

**RECOMMENDATIONS
TO THE NEW
HONDURAN
GOVERNMENT
FOLLOWING THE
COUP OF JUNE
2009**

**AMNESTY
INTERNATIONAL**



Amnesty International Publications

First published in January 2010 by
Amnesty International Publications
International Secretariat
Peter Benenson House
1 Easton Street
London WC1X 0DW
United Kingdom
www.amnesty.org

© Copyright Amnesty International Publications 2010

Index: AMR 37/003/2010
Original Language: English
Printed by Amnesty International, International Secretariat, United Kingdom

All rights reserved. No part of this publication may be reproduced, stored in a retrieval system, or transmitted, in any form or by any means, electronic, mechanical, photocopying, recording or otherwise without the prior permission of the publishers.

Amnesty International is a global movement of 2.2 million people in more than 150 countries and territories, who campaign on human rights. Our vision is for every person to enjoy all the rights enshrined in the Universal Declaration of Human Rights and other international human rights instruments. We research, campaign, advocate and mobilize to end abuses of human rights. Amnesty International is independent of any government, political ideology, economic interest or religion. Our work is largely financed by contributions from our membership and donations

**AMNESTY
INTERNATIONAL**



CONTENTS

Introduction	5
Recommendations to the new government	6
Human rights violations committed since the <i>coup</i>	8
Excessive use of force including unlawful killings.....	8
Arbitrary detention	12
Intimidation of members of the judiciary, journalists, human rights defenders and members of the opposition movement.....	13
Accountability and the right to remedy.....	16
International human rights law	17

INTRODUCTION

On 23 September, 16-year-old Gerson Ariel Cruz was seriously wounded by police following the break up of a protest in Tegucigalpa. According to an eyewitness, the police chased protesters into a residential neighbourhood where they opened fire with live ammunition. Gerson Ariel Cruz, who had not taken part in the protest, was shot in the stomach. When family members tried to take Gerson to hospital they were turned back from a police roadblock, considerably delaying their journey to seek emergency treatment. Gerson survived but sustained serious injuries,

Honduran President José Manuel Zelaya Rosales of the Liberal Party, was forced from power in a *coup d'état* on 28 June 2009 and expelled from the country by a military-backed group of politicians led by Roberto Micheletti, former President of the National Congress and also a member of the Liberal Party of Honduras. Mr Micheletti was one of a group of several politicians opposed to political and social reforms led by President Zelaya. President Zelaya, and other ministers, were arbitrarily arrested by military authorities in the early hours of the morning of the 28 June. The President was forced onto an aeroplane to Costa Rica. Those who orchestrated the *coup* argued that President Zelaya had broken the law in organizing a referendum on constitutional reforms which had been prohibited by Congress.

The *coup* prompted a political crisis and deterioration in the respect for human rights and the rule of law. From the time of the President's arrest, the military was brought onto the streets to maintain law and order¹. From 28 June onwards people who took to the streets to protest against the *coup* were frequently the target of excessive use of force by members of the security forces. Intimidation and attacks against those opposed to the *coup* were widespread and continue to this day. Decree PCM-M-016-2009, issued on 16 September, temporarily curtailed freedom of expression and several media outlets were closed as a result².

The majority of the international community condemned the *coup*. The UN General Assembly issued a resolution³ on 1 July 2009 demanding the "immediate and unconditional" reinstatement of the constitutional government and elected president, Manuel Zelaya. As a consequence of the *coup* several diplomatic representatives from member

countries of the European Union as well as the ambassadors from nearly all the Latin American countries were withdrawn from Honduras. On 5 July, Honduras was suspended from the Organization of American States (OAS), due to the regime's lack of willingness to seek a negotiated solution to the political crisis.

A *de facto* government headed by Roberto Micheletti remained in power throughout the crisis. President Zelaya returned clandestinely to Honduras and took up residency in the Brazilian Embassy in September. Despite the failure of political negotiations, mediated by the OAS, to restore the elected government, the *de facto* authorities proceeded with elections in November. Porfirio ("Pepe") Lobo of the National Party won the majority of the vote, though abstention was reportedly very high, and took office on 27 January 2010.

