2010).

<sup>236</sup> The text message in Spanish reads: “Coronel: Vos crees que no te conocemos? Pasas en el parque sabemos a que horas llegas y vemos cuando y con quien llegas mejor deja todo eso de resistencia”; IACHR, “Preliminary Observations of the Inter American Commission on Human Rights about its visit to Honduras on May 15-18, 2010,” para. 36; Radio Progreso, “Why we feel threatened” (Actuaciones por las cuales nos sentimos amenazados), undated; Information provided to Human Rights Watch by Father Ismael Melo, director of Radio El Progreso, San Pedro Sula, August 26, 2010.

<sup>237</sup> CODEH, Testimony of Jessica Johanna Pavón Osorto, May 13, 2010; IACHR, “Preliminary Observations of the Inter-American Commission on Human Rights about its visit to Honduras on May 15-18, 2010,” paras. 32- 34; International Freedom of Expression Exchange (IFEX), “Canal 6 journalist received death threats,” May 13, 2010, [http://www.ifex.org/honduras/2010/05/17/pavon\\_osorto\\_death\\_threats/](http://www.ifex.org/honduras/2010/05/17/pavon_osorto_death_threats/) (accessed September 28, 2010).

<sup>238</sup> IACHR, “Preliminary Observations of the Inter-American Commission on Human Rights about its visit to Honduras on May 15-18, 2010,” paras. 37-38.

<sup>239</sup> Human Rights Watch telephone interview with Elidoro Cáceres Benitez, July 29, 2010; Human Rights Watch telephone interview with Elidoro Obando, December 1, 2010; CODEH, Testimony of Elidoro Cáceres Benitez, June 19, 2010; Human Rights Defenders Online (Defensores en línea), “Member of the resistance disappears in Tela” (Desaparece miembro de la Resistencia en Tela, Atlántida), June 15, 2010,

- In June, **Anarella Vélez**, who works at the nongovernmental organization C-Libre, received several intimidating emails after she presented the organization's annual report during the OAS General Assembly meeting in Lima. The report criticized the situation of freedom of expression in Honduras. One email said "What they should do is hire the Zetas to kill all the members of the Resistance, and as a prize give them channel 36 and Radio Globo... after all it's that easy to get rid of them."<sup>240</sup>
- On June 17, unknown individuals jumped into the car of **Rosa Margarita Vargas Zelaya**, a teacher and member of the FNRP, and told her they would kill her and "all the members of the resistance" if she returned to the school where she teaches. They tied her hands, covered her mouth, insulted her, and issued death threats.<sup>241</sup>
- On July 17, **Gladys Lanza Ochoa**, a human rights defender who works with the Committee for Peace (*Comité por la Paz Visitación Padilla*), received an email stating, "have you forgotten the money you stole...? You don't remember the people you ordered be killed when you controlled the guerrilla working with the Communist Party...? Have you forgotten, rotten old lady? Do you think we don't remember? We will get you, ignorant old lady! (sic)"<sup>242</sup> The email had pictures attached to it, including two of Lanza, one of the leader of a military battalion allegedly responsible for the enforced disappearance of Lanza's partner in the 1980s, and one with a coffin. In July 2009, the IACHR had ordered Honduras to protect Lanza, who has received several threats since the coup. Given the government's lack of compliance, on September 2, 2010, the Inter-American Court requested that Honduras protect Lanza, arguing that she faces what appears to be a situation of "extreme gravity and urgency."<sup>243</sup>
- On July 21, unknown individuals broke into the car of **Kenya Oliva**, a human rights defender working with the Committee of Family Members of the Disappeared in Honduras (*Comité de Familiares Detenidos-Desaparecidos de Honduras*, COFADEH), while she was at the Attorney General's Office obtaining information on the status of investigations into complaints filed by her organization. In 2009, the IACHR had ordered the government of Honduras to protect Oliva and several other members of COFADEH. Nevertheless,

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[http://www.defensoresenlinea.com/cms/index.php?option=com\\_content&view=article&id=800:desaparece-miembro-de-la-resistencia-en-tela-atlantida&catid=54:den&Itemid=171](http://www.defensoresenlinea.com/cms/index.php?option=com_content&view=article&id=800:desaparece-miembro-de-la-resistencia-en-tela-atlantida&catid=54:den&Itemid=171) (accessed September 21, 2010).

