



# HONDURAS

CAPITAL: Tegucigalpa

POPULATION: 7.5 million

GNI PER CAPITA (PPP): \$3,870

| SCORES                           | 2007 | 2010 |
|----------------------------------|------|------|
| ACCOUNTABILITY AND PUBLIC VOICE: | 3.95 | 3.54 |
| CIVIL LIBERTIES:                 | 3.77 | 3.64 |
| RULE OF LAW:                     | 3.46 | 3.17 |
| ANTICORRUPTION AND TRANSPARENCY: | 3.08 | 2.96 |

(scores are based on a scale of 0 to 7, with 0 representing weakest and 7 representing strongest performance)

## Manuel Orozco and Rebecca Rouse

EDITOR'S NOTE: *The following narrative was written prior to the coup of June 28, 2009. Please see pages 260–261 for an overview of the event and its aftermath.*

## INTRODUCTION

Since 2006, Honduras has crossed into dangerous territory due to political ineffectiveness and an inability to deepen democratic institutions. While fragile social movements and members of the international community seek to promote civic engagement and the rule of law, President José Manuel Zelaya Rosales and other politicians have contributed to the deterioration of stability, relying on populism and responding inadequately to challenges from international organized crime networks and persistent poverty.

During Honduras's transition from military rule to representative democracy over the last 30 years, governance has been affected by pressures from business interests, traditional political elites, the military, and deeply entrenched wealthy families seeking to preserve their position by opposing reforms or ensuring their ineffectiveness. The destabilizing power of transnational organized crime and

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**Manuel Orozco** is Senior Associate and Director of Remittances and Development at the Inter-American Dialogue, conducting policy analysis and advocacy on issues relating to global flows of remittances and migration and development worldwide. He is also Chair of Central America and the Caribbean at the U.S. Foreign Service Institute and Adjunct Professor at Georgetown University. He holds a Ph.D. in political science from the University of Texas at Austin. **Rebecca Rouse** is a research consultant at the Inter-American Dialogue. She holds an MA in Public Administration from Columbia University, with a fellowship from the Institute of Latin American Studies, and a BA in Political Science from Bryn Mawr College.

widespread violence also now envelop the country: killings, extortion, and kidnappings have become everyday problems. Moreover, an ineffective and corrupt judicial system puts Honduras on a path to further insecurity by creating high levels of impunity and destroying confidence in the authorities.

Honduras entered a long period of military rule in 1963, as officers led by General Oswaldo López Arellano deposed President Ramón Villeda Morales in a bloody coup. López governed until 1971, but after a brief interlude of civilian rule, the military reclaimed power in a second coup in 1972. The military leadership represented a new class of entrepreneurial and political elites, as both active and retired officers leveraged their access to resources and information to create businesses that competed with traditional commercial powers. Throughout the 1980s and 1990s, the military grew into a powerful economic force, with officers becoming major landholders and players in key industries such as telecommunications and banking.

The changing geopolitical landscape in the early 1980s eventually led to the end of military rule. In 1982 Honduras approved a new constitution, followed by the democratic election of President Roberto Suazo Córdoba. The transition to democratic governance gave traditional, nonmilitary business elites an opportunity to reenter politics, and the free-market economic policies of the 1990s provided additional avenues for their renewed assertion of influence.

Honduran social movements also played an important role in the transition from military rule. Membership-driven groups including labor unions, peasant organizations, and indigenous movements were active in the 1980s and early 1990s, but they soon gave way to more professional nongovernmental organizations (NGOs) that were better poised to secure international aid. The devastation caused by Hurricane Mitch in 1998 played a key role in NGO sector expansion, as civil society stepped in to fill the gaps left by an ineffective government response.<sup>1</sup> It is estimated that at the beginning of the 1990s, only about 125 NGOs were operating in Honduras, but by 2001 nearly 5,000 NGOs had been created.<sup>2</sup>

While the holding of democratic elections, improvements in respect for human rights, and the development of civil society since the end of military rule represent substantial advances, much work remains to be done. The autonomy and effectiveness of the government have been compromised by the power of private interests, a weak bureaucracy, drug traffickers, and a two-party system that is unwilling to renovate its leadership. Moreover, corruption is pervasive, manifesting itself through bribes and the intimidation of judges, as well as low accountability for abuses of authority by public officials.

Under President Zelaya the country has faced renewed polarization and poor policy performance. In 2008 and early 2009, Zelaya deepened political divisions, including within his own party, and pitted factions of the business and political elite against one another through increasingly populist posturing. According to many observers, his rhetorical alignment with Venezuelan president Hugo Chávez has decreased his popularity in civil society and incited

anger among Honduras's ruling classes and business community. In March 2008, Honduras joined Chávez's Petrocaribe program, giving it access to Venezuelan oil at preferential rates, and in July it was announced that Honduras would join the Bolivarian Alternative for the Americas (ALBA), a leftist regional economic integration body led by Chávez. Honduras was a strong U.S. ally during the Cold War, and the mentalities of that era are still pervasive in the country, allowing Zelaya to create rifts that can be used to his advantage. However, many feel that increased aid from Venezuela only provides more opportunities for impunity and corruption, as Chávez has reportedly stated that he will not demand the same degree of transparency as other donors, such as the United States.<sup>3</sup>

Honduras has one of the highest poverty rates in the region; within the country, the highest rates are found in rural areas, where about half the population lives. Honduras ranked 117 out of 179 countries in the United Nations Development Programme's 2008 Human Development Index. Moreover, according to a report released by the World Food Programme, a wave of global food price increases caused Honduras's poverty rate to rise from 69 percent in September 2007 to 73 percent in June 2008.<sup>4</sup> Nearly one million Hondurans work abroad and support their families through remittances, sending back a total of US\$2.8 billion in 2008.