RECOMMENDATIONS TO THE NEW GOVERNMENT

Following two visits to Honduras⁴ during the *de facto* government's rule, Amnesty International documented widespread human rights violations against civilians by both police and military officials, including excessive use of force, unlawful killings, torture and other ill treatment, arbitrary arrest and harassment and intimidation of opponents to the *coup*. These crimes must not be forgotten or go unpunished.

Amnesty International is calling on the new government to ensure truth, justice and reparation for the human rights violations committed during the political crisis. If the new government is to restore the rule of law and confidence in its administration, it must reconfirm its commitment to human rights by ensuring past abuses are investigated and that those found responsible are brought to account for their crimes.

Amnesty International urges the new government to:

- Ensure immediate, independent and thorough investigations are conducted into all reports of human rights violations, including sexual violence, since 28 June 2009, bringing those responsible to justice in proceedings which meet international fair trial standards.
- Reject any political or legal measures, such as amnesty provisions, which could prevent reparation for victims of human rights violations, or stop perpetrators being held to account.
- Ensure police and military authorities cooperate fully with judicial investigations into human rights violations, including by providing full information and access to records and personnel.
- Strengthen the Office of the Special Prosecutor for Human Rights and other prosecutors with a mandate to investigate human rights violations. Ensure the strengthening and effectiveness of the witness protection programme.

- Provide reparation to the victims of abuses, based on principles of restitution, compensation, rehabilitation, satisfaction and guarantees of non-repetition.
- Ensure the armed forces return to their barracks, allowing law enforcement duties to be fully resumed by the police force.
- Improve policing methods by ensuring police officials are trained and accountability mechanisms are strengthened in accordance with the UN Code of Conduct for Law Enforcement Officials and UN Basic Principles on the Use of Force and Firearms by Law Enforcement Officials.
- Ensure training programmes for judges and judicial officials in the application of the 1985 UN Principles on the Independence of the Judiciary, as well as the application of legal duties contained in international human rights treaties to which Honduras is a state party and which it has agreed to uphold. Furthermore, ensure that judicial appointments are made in accordance with the above mentioned UN Principles.
- Establish a comprehensive national plan for human rights, covering economic, social and cultural rights as well as civil and political rights. The plan should address discrimination and protection of the rights of vulnerable groups such as women, children, indigenous and LGBT people, and it should be developed with the participation of all sectors of civil society.
- Recognise and support the key role of human rights defenders in accordance with the UN Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms (“UN Declaration on Human Rights Defenders”).
- Fully restore freedom of expression, urgently ensuring that critics, members of opposition parties and journalists are free to express their criticisms and views. In particular, ensure an end to the intimidation of those who opposed the *coup* and ensure that unfounded disciplinary proceedings against judges perceived as critical of the *coup* are dropped.
- Conduct an evaluation of the effectiveness of the Office of the Human Rights Ombudsman with a view to strengthening its independence and ability to contribute to respect for human rights. The evaluation should be conducted in liaison with an independent third party, such as the United Nations or the Inter-American Commission on Human Rights, and with the full participation of civil society.
- Issue a standing invitation to all UN and Inter-American thematic special rapporteurs. Of particular relevance to the situation since 28 June 2009 are the UN Special Rapporteur on extrajudicial, summary or arbitrary executions; the UN Special Rapporteur on the independence of judges and lawyers; the UN Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment; the UN Special Rapporteur on violence against women, its causes and consequences; and the Rapporteur on Women (IACHR).

HUMAN RIGHTS VIOLATIONS COMMITTED SINCE THE *COUP*

Amnesty International is deeply concerned that members of both police and military forces frequently committed human rights violations during the rule of the *de facto* government in Honduras, including excessive use of force, unlawful killings, arbitrary detention, torture and other ill-treatment. Reports of intimidation and harassment of critics, including journalists, human rights defenders, members of the judiciary, and suspected members of the opposition movement were also common.

Amnesty International also collected data which indicates there were cases of sexual harassment, physical abuse and rape of women and girls committed by members of the security forces during demonstrations and arrests.

One characteristic that all these violations have in common is that they were committed with impunity and the civilian authorities have so far conducted very few investigations. Victims and their families have not been able to access justice for the abuses they have suffered: as a consequence reparations for the harm suffered have so far been non-existent.