<sup>240</sup> Human Rights Watch telephone interview with Anarella Velez Oseja, Tegucigalpa, August 25, 2010; Email threats provided to Human Rights Watch by Anarella Velez Oseja, September 9, 2010.

<sup>241</sup> CODEH, Testimony of Margarita Vargas Zelaya, June 17, 2010.

<sup>242</sup> The original text in Spanish reads: "Que ya se te olvido el dinero que te robaste del STENEE CON LA ROLL ROIZ RUSH que ahora tiene una ONG robada a Callejas y ¿ya no te acordas de la gente que mandastes a matar en San Pedro Sula cuando controlabas la guerrilla del partido comunista de Padilla Fush? ¿O ya se te olvido vieja podrida? ¿Crees que nosotros no nos acordamos? Ahorita te caemos, vieja ignorante!!! (sic)." Inter-American Court of Human Rights, "Provisional Measures on Honduras. Case Gladys Lanza Ochoa" (Medidas Provisionales respecto de Honduras. Asunto Gladys Lanza Ochoa), September 2, 2010, para. 2 (ñ).

<sup>243</sup> IACHR, "Provisional Measures on Honduras. Case Gladys Lanza Ochoa," para. 16.

according to Oliva, the government had not provided police protection and no one has answered when she or others called the emergency numbers the government provided.<sup>244</sup>

- On July 22, **Osman Montezinos**, a member of the FNRP and the “Popular Youth Movement Morazanista,” received a text message saying, “children will pay for the errors of their parents. We lost one, but you will lose another one.”<sup>245</sup> A month earlier, Montezino’s son had published a book titled “My pencil in resistance. Political tales.” Montezinos told Human Rights Watch that unknown individuals had followed him in the past.<sup>246</sup>
- On August 20, **José Pablo Peraza**, a journalist with Radio El Progreso, received a text message saying “you are next, the good part is that you live near the hospital and we’ll do the job early in the morning stop fooling around (sic).” Peraza does live near a hospital and leaves home at 5 a.m. every day to go to work.<sup>247</sup>
- On September 14, **Luis Galdámez Álvarez**, a reporter for Radio Globo and Globo TV stations, was ambushed by unidentified gunmen when he entered his home. Galdámez returned fire and the attackers eventually fled. He has frequently been critical of the coup and the Lobo government in his broadcasts and has received threats for more than a year. In June 2009, the IACHR ordered that the Honduran government provide him with protection.<sup>248</sup>
- On September 15, police and military members attacked the offices of **Radio Uno** in San Pedro Sula, which has been critical of the coup. They threw tear gas bombs at the radio station’s offices and at the people inside, broke windows in the building, damaged equipment and seriously injured one person who was going to the station to be interviewed. The station was also vandalized on August 31.<sup>249</sup>

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<sup>244</sup> Human Rights Watch telephone interview with Kenya Oliva, August 12, 2010; IACHR, MC 196-09.

<sup>245</sup> The text message in Spanish reads: “Las crías van a pagar los errores de los padres. Perdimos uno, pero ustedes van a perder otro.”

<sup>246</sup> Human Rights Watch telephone interview with Osman Montezinos, July 29, 2010.

<sup>247</sup> The text message in Spanish reads: “Vos sos el que sigue lo bueno es que vivís cerca del hospital y tempranito haremos el trabajo no sigas metido a pedos.” Human Rights Watch email correspondence with Lucy Mendoza, human rights lawyer who works for El Progreso, September 13, 2010; Center to Receive Claims (Centro de Recepción de Denuncias) at the Ministry of Security, “Claim number 2209” (Denuncia No. 2209), August 20, 2010.

<sup>248</sup> Committee to Protect Journalists, “Critical Honduran reporter survives shooting attack,” September 16, 2010, <http://cpj.org/2010/09/critical-honduran-reporter-survives-shooting-attac.php> (accessed September 24, 2010); Office of the Special Rapporteur for Freedom of Expression of the IACHR, “Office of the Special Rapporteur expresses concern over new attacks against journalists and media in Honduras,” September 20, 2010, <http://www.cidh.org/relatoria/showarticle.asp?artID=820&IID=1> (accessed September 28, 2010). C-Libre/ International Freedom of Expression Exchange, “Journalist survives assassination attempt,” September 16, 2010, [http://www.ifex.org/honduras/2010/09/16/galdamez\\_attack/](http://www.ifex.org/honduras/2010/09/16/galdamez_attack/) (accessed September 24, 2010).