Honduras also suffers from one of the highest homicide rates in the region, with rampant crime attributed to criminal groups such as drug cartels and affiliated youth gangs. In 2008, there were 57.9 murders per 100,000 inhabitants.<sup>5</sup> While the government has adopted an "iron fist" approach to homicides, it focuses mostly on youth gang violence, making membership in a gang punishable by up to 30 years in prison and using the military to conduct raids and help maintain order in major cities. Fewer efforts have been made to curb the powerful influence of crime networks linked to Colombian, Honduran, and Mexican drug traffickers that use the territory as a transshipment point, partly due to lack of capacity and corruption within the security institutions. These shortcomings have led to abuses by security personnel, especially the police, including extrajudicial killings, arbitrary arrests, and illegal searches. Honduran youth in particular have become victims of strict antigang campaigns reminiscent of the army's violent street recruitment raids of the 1980s.

| <b>ACCOUNTABILITY AND PUBLIC VOICE</b>       | <b>3.54</b> |
|--|-------------|
| FREE AND FAIR ELECTORAL LAWS AND ELECTIONS   | 4.00        |
| EFFECTIVE AND ACCOUNTABLE GOVERNMENT         | 2.50        |
| CIVIC ENGAGEMENT AND CIVIC MONITORING        | 3.67        |
| MEDIA INDEPENDENCE AND FREEDOM OF EXPRESSION | 4.00        |

Honduran citizens have the constitutional right to change their government in periodic, free, and fair elections in which the president, vice president, and members of the unicameral National Congress are chosen by universal suffrage.

The executive branch is headed by the president, who is elected by a simple majority. President Zelaya of the Liberal Party (PL) came to power in 2005 elections that were generally considered free and fair, and although observers identified irregularities with some 1,100 ballot boxes, there were no reports of systematic fraud.<sup>6</sup> The 128-member Congress is elected for four-year terms through a mixed system of proportional representation and single-member constituencies. However, Honduras's government and institutions have steadily lost public confidence and credibility in recent years, largely by pursuing the narrow interests of the political and business elites and ignoring the needs of the electorate. In a 2008 public opinion poll carried out by Latinobarómetro, 72 percent of respondents reported that they did not trust elected officials to run the country well.<sup>7</sup> This growing dissatisfaction is reflected in declining voter turnout in recent elections: the share of registered voters turning out for presidential elections fell from 72.1 percent in 1997 to 55.1 percent in 2005.<sup>8</sup>

Honduran politics and governments are controlled in large measure by the two oldest and largest parties, the PL (62 seats in Congress) and the National Party or PN (54 seats in Congress), which dominate the political scene through short-term pacts, excluding smaller parties and civil society. In nonelection years there is very little real debate on fundamental policy and governance issues between the two leading parties, mainly because there is little difference in their platforms. Both have strong ties to the economic elite and thus have a vested interest in maintaining the status quo. There are three other registered parties in Honduras: the Christian Democrats (four seats in Congress), Democratic Unification (five seats), and the Innovation and Unity Party (three). These smaller parties represent an emerging third force, but they still lack the financial capacity to compete with the two major parties.

In May 2004, the government approved a new electoral law. Among other changes, it modified campaign finance rules to promote transparency, ensured open primary elections for all parties, and established the Supreme Electoral Tribunal (TSE) as an independent entity to supervise elections. In 2007, Congress revised the law by increasing the public campaign financing cap from US\$3.2 million to US\$52 million in an attempt to eliminate incentives for parties to seek financing from criminal groups. Zelaya attempted to veto the move as unconstitutional in January 2008, but the Supreme Court later overturned the veto and upheld the reforms. While these legal changes have been important steps, politicians have often failed to respect the electoral laws, including those governing the use of propaganda, and the TSE has failed to remain free of party control. During the 2005 elections, controversy arose over the appointment of a large number of PL members to the TSE staff, although they were ultimately dismissed. TSE president Aristides Mejía, also a member of the PL, reinvigorated claims of politicization by prematurely declaring Zelaya to be the winner on the basis of preliminary results. Postelection reports included no allegations of fraud linked to this supposed politicization, but Zelaya later appointed Mejía as his defense minister.<sup>9</sup>

The manipulation of public institutions to limit genuine political competition was evident in the November 2008 presidential primaries, when Zelaya and his preferred candidate, National Congress president Roberto Micheletti, made a joint effort to prevent Vice President Elvin Santos from running in the PL primary. A last-minute ruling from the TSE deemed Santos ineligible to run for president because he had temporarily served as commander in chief in his role as vice president, making him subject to the constitutional prohibition on presidential reelection. Santos was replaced by Mauricio Villeda, who secured the PL nomination. Santos resigned from his post in November 2008 and vowed to pursue his candidacy for the presidency, denouncing the efforts of Zelaya and Micheletti to manipulate the primaries. Villeda ultimately renounced his candidacy, allowing for the eventual registration of Santos as the PL contestant by the TSE.