The following case illustrations collected by Amnesty International during its research visits to Honduras in July - August and in November - December 2009, demonstrate the severity of abuses committed by police and military officials and the need for urgent measures to remedy these abuses.

EXCESSIVE USE OF FORCE INCLUDING UNLAWFUL KILLINGS

Amnesty International recognizes that not all demonstrations which took place after the *coup* were peaceful and that the security forces have a responsibility to protect the public at large, as well as themselves, from violent acts by others. The organization also recognizes that policing large crowds and dealing with violent demonstrators can at times be a dangerous and difficult job. However, evidence collected by Amnesty International and outlined in this report shows that excessive use of force was frequently used by both police and military officials against demonstrators and bystanders on the one hand, to punish them as suspected critics of the *coup* and, on the other hand, without any restraint or regard for life.

Amnesty International took testimony from both adults and children who were victims of excessive use of force by the security forces.⁵ In some cases, the level of force deployed by the security forces resulted in serious injury or death. Amnesty International found that core human rights norms regarding the proportional and justified use of force were breached in a systemic way in the dispersal of crowds and in other law enforcement operations.

Many of those interviewed by Amnesty International described being beaten during demonstrations. The majority also stated that they had suffered serious ill-effects from the abusive and dangerous use of tear gas and other riot control irritants used by the security forces.

According to reports, the security forces often gave no warning, or allowed insufficient time for people to disperse, before firing tear gas at crowds of thousands of people. Witness testimonies indicate that it became commonplace for the security forces to fire tear gas from very close range, so that canisters fell directly into the crowds of demonstrators.

Sources differ as to the number of deaths attributed to security forces through the excessive and abusive use of force, including the use of live ammunition. However, most reports coincide in that at least 10 people were killed during or shortly after demonstrations, or during curfews, or in and around military or police checkpoints. The causes of death and serious injury attributed to members of the security forces include shooting to the head, face and abdomen, using live ammunition or rubber bullets.

Nineteen-year-old Isis Obed Murillo died from a gunshot wound to the head on 5 July after members of the military fired live ammunition during a demonstration at Toncontín airport in Tegucigalpa. According to reports, the military have delayed in cooperating with ballistic tests during the judicial investigation and at the time of writing there were no reported advances in the investigation into Isis's death.

On 1 August, 38-year-old teacher Roger Abraham Vallejo died in hospital as a result of injuries sustained from a bullet wound to the head, caused by a rubber bullet reportedly fired by police during the break up of a protest in Tegucigalpa in July. An investigation into the killing is open but no advances have been reported.

On 23 September, 16-year-old Gerson Ariel Cruz was seriously wounded by police following the break up of a protest in Tegucigalpa. According to an eyewitness, the police chased protesters into a residential neighbourhood where they opened fire with live ammunition. Gerson Ariel Cruz, who had not taken part in the protest, was shot in the stomach. When family members tried to take Gerson to hospital they were turned back from a police roadblock, considerably delaying their journey to seek emergency treatment. Gerson survived but sustained serious injuries from which he has still not fully recovered. The shooting was reported to the Special Prosecutor for Human Rights and an investigation is ongoing.

On 27 November, 32-year-old Angel Salgado was driving back home in Tegucigalpa with three friends. Witnesses stated the car was shot at without warning as it drove through a military roadblock. Angel was hit in the head by a bullet and lost control of the vehicle, which crashed and seriously injured one bystander. According to eye witnesses, military personnel began cleaning the scene of evidence immediately after the incident took place. After

spending five days in a coma, Angel Salgado died in hospital on 2 December. An investigation into the killing is open, but to date no advances have been reported.

Amnesty International heard many reports that tear gas canisters were fired by members of the security forces directly into crowds. Written instructions on some of the used tear gas canisters collected by local human rights organizations and shown to Amnesty International clearly stated that they should never be fired directly at an individual since death or serious injury could result.