<sup>249</sup> Office of the Special Rapporteur for Freedom of Expression of the IACHR, “Office of the Special Rapporteur expresses concern over new attacks against journalists and media in Honduras,” September 20, 2010, <http://www.cidh.org/relatoria/showarticle.asp?artID=820&IID=1> (accessed September 28, 2010).

## Status of Investigations

Despite repeated requests, Human Rights Watch has been unable to obtain information on the status of the investigations in the majority of the cases described in this chapter. The incomplete information we were able to obtain indicates that there has been little or no progress.<sup>250</sup>

Prosecutors have only filed charges in two of the 10 cases of killings of journalists.<sup>251</sup> In the case of the killing of David Meza, a judge ordered the detention of four men on June 2, 2010.<sup>252</sup> The only one who voluntarily presented himself before a judge was acquitted. According to press accounts, police officers detained another suspect in September 2010, and the rest remain at large.<sup>253</sup> In the case of the killing of Jorge Alberto Orellana, one of the defendants was acquitted, while the prosecution continues against the other.<sup>254</sup>

To their credit, prosecutors from the Human Rights Unit at the Attorney General's Office, who can only investigate cases in which military or police personnel are accused of committing a crime, have attempted to investigate some of the threats described above. Despite the fact that it is not always clear who issued the threats, they have tried to investigate, for example, cases in which the victims were human rights defenders.

However, prosecutors from the Human Rights Unit told Human Rights Watch that they have encountered two major difficulties when investigating these cases. The first is that, under Honduran law they can only investigate threats if the threatened person files a formal

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<sup>250</sup> Danelia Ferrera, director of prosecutors (Directora General de Fiscalías) at the Attorney General's Office, told Human Rights Watch in August that she would look for information on the status of the investigations into killings and threats, but as of the time of writing had not provided additional information than the one included in this section. Human Rights Watch telephone interview with Danelia Ferrera, general director of prosecutors (directora general de fiscalías) at the Attorney General's Office, Tegucigalpa, September 7, 2010; Human Rights Watch email correspondence with Danelia Ferreira, September 7 and 20, 2010.

<sup>251</sup> Ibid; Human Rights Watch interview with Justice Jorge Rivera Aviles, president of the Supreme Court of Justice of the Republic of Honduras, Justice Rosa de Lourdes Paz Haslam, Justice José Tomás Arita Valle, and Justice José Antonio Gutiérrez Navas, Tegucigalpa, August 25, 2010; Ministry of Security, Document D-DNIC-309-2010 (Oficio No. D-DNIC-309-2010), August 19, 2010.

<sup>252</sup> Ibid; According to a power point presentation made by the Court during the meeting, the four accused are Angel Adalberto Martínez Nuñez, Terry Dubson Thomson Ivans, Marco Joel Alvarez Barahona, and Mario Roberto Guevara Caballero.

<sup>253</sup> Human Rights Watch telephone interview with Danelia Ferrera, general director of prosecutors (directora general de fiscalías) at the Attorney General's Office, Tegucigalpa, September 7, 2010; Section "Events" (Sección Sucesos), "One of the suspects accused of killing journalist David Meza is caught" (Cae uno de los sospechosos de matar al periodista David Meza), *Tiempo*, September 22, 2010. Section "Events" (Sección Sucesos), "Pretrial detention for "The Unicorn" for killing David Meza" (Auto de prisión para "El Unicornio" por asesinato de David Meza), *Tiempo*, September 30, 2010.