While the constitution provides for the separation of powers, the country's system of checks and balances is seriously compromised. The judiciary lacks independence due to pressure from the executive and the two main political parties (see Rule of Law). For its part, the legislative branch is generally subject to significant control by the leader of the Congress. Traditionally, the executive has dominated the other branches of government. When Zelaya attempted to continue and expand this tradition while also shifting toward populist rhetoric, however, tension between the legislative, judicial, and executive branches steadily mounted. In 2009, Congress rejected his Supreme Court nominations, along with those of other government appointees. In November 2008, Zelaya had initiated an attempt to hold a national referendum asking citizens whether a ballot item on the desirability of convoking a constitutional assembly should be included in the November 2009 presidential election. When other interests challenged the legality of Zelaya's actions, which were perceived as a bid to pave the way for his own reelection, the president refused to back down. The inability of the Supreme Court and Congress to exert their authority in the face of Zelaya's disregard for the limits placed on executive power generated the institutional tensions that ultimately led to the June 28 coup (see box).

Due to mismanagement, corruption, and the strong influence of private interests, the government has only a limited ability to execute public policy and offer services. Public institutions have suffered from financial mismanagement under Zelaya's administration, with organizations such as the National Registry of Persons and the National Electric Energy Company shutting down or teetering close to bankruptcy. Honduras also experiences frequent partisan purges of civil service officers and agency and institution heads at every level, inhibiting continuity in programming, removing capable and experienced officials, and damaging overall government efficacy. There is a general lack of ethical behavior in government institutions, which are used for the personal benefit of the ruling class to obtain concessions and strategic economic information, protect private businesses, evade taxes, influence legislation and court decisions, and maintain an environment of impunity for corrupt officials.<sup>10</sup> According to the

Inter-American Development Bank, Honduras rates last in a survey of institutional capacity in 18 Latin American countries.<sup>11</sup>

While social movements in Honduras have lost steam since the end of the military era, the NGO sector has expanded since the early 1990s, especially in the wake of Hurricane Mitch in 1998. There are approximately 8,000 NGOs working in Honduras, but they are fragmented, diffuse, and underfunded, with few organizations working on human rights, civic engagement, or civic monitoring. However, a set of governance-monitoring institutions is beginning to emerge,<sup>12</sup> and in May 2008 a potentially important new social movement called the Broad Movement for Dignity and Justice (MADJ) arose out of a highly publicized anticorruption hunger strike led by public prosecutors. The movement serves as an umbrella group for social organizations, religious groups, trade unions, and prosecutors who are working on transparency issues.

Honduran NGOs currently operate within a limited regulatory framework. In March 2009, Congress proposed a new NGO law that would place restrictions on the use of funds and the range of acceptable activities. It would prohibit religious and political activities for such groups, thus excluding many churches that had been registered as NGOs. According to officials, the law is intended to prevent businesses from operating under the guise of nonprofit organizations and to limit NGO financing and support of political parties. No agreement had been reached on the final content of this proposal as of mid-2009.

Civil society activists face real limitations and risks in the course of their work, as the environment for free speech has deteriorated in recent years. Experts point to a climate of fear and possible self-censorship among civil society leaders due to threats of kidnapping, violence, and other forms of retaliation. Victims of threats and attacks include leaders of labor unions and indigenous rights movements as well as activists and journalists who have accused public officials of corruption. Fears of increased political repression and censorship were substantiated in 2008, when a “blacklist” of 135 Honduran popular leaders, along with a camera containing photographs of NGO offices, were confiscated from two plainclothes policemen by security personnel at the National Autonomous University of Honduras; the policemen were detained while following the president of the student union. The list included the names of indigenous leaders, labor leaders, journalists, and clergy, with many marked for tracking and surveillance. The name of well-known union leader Altagracia Fuentes, who had been assassinated in April of that year, appeared on the list with the comment “deceased.” A number of senior officials, political figures, and activists received death threats in 2008, including five human rights prosecutors, the mayor of Tegucigalpa, the attorney general, and the president of the Supreme Court.

One of the greatest threats to Honduran democracy is the lack of independent media. The country’s media outlets are generally controlled by business and political interests, have failed to fulfill their social function as independent government watchdogs, and do not maintain fair reporting practices. The media sector serves as the primary battleground for political and economic

control in Honduras. Indeed, after the country's powerful anti-Zelaya media moguls employed their outlets to criticize the president, he responded by requiring, starting in May 2007, that radio and television stations include a series of 10 interviews with public officials. Newspapers circulate freely, and the three most popular papers—*La Tribuna*, *El Heraldo*, and *El Tiempo*—are owned by some of the most economically and politically powerful families in Honduras. Numerous radio and television stations broadcast without interference, and there is unrestricted access to the internet. However, broadcasters operate as arms of political parties and are subject to the interests of the political and business elite. Channel 8, a state-run television channel, was launched in August 2008 with the mission of informing the public on the activities of the government. It has since faced controversy, including accusations that it serves as a publicity vehicle for the executive branch, as well as a legal battle over control of the broadcasting signal. In November 2008, a judge ordered Channel 8's broadcasting rights to be transferred from the government to the private company Teleunsa, but this ruling has not yet been carried out. Similarly, the National Commission of Telecommunications received a court order in May 2009 to release broadcast rights for Channel 12 to the private company Eldi, but has not complied.