On 22 September, Marta (not her real name) was beaten by security forces while she was taking part in a demonstration near the Brazilian Embassy in Tegucigalpa. Marta told Amnesty International that police and soldiers beat demonstrators with batons, and that some used non-standard issue equipment: "A soldier hit me with a piece of wood with big nails hammered through it". Police officers launched tear gas canisters into the crowd, and one of the canisters hit Marta on the leg, burning her. Marta fled from the demonstration and took refuge in a church. After 25 minutes, police officers arrived and beat her so badly that they broke her arm.



Burn scar on Marta's leg where she was hit with a tear gas canister. Photo © Amnesty International

Amnesty International delegates also spoke with a 26-year-old woman, Eva (not her real name), who was chased and beaten by police with batons during the break-up of the same demonstration. In order to get away, Eva climbed a wall into the garden of the Brazilian Embassy. A helicopter then began to fire tear gas canisters into the gardens of the Embassy. One of the canisters fell directly onto Eva, getting caught in her hair and burning it.

The misuse of batons to beat people was reportedly frequently. A 34-year-old woman and her 59-year-old mother were repeatedly beaten across the back of their thighs and buttocks

by police using batons during one protest in July in the El Durazno neighbourhood of Tegucigalpa. Eva, whose account is mentioned above, also told Amnesty International that a military officer tried to detain her during the 22 September demonstration and hit her on the back of her legs with his baton, shouting “Bitch, stop there, I’m going to teach you how to be a woman,” Eva said that the soldier threatened her with his baton in an overtly sexual manner.

Other testimonies collected by Amnesty International confirmed that the security forces also misused different chemical riot control irritants. On 14 August 2009, lawyers belonging to the “Lawyers Resistance Front” arrived at a police station in Choloma, Cortés Department to verify the legal situation of detained demonstrators. Lawyer Nicolás Ramiro Aguilar Fajardo told Amnesty International that when he and his colleagues arrived, there were around 400 people outside the station. The police brought forward a water cannon and began to fire water at the crowd. As Nicolás and the other lawyers ran away from the water, they saw one of their female colleagues being dragged along the ground by her hair by a police officer, and beaten on the buttocks with a baton. When Nicolás tried to intervene to stop the officer beating his colleague, another police officer tapped him on the shoulder to make him turn around, and then sprayed him directly in the face with an unknown chemical spray, causing temporary blindness.



Nicolás Aguilar was sprayed directly in the face with an unknown chemical substance. Photo © Amnesty International

Nicolás told Amnesty International that the eye damage he sustained that day continues to affect him to date, and that he is in constant pain. One of the specialists who saw Nicolás told him that he could not treat him properly as he did not know what type of chemical had been used.

Amnesty International visited two hospitals in Tegucigalpa in December 2009 to speak with medical professionals who confirmed that the authorities had not issued information regarding the type of chemicals used by military and police forces against demonstrators.

ARBITRARY DETENTION

From 28 June onwards the security forces were responsible for hundreds of cases of arbitrary detention, primarily of demonstrators and suspected members of the opposition movement, but also of bystanders. Many of those arbitrarily detained suffered other human rights violations such as torture and other ill treatment. No results of any investigation into these cases are known.

A 16-year-old girl Francisca (not her real name) was arbitrarily detained on 26 October by police in Tegucigalpa after enquiring where they were taking her father. She was detained for several hours, allegedly for “being a trouble maker” in a cell with nine other women. One police officer took some toilet paper, soaked it in a chemical and set fire to it, releasing toxic smoke into the cell. The girl and women detained reported breathing difficulties and burning eyes and throats, in some cases lasting for several days.

On 12 August, Alex Matamoros, a human rights defender working for the Centre for the Investigation and Promotion of Human Rights (CIPRODEH) was arbitrarily detained in Tegucigalpa when he intervened to stop three boys, who had already been handcuffed, from being beaten by police officers after a demonstration. Alex Matamoros was detained at Manchen Police Headquarters for nearly 12 hours before being released without charge.

On 29 November, the day of the general elections, a local human rights organization found 14 children detained at Jefatura Metropolitana No.3 police station in Tegucigalpa. The children had been arrested near a polling station. The police justified their detention on the basis of Decree PCM-M-016-2009, which prohibited meetings of more than three people. The Decree was issued in September but had been officially annulled on 19 October. All 14 children were eventually released without charge.