<sup>254</sup> Human Rights Watch interview with Justice Jorge Rivera Aviles, president of the Supreme Court of Justice of the Republic of Honduras, Justice Rosa de Lourdes Paz Haslam, Justice José Tomás Arita Valle, and Justice José Antonio Gutiérrez Navas, Tegucigalpa, August 25, 2010. According to a power point presentation made by the Court during the meeting, Freddy Omar Ayala was acquitted, and Joseph Cockbork Delgado will be tried for the killing of Orellana.

complaint before prosecutors.<sup>255</sup> And, according to the prosecutors, in several cases, the victims failed to do so.<sup>256</sup>

Secondly, judges have undermined prosecutors' ability to investigate these cases. In one case, in May 2010, a judge in San Pedro Sula rejected a prosecutor's request for authorization to obtain phone records for use in identifying the owner of a phone from which threatening text messages were sent.<sup>257</sup> Even though prosecutors transcribed two death threats received by a human rights defender from the same number, the judge ruled the evidence insufficient to warrant violating the phone owner's right to privacy.<sup>258</sup>

Similarly, in June 2010, a prosecutor in Tegucigalpa requested that a judge order a cell phone company and the National Telecommunications Company (HONDUTEL) to provide information on calls made to, and received from, two numbers from which threats were allegedly issued. The prosecutor argued that the information would help corroborate the victim's allegations that he had received several calls from that number, and that a high-ranking military official had issued the threats.<sup>259</sup> The court, however, ruled that the prosecutor needed to provide the "complete name of the accused and where he is based," which are prerequisites for any criminal charge.<sup>260</sup> But the prosecutor had not charged anyone yet and needed the requested information to be able to gather sufficient evidence to bring charges.<sup>261</sup>

## Lack of Adequate Protection

Since the coup, the IACHR has issued "precautionary measures" (*medidas cautelares*) ordering the government of Honduras to provide protection to over 150 journalists, human rights defenders, coup opponents, and their families. This includes 14 cases arising since President Lobo took office.<sup>262</sup>

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<sup>255</sup> Code of Criminal Procedures, art. 26 (2): "The following crimes may only be prosecuted by public prosecutors per request of the victim: ... (2) threats."

<sup>256</sup> Human Rights Watch interview with Sandra Ponce, head of the Human Rights Unit of the Attorney General's Office, and Juan Carlos Griffin, prosecutor in the Human Rights Unit, Tegucigalpa, August 23, 2010.

<sup>257</sup> Human Rights Watch interview with John César Mejía, director of the San Pedro Sula office of the Human Rights Unit of the Attorney General's Office, San Pedro Sula, August 27, 2010.

<sup>258</sup> Request by Junny Coritza Vega Martinez, prosecutor in the Human Rights Unit, to the Criminal Judge of the Judicial Section of San Pedro Sula, May 14, 2010; Decision by Blanca Rita Dubon Bueso, Criminal Judge of the Judicial Section of San Pedro Sula, May 21, 2010; Appeal submitted by Johnny Bladimir Dubon Burgos, prosecutor, to the Criminal Judge of the Judicial Section of San Pedro Sula, May 25, 2010.

<sup>259</sup> Request by Juan Carlos Griffin Ramirez, prosecutor in the Human Rights Unit, to the Criminal Judge of the Judicial Section of Tegucigalpa (Juez de Letras de lo Penal Sección Judicial de Tegucigalpa), June 17, 2010.

<sup>260</sup> Resolution by the Criminal Court of the Judicial Section of Tegucigalpa (Juzgado de Letras Penal de la Sección Judicial de Tegucigalpa, Departamento de Francisco Morazan), File 20536-10, June 29, 2010.

<sup>261</sup> Human Rights Watch interview with Sandra Ponce, head of the Human Rights Unit of the Attorney General's Office, and Juan Carlos Griffin, prosecutor in the Human Rights Unit, Tegucigalpa, August 23, 2010.

<sup>262</sup> IACHR, "Precautionary Measures granted in Honduras. June 28, 2009 to date" (*Medidas Cautelares otorgadas en Honduras. 28 de junio de 2009 hasta la fecha*), <http://www.cidh.org/medidas/2010Hond.sp.htm> (accessed October 18, 2010).

In June 2010, the commission emphasized that efforts by Honduras to comply with these measures have been “few, late in coming, and in some cases nonexistent.”<sup>263</sup> As evidence of the government’s ineffective compliance, the commission cited the case of Nahúm Palacios, who was killed after the commission had requested that the Honduran government protect him.