In 2005, the Supreme Court struck down a restrictive defamation law that had protected public officials from scrutiny. While freedom of speech and the press are protected by the constitution, these freedoms are not generally respected. Journalists have become prone to self-censorship, both because of the political connections and interests of media owners and because of rampant corruption. According to a 2008 report from the Open Society Institute, government payments to journalists are an institutionalized practice. Government advertising is also routinely used to purchase favorable coverage or silence criticism in the media. In a positive development, evangelical Christian media outlets emerged as a critical voice against government corruption in 2008 in relation to the hunger strike staged by public prosecutors. However, experts warn that it remains to be seen how impartial these outlets will be and how effectively they will promote transparency and democracy.

Independent news coverage is also inhibited by a general climate of insecurity for journalists. Threats and attacks against reporters have been on the rise since 2003, and experts estimate that at least three dozen journalists were subject to threats and intimidation in 2008.<sup>13</sup> In one prominent case, radio journalist Carlos Salgado was shot and killed as he left the offices of Radio Cadena Voces in Tegucigalpa in October 2007. While German David Almindárez was quickly arrested in connection with the crime, he was exonerated in 2009 after spending more than a year in prison awaiting trial. In March 2009, a second Radio Cadena Voces reporter, Rafael Munguía, was killed by unknown assailants as he drove through the city of San Pedro Sula. He had reportedly received threats prior to his death. Radio Cadenas Voces is often critical of the Zelaya administration. The Inter-American Press Association reports that



several Honduran journalists, including Geovanny García of Channel 13 and Dagoberto Rodríguez of Radio Cadena Voces, have fled the country in response to threats or attacks related to their work.

## CIVIL LIBERTIES

**3.64**

|  |      |
|--|------|
| PROTECTION FROM STATE TERROR, UNJUSTIFIED IMPRISONMENT,<br>AND TORTURE | 2.38 |
| GENDER EQUITY  | 3.33 |
| RIGHTS OF ETHNIC, RELIGIOUS, AND OTHER DISTINCT GROUPS                 | 2.75 |
| FREEDOM OF CONSCIENCE AND BELIEF                                       | 6.00 |
| FREEDOM OF ASSOCIATION AND ASSEMBLY                                    | 3.75 |

Honduras's high rates of crime and violence have created a climate of fear, and combined with impunity for security personnel and an ineffective criminal justice system, this has resulted in very serious violations of civil liberties.

The country's crime problems are related to the presence of transnational gangs and drug-trafficking networks, especially in major urban centers such as Tegucigalpa and San Pedro Sula. As noted above, Honduras has one of the highest homicide rates in the region, registering 57.9 murders per 100,000 inhabitants in 2008.<sup>14</sup> According to a 2007 national survey conducted by Borge y Asociados, about three-quarters of Hondurans feel unsafe using public transportation or traveling on highways, approximately three-fifths feel unsafe walking on the street or visiting the market, half say they feel unsafe in their own cars, and nearly a third report feeling unsafe at work.<sup>15</sup> Incidents of kidnapping increased in 2009, and have expanded to include assaults on school buses to kidnap children leaving school.<sup>16</sup>

The UN Office on Drugs and Crime estimates that there are approximately 36,000 gang members in Honduras, concentrated in the groups Mara Salvatrucha (MS-13) and 18th Street. Honduras launched a zero-tolerance policy against violent youth gangs in 2003, known as *mano dura* (iron fist), and the maximum prison sentence for gang membership was increased from 13 to 30 years in 2004. The *mano dura* policy focused on punishing gang members and neglected to sufficiently address rehabilitation or the root causes of delinquency. Upon taking office in 2005, Zelaya launched his own crackdown on crime and violence after kidnappings increased and Micheletti's nephew was killed. While these policies were initially reported to have had a positive effect on crime rates, they were considered unproductive overall. The homicide rate increased by 25 percent between 2007 and 2008, and kidnappings increased by 85.7 percent in 2008, jumping from 42 kidnappings in 2007 to 78 in 2008.<sup>17</sup>

Organizations such as Casa Alianza, which works with street children, report that harsh, unchecked policies targeting youth gang members have led to police profiling based on appearance (such as tattoos), discrimination against



youths, arbitrary arrests, and even extrajudicial killings by state security forces. These practices have also been recognized by the international community, and in 2006 the Inter-American Court of Human Rights condemned Honduras for the extrajudicial killings of four youths and one adult in 1995. Casa Alianza reports that 3,943 children and adults were killed from 1998 to 2007 by vigilante groups that may have included members of the military or police.<sup>18</sup> According to the Ministry of Security, in 2008 authorities prosecuted 268 police officers for offenses such as abuse of authority, drug trafficking, rape, and homicide.<sup>19</sup> In general, however, citizens are not protected against torture and other violence, and the abuse of detainees is a serious problem. In an October 2008 report, the Center for the Prevention, Treatment, and Rehabilitation of Victims of Torture and Their Families revealed that 69 percent of 804 inmates interviewed between 2004 and 2008 claimed to have been abused during detention, while in transit, or at a police station. The report also noted that three men had died due to police abuse in 2008.<sup>20</sup>

Not to be confused with turf-based youth gangs, the drug-trafficking cartels that use Honduras as a transit point for drugs headed to the United States are highly organized business operations, though they increasingly integrate members of youth gangs and local drug networks into their activities. In recent years, the transnational cartels have joined forces with local criminal groups to take control of strategic regions of Honduras, especially along the borders and coastline. Much of Honduras's border is remote and sparsely populated, and lacks any effective state presence. Mexican drug cartels, specifically the Sinaloa and Gulf cartels, have become particularly active in Honduras, partly in response to the Mexican authorities' crackdown on traffickers within Mexico. Honduran authorities believe that several top leaders of the Sinaloa cartel are hiding in Honduras, and that they have been involved in executions and the training of death squads in the country's northwest. In May 2008, cartel leader Jorge Mario Paredes Córdova was captured in San Pedro Sula by the Honduran National Police. In addition, the transnational groups' practice of paying local criminal networks in drugs has exacerbated a growing domestic drug problem.