Alejandra (not her real name) was separated from her family during a demonstration in Choloma, Cortés department, on 14 August. She was arbitrarily detained by police officers who, after dropping other detainees off at a police station, took Alejandra to a remote location where four police officers raped her consecutively. The local office of the Special Prosecutor for Human Rights in San Pedro Sula is investigating the case.

On 22 September, Matias (not his real name) was walking near the sports stadium in Tegucigalpa after leaving a demonstration. According to his testimony, some police officers ran up to him and threw him to the floor. The police officers shouted “You’re a trouble-maker, you’re like Che Guevara!” They beat him with batons and put a bag over his head and then put a gun to it. He heard someone say “Leave him alone! The journalists are coming”. The police put him in a police van and took him to the stadium where he was detained briefly without charge. Eventually, he was picked up by a Red Cross ambulance and taken to hospital.

INTIMIDATION OF MEMBERS OF THE JUDICIARY, JOURNALISTS, HUMAN RIGHTS DEFENDERS AND MEMBERS OF THE OPPOSITION MOVEMENT

Critics including human rights defenders, members of the judiciary, journalists and members of the opposition movement were frequently subject to harassment and intimidation under the rule of the *de facto* government.

On 22 September, around 15 police officers fired tear gas canisters into the confined space of the offices of the Committee of Relatives of the Disappeared in Honduras (COFADEH) where scores of pro-Zelaya protesters had taken refuge. Around 100 people, including children, were inside the office at the time. The demonstrators had taken refuge in the offices of the human rights organization to avoid suffering further abuses by the police and military forces and to document abuses which they had suffered during a demonstration.



Tear gas canisters retrieved from the offices of COFADEH after the attack. Photos © Amnesty International

On 28 September, on his way to cover the forced closure of Radio Globo and Canal 36 by security forces invoking Decree PCM-M-016-2009, Delmer Membreño, a photographer for the newspaper *El Libertador*, was forced into a truck by four men wearing balaclavas. The men put a hood over his head and drove off. After 90 minutes they stopped, dragged him out and put a gun to his head. One of the men told him that he was only being allowed to live so

he could deliver a death threat to the director of *El Libertador*. The men then beat Delmer Membreño and burned his face and torso with cigarettes before releasing him. An investigation into the case was continuing at the end of the year but there were no reported advances at the time of writing.

On 23 September, a correspondent and three other staff of Radio Progreso, based in the north-west of Honduras, received a threatening text message on their mobile phones. It read “The sons of gorilete [Micheletti] in Progreso offer half a million [Lempiras – equivalent to US\$26,500] for the head of Padre Melo”. Padre Ismael Melo is the director of the radio station. To date no advances have been reported in the investigation into this threat.



Text message threat sent to the Director of Radio Progreso in September 2009. Photo © Amnesty International

Some judges viewed as critical of the *de facto* authorities experienced a series of arbitrary transferrals and disciplinary proceedings. Members of the organization “Judges for Democracy”, which works to promote judicial independence and principles of fairness and transparency in legal proceedings, were amongst those targeted.

On 12 August, Luis Chevez de la Rocha, a member of Judges for Democracy, was arbitrarily detained in San Pedro Sula. Judge de la Rocha was watching a protest against the *coup* when he saw police officers beating demonstrators. When he insisted that police officers use restraint, one police official reportedly told his officers: “take this one too for disrespect for authority”. He was pushed into the back of a police pickup truck and taken to a police station, where he was held for over three hours before being released without charge. In September Judge de la Rocha was informed that disciplinary proceedings had been opened against him due to “his presence in acts which breach the peace” despite the fact that he had not taken part in the demonstration, had been detained arbitrarily and was released without charge. The proceedings against him were still ongoing at the time of writing.

Judge Adán Guillermo López Lone, President of Judges for Democracy in Honduras, faces disciplinary proceedings for participating in a demonstration against the *coup* on 5 July 2009 in Tegucigalpa. Amnesty International has no knowledge of any proceedings having been initiated against judicial officials who attended demonstrations in favour of the *de facto* regime.

At the time of writing, a total of seven members of Judges for Democracy faced what seem to be unfounded disciplinary proceedings relating to legitimate activities since the *coup* on 28 June 2009.