In August, Ana Pineda, the human rights advisor to President Lobo at the time, told Human Rights Watch that the major difficulties in implementing protective measures are identifying the victim, determining where he or she lives, and establishing what sort of protection the person needs. According to Pineda, after the government issued a public invitation in three major newspapers asking individuals who had been granted precautionary measures to present themselves to obtain protection, officials were able to reach agreement with 217 such individuals as to what sort of protection the government would provide. She said that the government still had not provided protection to another 96 people who had been granted precautionary measures by the IACHR but with whom the government had yet to reach an agreement.<sup>264</sup>

In October 2010, however, four NGOs representing almost 200 people granted precautionary measures by the IACHR reported that two people who should have received protection had been killed, 35 had received death threats, and nine had fled Honduras with their families.<sup>265</sup>

Representatives from Honduran human rights organizations that brought the cases to the IACHR also told Human Rights Watch that the protection provided by the government has been inadequate, and that many victims say they do not trust the police to protect them. In one case, a victim was given a phone number to call in case it was necessary to contact the police, but when he called, no one answered the phone.<sup>266</sup> In another instance, a person who was supposed to receive police protection had to wait for an hour at the police station for the officer who was to provide a police escort. When the officer arrived and the victim offered him water, the officer responded he did not want anything “from coup-plotters.”<sup>267</sup>

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<sup>263</sup> IACHR, “Preliminary Observations of the Inter-American Commission on Human Rights about its visit to Honduras on May 15-18, 2010,” para. 71.

<sup>264</sup> Human Rights Watch interview with Ana Pineda, human rights advisor to President Porfirio Lobo, Tegucigalpa, August 25, 2010.

<sup>265</sup> “CEJIL: The government of Honduras does not respect the IACHR” (CEJIL: El Estado de Honduras irrespeto la CIDH), Radio El Progreso, October 29, 2010.

<sup>266</sup> Human Rights Watch interview with Bertha Oliva, president of COFADEH, Tegucigalpa, August 24, 2010.

<sup>267</sup> Human Rights Watch interview with Andrés Pavón, president of CODEH, Tegucigalpa, August 24, 2010.



## Chilling Effect

The ongoing killings, threats, and attacks have generated a climate of fear and intimidation that has undermined the exercise of basic rights in Honduras.

A radio journalist told Human Rights Watch that a colleague left his job at their station after receiving repeated death threats for his political views.<sup>268</sup> A coup opponent interviewed by Human Rights Watch said she felt compelled to abandon her political activities after she and her daughters were accosted by armed men.<sup>269</sup> A FNRP member who was shot in the leg during an assassination attempt told Human Rights Watch that he stopped participating in political activities as a result of the attack.<sup>270</sup>

According to Leo Valladares, a human rights defender and formerly the national ombudsman of Honduras, these cases reflect a broader chilling effect on Honduran society. Even though there still is active civil society participation in political affairs, the threats and attacks generate fear, which inhibits journalists and defenders from doing their work.<sup>271</sup> Similarly, Father Ismael Moreno told Human Rights Watch that the killings of journalists have led to self-censorship.<sup>272</sup> According to Osman López, president of C-Libre, an NGO that monitors freedom of expression in Honduras, this is particularly evident in rural areas, where most of the killings of journalists took place.<sup>273</sup>

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<sup>268</sup> Human Rights Watch telephone interview with victim who requested anonymity, July 27, 2010.

<sup>269</sup> Human Rights Watch telephone interview with Rebecca Ethel Becerra Lanza, April 28, 2010.

<sup>270</sup> Human Rights Watch telephone interview with victim who requested anonymity, April 14, 2010.

<sup>271</sup> Human Rights Watch telephone interview with Leo Valladares, director of the Association to Promote Participatory Citizenship (Asociación para una Ciudadanía Participativa), Tegucigalpa, October 27, 2010.

<sup>272</sup> Human Rights Watch email correspondence with Father Ismael Moreno, October 28, 2010.

<sup>273</sup> Human Rights Watch email correspondence with Osman López, president of C-Libre, October 30, 2010.