Politicians and other leaders agree that these cartels are financing political parties and infiltrating public offices.<sup>21</sup> In June 2008, the U.S. Coast Guard seized 4.6 tons of cocaine from a Honduran boat near La Mosquitia. The boat had previously been seized by the Honduran authorities and was under the control of the Office for the Management of Seized Assets (OABI) when it was recaptured by the Coast Guard, indicating the infiltration of public institutions by drug cartels. In fact, Alfredo Landaverde, a former adviser to the Ministry of Security, told the newspaper *La Prensa* in an August 2008 interview that drug cartels have infiltrated Honduran police and military forces as well as the judicial system.

In response to this deteriorating situation, Zelaya and Congress announced a new plan to combat organized crime in April 2009. It included suspending

**EDITOR'S NOTE: COUP IN HONDURAS**

On the morning of June 28, 2009, Honduran soldiers entered the presidential palace and forced pajama-clad President Manuel Zelaya onto a plane to Costa Rica. Thus climaxed an institutional clash that pitted President Zelaya against members of Congress, the courts, and the military in a conflict surrounding the president's plan to hold a non-binding referendum that the president and his supporters hoped would be the first step toward the creation of an assembly to rewrite the constitution. Both the Supreme Court and Congress opposed these plans, ruling that the constitution banned referendums within six months of elections, and the military refused to distribute the ballots. Opponents generally considered Zelaya's actions a thinly veiled attempt to end the constitutional ban on presidential reelection. When Zelaya pressed ahead and fired the chief of the army for failing to cooperate, the Supreme Court ordered the military to detain the president. Following his expulsion from the country, Congress swiftly moved to declare congressional leader Roberto Micheletti the new president.

The coup's orchestrators insisted that their actions were not illegal as they were carried out in accordance with Honduran law and were necessary to save Honduran democracy from the threat posed by Zelaya. In turn, Zelaya claimed that he never had any intention of seeking reelection, that the balloting was merely consultative, and that he could not have benefited since the binding call for a constituent assembly would not have occurred until the vote to pick his replacement. In the weeks following the coup, Zelaya encouraged protests and repeatedly sought to reenter the country. Within Honduras, the coup was immediately followed by government repression of Zelaya supporters, restrictions on civil liberties and human rights abuses committed by members of security forces. International organizations documented instances of excessive use of force against protesters, arbitrary detentions, mistreatment of detainees, violence against women, and the harassment of activists, journalists, lawyers, and judges.<sup>32</sup> More than 1,200 people were reported arrested after participating in anti-coup demonstrations, and at least 12 citizens were killed by security forces. The Micheletti-led de facto government instituted restrictions on freedoms of assembly and association, imposed frequent curfews, and closed at least three opposition media outlets.

Although reaction to the coup within the country evidenced Honduras' polarization, it was widely condemned by international actors including all countries in the hemisphere, the United Nations, the Organization of American States, and the European Union, each of

whom declared the military's actions illegal and refused to recognize the de facto regime. Several months of OAS-backed negotiations between Zelaya and Micheletti's faction mediated by Costa Rican President Óscar Arias appeared to have stalemated when Zelaya dramatically appeared in the Brazilian embassy in Tegucigalpa on September 21. Though his presence gave new impetus to the talks, the dialogue failed to yield a mutually satisfactory resolution to the crisis. On November 29, Honduras held its scheduled presidential election amid a climate of severely compromised civil liberties and press freedoms. The balloting was generally considered to have met international standards and resulted in a win for PN candidate Porfirio Lobo. Observers fear that Lobo's victory will result in a return to "business as usual" in Honduran politics, impunity for human rights offenders, and a failure to address the underlying conflicts and institutional weaknesses that led to the crisis.

the inviolability of communication rights, controlling the circulation of vehicles, monitoring mobile-telephone purchases, improving school security, and imposing mandatory prison sentences for those convicted in organized crime cases.<sup>22</sup>

Arrested criminal suspects face difficult conditions. There have been reported cases of lengthy pretrial detention, denial of due process, and the abuse of inmates by security forces. About 63.5 percent of prisoners in Honduras are awaiting trial. The prison system is notoriously overcrowded, and there have been several highly publicized cases of prison fires and riots that have left dozens of inmates dead, often with allegations of foul play. In April 2003, the Associated Press reported that prisoners were locked in their cells, doused with gasoline, and set on fire during an uprising in El Porvenir prison that left 70 people dead. A group of 22 security officials were convicted in 2008 in connection with the massacre.<sup>23</sup> A prison fire in May 2004 killed 103 inmates, and two prison riots in April and May 2008 left 27 prisoners dead.