On 13 December, human rights activist Walter Tróchez, who worked to promote and protect the human rights of members of the lesbian, gay, bisexual and transgender community, was murdered in Tegucigalpa. Nine days earlier, he had escaped from an abduction by several masked men who demanded the names and addresses of members of the opposition movement. The men had told him “shut up faggot, we know what work you do, we know you work on human rights and we know your name is Walter”. His captors reportedly told him they had orders to kill him.



Walter Tróchez, an LGBT activist who had documented human rights violations since the 28 June *coup d'état* in Honduras, was shot dead by unknown assailants on the evening of 14 December 2009. Photo © defensoresenlinea.com

Walter had been involved in documenting police and military abuses against demonstrators since 28 June, taking photographs and collecting testimonies from individuals. He regularly visited police stations to check on the welfare of those detained during protests, liaising with well-known human rights organizations to pass on relevant information to them.

ACCOUNTABILITY AND THE RIGHT TO REMEDY

Amnesty International recognizes that the problem of impunity for human rights violations is not a new one in Honduras.⁶ However, 28 June 2009 marked the beginning of a surge in violations by security forces which must be addressed as a matter of utmost priority. The numerous victims of human rights violations have the right to know the truth about what happened to them.⁷ Police officers who have committed human rights violations must be held to account, as must those who ordered or acquiesced to these abuses. The use of excessive force, including lethal methods, to repress those who opposed the *coup*, must not go unpunished. To allow impunity for such abuses would leave victims devoid of justice for their injuries and run the risk that members of the security forces responsible for abuses commit further abuse in the knowledge that the likelihood of having to account for the crime and face sanctions is low.

The use of military personnel alongside police to control demonstrations and undertake civilian policing functions is of concern. The United Nations Code of Conduct for Law Enforcement Officials requires that police officials are accountable, responsive and representative of the communities that they serve. In order to achieve this standard, there must be a clear separation of powers between the military and the police. The military should not generally be used to carry out civilian policing activities. In order for a police force to be accountable, it must have a clear chain of command and a traceable “audit trail” for any decisions taken during the management of its policing operations. Without such accountability the risk of serious human rights violations such as torture, ill-treatment and enforced disappearances is heightened.

There has been discussion among politicians in Honduras on the introduction of an amnesty law for perpetrators of human rights violations occurring during the *coup*. Laws such as an amnesty law which seek to deny or radically reduce the possibility of individuals being held to account for human rights violations, and which may thwart victims’ right to the truth and reparation, are a clear breach of international law and flout the obligations which Honduras has to protect and promote the human rights of its citizens. The development of any such provisions in law constitutes a serious breach of the legal obligations Honduras has entered into under the American Convention, as well as under several United Nations treaties. Should such a law be introduced in Honduras it would effectively create a barrier to truth and justice for victims and their relatives,⁸ as amnesties are incompatible with the obligation to investigate, adjudicate and punish perpetrators of human rights abuses. In addition, amnesties are incompatible with the obligation of the State to guarantee the right of every person to effective appeal and to be heard by an independent, impartial tribunal to determine their rights.

“Governments are obligated under international law to investigate exhaustively and impartially all complaints of violations of the right to life to identify, prosecute and punish perpetrators, obtain compensation for victims or their families and to adopt effective measures to avoid the recurrence of said abuses in the future. The two components of this four-part obligation are in themselves more effective deterrents to avoiding human rights violations [...]. The recognition of the right of victims or their families to receive adequate

compensation signals an acknowledgement of the responsibility of the State of the actions of its organs and represents an expression of respect for human beings. The granting of compensation presupposes the compliance with the obligation to investigate complaints of human rights abuses to identify and process perpetrators. However, payment of monetary or other compensation to victims or their families before or at the end of those investigations does not exempt governments from the obligation of seeing the process through to the end."⁹

Apart from the right to know, and the right to justice, victims of human rights violations and their families have the right to effective remedy¹⁰ and to reparation. The Basic Principles and Guidelines on the Right to Reparation of Victims of Gross Violations of Human Rights and Humanitarian Law¹¹ stipulate that reparation shall include restitution, compensation, rehabilitation, satisfaction and guarantees of non-repetition. To lose the right to life and physical integrity constitute irreparable losses. However, Amnesty International considers that moral and material reparation are an absolutely necessary task for national reconciliation towards democracy.