## IV. Honduras's Obligations under International Law

### Obligation to Deter, Prevent, and Investigate Abuses

Honduras is party to several international treaties that impose an obligation to respect, protect, and fulfill human rights listed in the treaties.<sup>274</sup> Those same treaties also impose on the Honduran state the obligation to deter and prevent violations of those rights, to investigate and prosecute offenders, and to provide remedies to victims.<sup>275</sup>

The obligation to deter and prevent is, in part, a corollary to the obligation to respect, protect, and fulfill the human rights, reflecting the view that effective protection and prevention require investigation and punishment. The IACHR, for example, has held that “the State has the obligation to use all the legal means at its disposal to combat [impunity], since impunity fosters chronic recidivism of human rights violations and total defenselessness of victims and their relatives.”<sup>276</sup>

The duty to investigate and punish also derives from the right to a legal remedy that these treaties extend to victims of human rights violations. Under international law, governments have an obligation to provide victims of human rights abuses with an effective remedy, including justice, truth, and adequate reparations. Under the International Covenant on Civil and Political Rights (ICCPR), governments have an obligation “to ensure that any person whose rights or freedoms as herein recognized are violated shall have an effective remedy.”<sup>277</sup> The ICCPR imposes on states the duty to ensure that any person shall have their right to an effective remedy “determined by competent judicial, administrative or legislative authorities, or by any other competent authority provided for by the legal system of the State, and to develop the possibilities of judicial remedy.”<sup>278</sup>

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<sup>274</sup> Parts of this section were previously published in Human Rights Watch, *Uniform Impunity: Mexico's Misuse of Military Justice to Prosecute Abuses in Counternarcotics and Public Security Operations*, April 2009, <http://www.hrw.org/en/reports/2009/04/28/uniform-impunity-o> (accessed October 7, 2010).

<sup>275</sup> International Covenant on Civil and Political Rights (ICCPR), adopted December 16, 1966, G.A. Res. 2200A (XXI), 21 U.N. GAOR Supp. (No. 16) at 52, U.N. Doc. A/6316 (1966), 999 U.N.T.S. 171, entered into force March 23, 1976, ratified by Honduras on August 25, 1977. American Convention on Human Rights (ACHR) (“Pact of San Jose, Costa Rica”), adopted November 22, 1969, O.A.S. Treaty Series No. 36, 1144 U.N.T.S. 123, entered into force July 18, 1978, reprinted in Basic Documents Pertaining to Human Rights in the Inter-American System, OEA/Ser.L.V/II.82 doc.6 rev.1 at 25 (1992), ratified by Honduras on October 5, 1977; UN Convention against Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment (Convention Against Torture), adopted December 10, 1984, G.A. res. 39/46, annex, 39 U.N. GAOR Supp. (No. 51) at 197, U.N. Doc. A/39/51 (1984), entered into force June 26, 1987, ratified by Honduras on April 16, 1996, arts. 2(1), 11, 16.

<sup>276</sup> Inter-American Court of Human Rights, Paniagua Morales et al., Judgment of March 8, 1998, Inter-Am.Ct.H.R., (Ser. C) No. 37 (1998), para. 173.

<sup>277</sup> ICCPR, art. 2(3)(a).

<sup>278</sup> ICCPR, art. 2 (3)(b). Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of international Human Rights Law and Serious Violations of International Humanitarian Law, March 21, 2006, adopted by the 60th session of the United Nations General Assembly, A/RES/60/147, principle II.3.(d): “The obligation to respect, ensure respect for

At the regional level, the American Convention on Human Rights (ACHR) states that every individual 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.”<sup>279</sup> The IACHR has held that this right imposes an obligation upon states to provide victims with effective judicial remedies.<sup>280</sup>

States also have specific obligations to prevent and punish torture and to ensure that whenever torture occurs there is effective investigation and prosecution and a proper remedy for the victim.<sup>281</sup>

## International Standards on Judicial Independence and Impartiality

Several international treaties, including the ICCPR and the ACHR, require that individuals be tried by “independent and impartial tribunals.”<sup>282</sup> A series of authoritative international documents set forth criteria to determine whether a justice system is in fact independent and impartial:

- Judges should be free from constraints, pressures, or orders imposed by the other branches of government. According to the UN Basic Principles on the Independence of the Judiciary (UN Basic Principles), “[i]t is the duty of all governmental and other institutions to respect and observe the independence of

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and implement international human rights law and international humanitarian law as provided for under the respective bodies of law, includes, inter alia, the duty to: (d) Provide effective remedies to victims, including reparation, as described below.”