The National Human Rights Commission (CONADEH) is responsible for promoting awareness of human rights issues, submitting recommendations to state institutions, ensuring that state officials uphold human rights, and investigating citizens' complaints. CONADEH is largely independent, and state institutions have heeded its recommendations on various matters.<sup>24</sup> The 2008 CONADEH report stated that 7,140 human rights cases, or 75 percent of the 9,525 received that year, were resolved. Some 51 percent of these cases involved complaints against state authorities including the National Police, the Public Ministry, and the Supreme Court.<sup>25</sup> While a National Anticorruption Council (CNA) report noted that only 28.7 percent of Hondurans believe that CONADEH is effectively carrying out its mandate, the commission fared better than all other institutions surveyed.<sup>26</sup>

Violence against women is widespread in Honduras, and the Center of Women's Studies (CEM-H) reports that an average of 14,000 domestic violence complaints were filed annually between January 2003 and September 2008.<sup>27</sup> Between 2002 and 2008, 1,114 women were murdered, the grand majority by their husbands or partners.<sup>28</sup> This violence occurs against a backdrop of marginalization in which women experience limited levels of civic participation and high levels of poverty and discrimination. Few cases of domestic violence are investigated or reach the courts, and laws prohibiting gender-based discrimination are often not enforced. Women are traditionally concentrated in low-skilled, low-wage jobs, such as in *maquila* export processing zones, and they are often subject to exploitation by employers.

Indigenous and Afro-Hondurans, or Garifunas, also face routine discrimination and disenfranchisement. Indigenous groups make up about 8 percent of the population, or more than 621,000 people.<sup>29</sup> In the 2005 elections, three Garifunas became the first of their ethnicity to win seats in Congress. However, while the constitution protects the rights of indigenous peoples, they are still subject to harassment, intimidation, and violence, especially with regard to land disputes. According to Amnesty International, indigenous activists have been victims of fabricated, politically motivated criminal charges as a result of their work to protect property rights and protest construction and logging projects that affect their communities.<sup>30</sup> In 2006, police killed two activists from the Olancho Environmental Movement; in 2008, indigenous activists increased protests over the construction of the Patuca hydroelectric dam. While Honduras is a signatory to the International Labor Organization's Convention 169, which protects the rights of indigenous peoples, critics say the government's actions regarding mining, logging, and energy have systematically violated the convention. In early 2009, the Fraternal Organization of Afro-Hondurans spoke out against a new hydrocarbons law under consideration by the government, saying it would disproportionately affect minority populations and violate Convention 169.

The constitution protects freedom of religion, and while the majority of the population is Roman Catholic, the Catholic Church has been losing influence in recent years amid the growing popularity of evangelical Protestant churches. The constitution also guarantees freedom of association and assembly. Hondurans regularly utilize their right to organize, and according to the Ministry of Labor, about 519 unions represent 8 percent of the labor force.<sup>31</sup> Union leaders are often at risk of violence and harassment. For example, Israel García, leader of the National Association of Honduran Farmworkers, and Altigracia Fuentes and Yolanda Sánchez, both of the Honduran Workers' Federation, were assassinated in 2008. The leaders had previously received threats while organizing workers in the San Pedro Sula area. In May 2009, police arrested two suspects in the murders of Fuentes, fellow union official Virginia García de Sánchez, and their driver. Economic elites use their chambers of commerce and the private-sector trade association to exert a decidedly antiunion political influence.

Protest rights are generally upheld, and protests involving indigenous rights, environmental issues, human rights, and justice issues are common, as are demonstrations against government policies, corruption, and impunity.

## **RULE OF LAW**

**3.17**

|   |      |
|---|------|
| INDEPENDENT JUDICIARY   | 3.00 |
| PRIMACY OF RULE OF LAW IN CIVIL AND CRIMINAL MATTERS                      | 3.00 |
| ACCOUNTABILITY OF SECURITY FORCES AND MILITARY<br>TO CIVILIAN AUTHORITIES | 3.00 |
| PROTECTION OF PROPERTY RIGHTS   | 3.67 |

Uncontrolled crime and poor enforcement of civil and political rights contribute to the lack of effective rule of law in the country. As with other branches of government, the judicial system is plagued by high levels of politicization. Although the constitution calls for an independent judiciary, the highest judicial offices are divided along partisan lines, and judges can be removed at any time by the president of the Supreme Court, who often acts according to political interests.<sup>33</sup> According to the CNA, central weaknesses in the judicial system also include widespread corruption and a lack of ethics and technical capacity among judges.<sup>34</sup> The strong role of partisan politics and private interests in the judiciary affects the courts' ability to fight corruption in other parts of the government and society, reinforcing the country's climate of impunity.

The judicial branch is led by the 15-member Supreme Court. Members serve seven-year terms, and a new Supreme Court was selected in early 2009. Honduran law provides for an inclusive selection process, whereby seven civil society and government entities draw up lists of nominees, from which 45 are selected by a nominating panel. Congress chooses the new members from this group of 45.<sup>35</sup> While this mechanism provides for broad participation, an international observer mission organized by the International Commission of Jurists reported multiple allegations of irregularities in the 2008 selection process related to political influence in the creation of the nomination lists.<sup>36</sup> The mission expressed concern over the lack of public information regarding the selection process and nominees, and the meager coverage of the process by the Honduran media. Civil society organizations argued that there was a pre-existing arrangement between the two major parties to select candidates from their own ranks, and indeed the court has remained split, 8 to 7, between the National and Liberal parties, respectively. The selection process also reflected growing tensions between Zelaya and Congress. Zelaya sought to pressure Congress to include his own favored candidates in the list, but lawmakers ultimately rejected his nominees. The army and police were even mobilized during the selection in January 2009 based on a supposed need to maintain order. The stakes of the selection process are high, since the Supreme Court

names all lower court judges. Lower-ranking judges and other judicial officials are often vulnerable to bribery due to inadequate wages and limited internal controls.