Respect for human rights cannot be fulfilled without accountability and the necessary human rights institutions dedicated to fostering a culture of respect for human rights. In this regard, the multiple weaknesses of essential human rights institutions in Honduras became all too apparent in the post *coup* period. Of particular concern is the need to strengthen the capacity of the Offices of the Special Prosecutor for Human Rights and the effectiveness of the witness protection programme. The effectiveness of the Office of the Human Rights Ombudsman (CONADEH) in Tegucigalpa has been called into question by many experts on human rights and the lack of activities by this Office after 28 June to protect and defend human rights is an issue that merits further scrutiny and evaluation.

INTERNATIONAL HUMAN RIGHTS LAW

Abuses committed by police and military officials from 28 June 2009 onwards violated multiple human rights treaties and conventions to which Honduras is a party. According to numerous, compelling testimonies described in this report it is clear that rights such as the right to life and the right to be free from cruel, inhuman and degrading treatment and torture, enshrined in Articles 6 and 7 respectively of the UN International Covenant on Civil and Political Rights (ICCPR) and Articles 4 and 5 of the American Convention, have been repeatedly violated. As a party to the UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, Honduras is also obliged to protect its citizens from abuses such as ill-treatment.

Other breaches of international human rights standards identified by Amnesty International include violations of Article 9 (1) of the ICCPR, which states that "everyone has the right to liberty and security of person. No one shall be subjected to arbitrary arrest or detention. No one shall be deprived of his liberty except on such grounds and in accordance with such procedures as are established in law". Article 9 (2) the Covenant establishes that "Anyone who is arrested shall be informed, at the time of their arrest, of the reasons for his arrest and shall be promptly informed of any charges against him." Article 37 of the Convention on the Rights of the Child, to which Honduras is party, states that "No child shall be deprived of his or her liberty unlawfully or arbitrarily."

Article 1 of the Convention on the Elimination of all Forms of Discrimination against Women (CEDAW), to which Honduras is party, defines discrimination against women. This definition recognizes gender-based violence as a form of discrimination, since it is a type of violence which is directed against a woman because she is a woman, or which affects women disproportionately. It includes acts that inflict physical, mental or sexual harm or suffering, threats of such acts, coercion and other deprivations of liberty. Several women interviewed by Amnesty International delegates reported violent abuse and sexual harassment by members of the security forces.

The UN Code of Conduct for Law Enforcement Officials states in Article 2 that “In the performance of their duty, law enforcement officials shall respect and protect human dignity and maintain and uphold the human rights of all persons.” Furthermore, Article 3 states that “Law enforcement officials may use force only when strictly necessary and to the extent required for the performance of their duty.” The Code emphasizes that force should only be employed in the most extreme of circumstances and when employed, it should be proportional to the situation, for example that which is strictly necessary to prevent a crime from being committed or to detain the individual. No force should be employed beyond this extremely limited set of circumstances. Firearms must be used only in the most extreme of circumstances.

The Code further states that “No law enforcement official may inflict, instigate or tolerate any act of torture or other cruel, inhuman or degrading treatment or punishment, nor may any law enforcement official invoke superior orders or exceptional circumstances such as a state of war or a threat of war, a threat to national security, internal political instability or any other public emergency as a justification of torture or other cruel, inhuman or degrading treatment or punishment.” Police training should emphasize human rights and alternatives to the use of firearms. The UN Basic Principles on the Use of Force and Firearms by Law Enforcement Officials state in Principle 3 that “The development and deployment of non-lethal incapacitating weapons should be carefully evaluated in order to minimize the risk of endangering uninvolved persons, and the use of such weapons should be carefully controlled” and furthermore it states in Principle 9 that firearms should only be used by police in self-defence or against the imminent threat of death or serious injury.¹²

The UN General Assembly resolution 34/169 of 17 December 1979 states that law enforcement agencies “should be representative of and responsive and accountable to the community as a whole.”¹³ Principle 7 of the UN Basic Principles on the Use of Force and Firearms by Law Enforcement Officials requires that “Governments shall ensure that arbitrary or abusive use of force and firearms by law enforcement officials is punished as a criminal offence under their law.” It is important to note that the same principles do not foresee any circumstances in which non-adherence to the basic principles would be justified. As stated in Principle 8, “Exceptional circumstances such as internal political instability or any other public emergency may not be invoked to justify any departure from these basic principles.”¹⁴

ENDNOTES

¹ Article 274 of the Political Constitution of the Republic of Honduras (1982) provides for the armed forces to be used to support the police in an extremely limited set of circumstances.