<sup>279</sup> ACHR, art. 25. Similarly, the Inter-American Convention to Prevent and Punish Torture requires states to “take effective measures to prevent and punish torture” and “other cruel, inhuman, or degrading treatment or punishment within their jurisdiction” (Article 6). It also requires states parties to guarantee that “any person making an accusation of having been subjected to torture within their jurisdiction shall have the right to an impartial examination of his case,” and that “their respective authorities will proceed properly and immediately to conduct an investigation into the case and to initiate, whenever appropriate, the corresponding criminal process” (Article 8).

<sup>280</sup> Inter-American Court of Human Rights, Velásquez Rodríguez Case, Judgment of July 29, 1988, Inter-Am.Ct.H.R., (Ser. C) No. 4 (1988), paras. 166, 174, 176; Inter-American Court of Human Rights, Loayza Tamayo Case, Judgment of November 27, 1998, Inter-Am.Ct.H.R., (Ser. C) No. 33 (1998), para. 169.

<sup>281</sup> UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, arts. 4-6, 12-14.

<sup>282</sup> ICCPR, art. 14(1): “Everyone shall be entitled to a fair and public hearing by a competent, independent and impartial tribunal established by law”; ACHR, art. 8(1): “[E]very person has the right to a hearing, with due guarantees and within a reasonable time, by a competent, independent, and impartial tribunal, previously established by law”; International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, art. 18(1); art. 18 states that migrant workers and their families “shall be entitled to a fair and public hearing by a competent, independent and impartial tribunal established by law”; European Convention for the Protection of Human Rights and Fundamental Freedoms, 213 U.N.T.S. 222, entered into force September 3, 1953, as amended by Protocols Nos 3, 5, 8, and 11 which entered into force on September 21, 1970, December 20, 1971, January 1, 1990, and November 1, 1998, respectively, art. 6(1): “Everyone is entitled to a fair and public hearing within a reasonable time by an independent and impartial tribunal established by law”; African Charter on Human and Peoples’ Rights, adopted 27 June 1981, OAU Doc. CAB/LEG/67/3 rev. 5, 21 I.L.M. 58 (1982), entered into force 21 October 1986, art. 7(1) (b, d), art. 7 states that everyone shall have the “right to be presumed innocent until proved guilty by a competent court or tribunal” and the “right to be tried within a reasonable time by an impartial court or tribunal.”

the judiciary,” and the judiciary “shall decide matters before them impartially, on the basis of facts and in accordance with the law, without any restrictions, improper influences, inducements, pressures, threats or interferences, direct or indirect, from any quarter or for any reason.”<sup>283</sup>

- Proper training and qualifications should be the basis of the appointments of judges. The Universal Charter of the Judge points out that “[t]he selection and each appointment of a judge must be carried out according to objective and transparent criteria based on proper professional qualification.”<sup>284</sup> The UN Basic Principles, similarly, state that “[a]ny method of judicial selection shall safeguard against judicial appointments for improper motives.”<sup>285</sup>
- Judges should have security of tenure to avoid fear of being removed from their posts for the decisions they adopt. The UN Basic Principles state that “[t]he term of office of judges, their independence, security, adequate remuneration, conditions of service, pensions and the age of retirement shall be adequately secured by law” and that “[j]udges, whether appointed or elected, shall have guaranteed tenure until a mandatory retirement age or the expiry of their term of office, where such exists.”<sup>286</sup>
- Judges may only be suspended or removed from their jobs “for reasons of incapacity or behaviour that renders them unfit to discharge their duties” and they have the right to a fair hearing.<sup>287</sup> According to the Statute of the Iberoamerican Judge, “the disciplinary responsibility of judges will be determined by the judicial bodies established by law,

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<sup>283</sup> Basic Principles on the Independence of the Judiciary, adopted by the Seventh United Nations Congress on the Prevention of Crime and the Treatment of Offenders, Milan, 26 August to 6 September 1985, U.N. Doc. A/CONF.121/22/Rev.1 at 59 (1985), <http://www2.ohchr.org/english/law/indjudiciary.htm> (accessed September 29, 2010), arts. 1 and 2. The Bangalore Principles of Judicial Conduct (Bangalore Principles) further add that “[a] judge shall exercise the judicial function independently on the basis of the judge’s assessment of the facts and in accordance with a conscientious understanding of the law, free of any extraneous influences, inducements, pressures, threats or interference, direct or indirect, from any quarter or for any reason” and that “[a] judge shall not only be free from inappropriate connections with, and influence by, the executive and legislative branches of government, but must also appear to a reasonable observer to be free there from.” The Bangalore Principles of Judicial Conduct, revised at the Hague, November 25-26, 2002, arts. 1(1) and 1(3), [http://www.unodc.org/pdf/crime/corruption/judicial\\_group/Bangalore\\_principles.pdf](http://www.unodc.org/pdf/crime/corruption/judicial_group/Bangalore_principles.pdf) (accessed September 29, 2010).