Although the Supreme Court gained the authority to try high public officials for abuse of power and other offenses in 2004, it has not done so effectively due to the strong pressure exerted by other government branches, the main political parties, and other powerful economic and political interests.<sup>37</sup> For example, the court acquitted former president Rafael Leonardo Callejas of corruption charges and ordered his release in 2005. CNA president Óscar Andrés Rodríguez claimed that Callejas had used his political weight to pressure the Supreme Court and negotiate his sentence.<sup>38</sup>

The court system is overloaded by the high levels of crime, and this situation is only compounded by operational inefficiency. As noted above, lengthy pretrial detention and reports of denial of due process are common. While Honduran law provides for the right to a public trial and the right to counsel, including access to a state-provided attorney if necessary, these rights are not always upheld in practice. Judicial procedures have been influenced by the country's prevailing insecurity, and the treatment of financial crimes often differs greatly from that of ordinary street crimes. While cases of corruption often go uninvestigated due to the possible repercussions of identifying powerful offenders, perpetrators of property and violent crimes may receive severe penalties. The pressure on judges to rule in line with the government's harsh antigang policies can also cloud the fairness of trials and sentences. Given these factors, equal treatment under the law is often not respected in practice. Threats and violence against whistleblowers have further reduced the accountability of the judiciary. In September 2008, public prosecutor Luis Javier Santos was shot four times in connection with his work as the leader of a protest demanding the resignation of Attorney General Leonidas Rosa and his deputy, Omar Cerna, for failure to investigate cases of corruption. While the attempted murder was condemned by the government, no arrests had been made by mid-2009.

Prosecutors are subject to extensive political control. In 2002, 23.8 percent of prosecutors surveyed reported facing internal pressure.<sup>39</sup> In 2004, 200 prosecutors went on strike after 10 of their colleagues were removed from their posts and seven were transferred after criticizing the prosecutor general's decision to halt 90 corruption cases, seven of which involved former president Callejas.<sup>40</sup> The Public Prosecutors' Association organized a 38-day hunger strike in April 2008 to protest Attorney General Rosa's interference in their professional activities. They claimed that senior officials in the Public Ministry pressured, threatened, and arbitrarily transferred several prosecutors while firing those with knowledge of high-profile corruption cases (see Anticorruption and Transparency).<sup>41</sup>

Over the past 30 years, Honduras has undertaken several reforms to return state security forces to civilian control as part of its transition from military rule

to democracy. By 1999, the government had created a new civilian police force, implemented a new Organic Police Law, created units for internal police accountability, and established CONADEH. The police force has nearly doubled from 7,500 officers in 2005 to nearly 14,000 in 2008.<sup>42</sup> However, there is little focus on preventative policing or investigations, and the increased manpower has arguably done little to improve the security situation. In recent years, the infiltration of the police force by criminal networks has also become a cause for concern.

The National Committee of Interior Security (CONASIN) allows for civil society and interinstitutional participation in the development of policies and strategies for the national security apparatus. It consists of members of the judiciary, representatives of business and civil society groups, and CONADEH. However, in 2007 talks began to reform the role of CONASIN in the police force, with Zelaya claiming that the body negatively affected the efficiency of security operations and interfered with the executive branch's control over the police. The Organic Police Law was consequently reformed in 2008, stripping CONASIN of most of its functions and effectively reducing civilian oversight. The law also created a new investigative unit within the attorney general's office. National Human Rights Commissioner Ramón Custodio has protested the reforms and spoken out against the potential danger of concentrating control of the police and limiting civil society participation in state security.

Impunity for human rights violations committed by the security forces remains a problem. In 1993, Honduran law was modified to allow military officials to be tried in civilian courts, but the military has continued to use its power to thwart the justice process. A 2007 UN mission noted that there were still 129 open cases involving forced disappearances committed between 1981 and 1989. It urged Honduras to fully investigate these cases, but the government has yet to do so.<sup>43</sup> There have been some investigations into more recent alleged abuses. In 2008, four policemen were found guilty of killing two members of the Environmentalist Movement of Olancho in 2006. Nevertheless, three of these men escaped from prison shortly after being sentenced and have yet to be found.

Honduras has made important advances in the protection of property rights, but enforcement of contracts and the protection of property rights for rural and indigenous Hondurans are still areas of concern. Prior to 2004, when Congress enacted an overhaul of the property registration system, the process was ineffective and inefficient, and as recently as 2002 only 37 percent of properties in the capital were registered, according to the World Bank.<sup>44</sup> Honduras has also taken steps to improve the protection of intellectual property rights in accordance with the Dominican Republic–Central American Free Trade Agreement (DR-CAFTA) with the United States. These reforms have focused on improving Honduras's business climate, but again, little progress has been made in protecting the property of indigenous communities (see Civil Liberties).