² Decree PCM-M-016-2009 was issued by *de facto* President Roberto Micheletti on 26 September 2009 permitting, amongst other measures, the closure of newspapers and broadcast media if they "insult [...] public officials." Despite the fact that Congress did not pass the decree into law, police and military personnel used it as authorization to carry out searches and closures of media outlets, including Radio Globo and Canal 36, both of whom were vocal critics of the *coup*. The decree was officially annulled on 19 October.

³ See UN General Assembly Resolution A/RES/63/301 issued on the 30 June 2009 regarding the coup d'état in Honduras available from: <http://www.as-coa.org/files/NO938660.pdf>

⁴ Amnesty International visited Honduras in July - August 2009, and published a report "Honduras: Human rights crisis threatens as repression increases" on 19 August 2009. The report contained evidence that the security forces had committed serious human rights violations, including widespread mass arrests, arbitrary detentions, excessive use of force and ill treatment. Amnesty International also visited Honduras during the electoral period in November 2009 (24 November - 4 December). The delegation met with a wide range of representatives from civil society, as well as 32 victims of human rights violations and their relatives. Delegates met with several authorities and travelled to both Tegucigalpa and San Pedro Sula. Meetings requested with the Chief of the Army and with the Attorney General were not granted.

⁵ Some of the names of those whose stories are featured in the report have been changed for their protection.

⁶ See Central America: Persecution and resistance: The experience of human rights defenders in Guatemala and Honduras (AMR 02/001/2007) <http://www.amnesty.org/en/library/info/AMR02/001/2007>

⁷ In the last four years the General Assembly of the OAS, with the consent of the Honduran State has passed the following resolutions which relate to the "right to the truth": AG/RES. 2509 (XXXIX-O/09), AG/RES. 2406 (XXXVIII-O/08), AG/RES. 2267 (XXXVII-O/07) y AG/RES. 2175 (XXXVI-O/06)

⁸ The Inter-American Court of Human Rights, whose jurisdiction was accepted by Honduras on 9 September 1981, has stated that laws providing for amnesty for human rights abuses such as torture or disappearance are "prohibited because they violate non-derogable rights recognized by international human rights law." See paras. 41 and 42 of Inter-American Court of Human Rights Judgement 14 March, 2001, Case of Barrios Altos v Peru.

⁹ Special Rapporteur on extra-judicial, summary or arbitrary executions, UN doc. E/CN.4/1994/7, par. 688 & 711.

¹⁰ The right to effective remedy for grave human rights abuses under international law is established in article 8 of the Universal Declaration of Human Rights, article 2 of the International Covenant on Civil and Political Rights, article 14 of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, Article 8 of International Convention for the Protection of All Persons from Enforced Disappearance; article 25 of the American Convention on Human Rights. Article 11 of the UN 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 stipulates: "Remedies for gross violations of international human rights law and serious violations of international humanitarian law include the victim's right to the following as provided for under international law: (a) Equal and effective access to justice; (b) Adequate, effective and prompt reparation for harm suffered; (c) Access to relevant information concerning violations and reparation mechanisms.

¹¹ UN doc. E/C/N.4/Sub.2/1996/17

¹² See the Basic Principles on the Use of Force and Firearms by Law Enforcement Officials Adopted by the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders, Havana, Cuba, 27 August to 7 September 1990

¹³ See General Assembly Resolution 34/169 of 17 December 1979

¹⁴ *Supra*. N7

Amnesty International
International Secretariat
Peter Benenson House
1 Easton Street
London WC1X 0DW

www.amnesty.org

**AMNESTY
INTERNATIONAL**