The Council of Europe has stated that “[i]n the decision-making process, judges should be independent and be able to act without any restriction, improper influence, inducements, pressures, threats or interferences, direct or indirect, from any quarter or for any reason” and that “[j]udges should not be obliged to report on the merits of their cases to anyone outside the judiciary”; Council of Europe, Recommendation No. R (94) 12 of the Committee of Ministers to Member States on the Independence, Efficiency and Role of Judges, adopted on October 13, 1994, [http://www.coe.int/t/e/legal\\_affairs/legal\\_co-operation/steering\\_committees/cdcj/cj\\_s\\_just/recR\(94\)12e.pdf](http://www.coe.int/t/e/legal_affairs/legal_co-operation/steering_committees/cdcj/cj_s_just/recR(94)12e.pdf) (accessed September 29, 2010).

<sup>284</sup> The Universal Charter of the Judge, <http://www.hjpc.ba/dc/pdf/THE%20UNIVERSAL%20CHARTER%20OF%20THE%20JUDGE.pdf> (accessed October 7, 2010), art. 9. The Council of Europe has also noted that “[a]ll decisions concerning the professional career of judges should be based on objective criteria, and the selection and career of judges should be based on merit, having regard to qualifications, integrity, ability and efficiency.” Council of Europe, principle I, art. 2 (c).

<sup>285</sup> UN Basic Principles, art. 10.

<sup>286</sup> UN Basic Principles, arts. 11 and 12. Similarly, the Council of Europe says that “[j]udges, whether appointed or elected, shall have guaranteed tenure until a mandatory retirement age or the expiry of their term of office.” Council of Europe, principle I, art. 3.

<sup>287</sup> UN Basic Principles, arts. 17 and 18.

through processes that guarantee the respect of due process and, in particular, the right to a hearing, to defense, to contest [evidence], and to applicable legal recourses.”<sup>288</sup>

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<sup>288</sup> Statute of the Iberoamerican Judge (Estatuto del Juez Iberoamericano), adopted by the VI Iberoamerican Meeting of Supreme Court Presidents (VI Cumbre Iberoamericana de Presidentes de Cortes Supremas y Tribunales Supremos de Justicia) on May 23-25, 2001, <http://www2.scjn.gob.mx/investigacionesjurisprudenciales/codigos/ibero/estatuto-del-juez-iberoamericano.pdf> (accessed September 30, 2010), art. 20.

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# After the Coup

## Ongoing Violence, Intimidation, and Impunity in Honduras

After President Manuel Zelaya was ousted in a military coup in June 2009, security forces committed serious human rights violations, killing some protesters, repeatedly using excessive force against demonstrators, and arbitrarily detaining thousands of coup opponents. The de facto government also imposed illegitimate restrictions on freedom of expression and assembly.

Since President Porfirio Lobo took office in January 2010, there have been ongoing acts of violence and intimidation against journalists, human rights defenders, and political activists. This report documents 47 such cases, including 18 killings. While some of these cases may be the result of common crime, available evidence—including explicit threats—suggest that many were politically motivated.

No one has been held criminally responsible for the human rights violations committed under the de facto government. The lack of progress in the investigations is primarily due to lack of support for the Human Rights Unit of the Attorney General's Office from other state institutions, particularly during the early stage of investigations in 2009. Moreover, available information indicates that there has been only limited progress in investigating the 2010 attacks and threats against journalists, human rights defenders, and political activists.

This lack of accountability—and the ongoing violence and threats—have had a chilling effect on speech and political participation in Honduras, particularly among those who opposed the coup. Until Honduran authorities take concrete steps to reduce impunity and curb ongoing attacks, it will be very difficult to restore trust in Honduras's democratic system.

*Casings from live ammunition that witnesses say was used by the Honduran Army to disperse a pro-Zelaya demonstration at the Tegucigalpa airport on July 5, 2009.*

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