**ANTICORRUPTION AND TRANSPARENCY 2.96**

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| ENVIRONMENT TO PROTECT AGAINST CORRUPTION                        | 3.00 |
| PROCEDURES AND SYSTEMS TO ENFORCE ANTICORRUPTION LAWS            | 3.00 |
| EXISTENCE OF ANTICORRUPTION NORMS, STANDARDS,<br>AND PROTECTIONS | 3.00 |
| GOVERNMENTAL TRANSPARENCY  | 2.83 |

Corruption is rampant in public institutions at all levels, from the executive branch to local police precincts. In 2008, Transparency International ranked Honduras 126 out of 180 countries in its Corruption Perceptions Index. Corruption is repeatedly cited in nationwide surveys as one of the top three problems facing Honduras, and 95 percent of Hondurans surveyed find that levels of corruption are extremely high.<sup>45</sup> The problem is exacerbated by the politicization of the judicial system and the media, which collude with corrupt elites to impede transparency and ensure an environment of impunity in which few cases of corruption reach the courts. Low levels of civil society participation and oversight also leave officials unaccountable for irregular practices, although some organizations, such as C-Libre and the CNA, have emerged as leaders in the fight against graft.

Bureaucratic obstacles in Honduras are substantial, and payments to public officials to expedite processing are common. Some 22 percent of respondents in a 2007 CNA survey on corruption said they had paid a bribe at some point during their lives, while 10.4 percent reported paying a bribe within the last 12 months. Those receiving the bribes included the transit police and judges.<sup>46</sup>

Public officials are legally required to disclose their assets, but the rules are not effectively enforced. The CNA estimates the toll of corruption at nearly 2 percentage points of Honduras's gross domestic product, or around US\$100 million annually. It also allegedly reduces public spending by about US\$140 million annually and affects US\$30 million in investment every year, not including foreign direct investment.<sup>47</sup> State activity in the economy is not adequately regulated, and state enterprises such as the national telecommunications company, Hondutel, and National Electric Energy are plagued by mismanagement. Both enterprises nearly went bankrupt following Zelaya's direct appointment of cronies to top positions. The Supreme Accounts Tribunal (TSC), which is responsible for monitoring the financial discipline of state-owned enterprises and other state institutions, has implicated Hondutel in various corruption scandals related to misappropriation of funds. Hondutel officials have most recently been accused of accepting bribes from the international carrier LatinNode.<sup>48</sup>

Despite tremendous challenges, public officials have sought to create a legal framework to fight corruption and increase transparency in government. However, the high degree of politicization in public institutions has been a significant barrier to the effectiveness of adopted policies, and Honduras continues to lack comprehensive anticorruption legislation. Government entities with

anticorruption mandates include the TSC, which is responsible for auditing the financial operations of all state entities and institutions and initiating investigations into irregularities; the Public Prosecutor's Office against Corruption, which investigates corruption in the public administration; and CONADEH. At the local level, municipal commissioners and transparency commissions are responsible for combating corruption. However, these institutions are widely perceived to be ineffective. A CNA survey revealed that only 20.9 percent of Hondurans believed that the TSC was effectively fulfilling its mandate; the figures for the Public Prosecutor's Office against Corruption and CONADEH were 22.3 percent and 28.7 percent, respectively.<sup>49</sup> The CNA itself was originally composed of state agencies, civil society groups, and members of the private sector, but it became an independent civil society organization in 2005 and now plays an instrumental role in monitoring corruption in the country.

Under Zelaya, government officials have been implicated in a number of high-profile corruption scandals, and cases of abuse of authority, fraud, and misappropriation of funds have abounded. Zelaya himself is currently being investigated for 120 cases of corruption amounting to the theft of over US\$2.5 million from the Central Bank of Honduras.<sup>50</sup> In addition, during Zelaya's first year in office, Health Minister Orizon Velásquez and Rosario Godoy, the director of the national children's board, were forced to resign after being accused of reducing debts owed to the government by a pharmaceutical company. In July 2007, Ramiro Chacón, the head of the Road Fund, was accused of committing irregularities in contracts, but he was subsequently offered the post of vice minister in the Secretariat of Public Works, Housing, and Transport. Furthermore, Guillermo Seamman, former head of the Civil Aeronautical Authority, was detained in August 2008 for alleged abuse of authority related to his approval of 39 certifications for airline employees who had failed to complete the legal requirements. He was later released pending investigation.

In terms of prosecutions and convictions, impunity remains the norm. Scandals that surfaced under past administrations have not been fully resolved. For example, former president Callejas was acquitted of corruption charges in 2005, although the United States revoked his visa in 2006 citing the same charges, and the gasoline-smuggling and illegal-passport scandals that surfaced during the administration of former president Ricardo Maduro were not fully investigated and prosecuted. According to the CNA's 2007 report, a mere 2.2 percent of the 1,925 corruption cases heard by the Supreme Court between 2002 and 2006 yielded a conviction. The lack of effective prosecution is partly the result of pervasive corruption within the judiciary itself.<sup>51</sup> However, the 2008 hunger strike organized by public prosecutors resulted in the reform of Article 25 in Honduras's Public Ministry Law, allowing for the investigation and firing of the attorney general.

Allegations of corruption receive substantial, albeit superficial, coverage in the country's media outlets. The CNA has noted a lack of thorough investigative journalism and professionalism within the media, which tends to provide

sensationalist coverage of corruption scandals.<sup>52</sup> In addition, the lack of effective whistleblower protections, corruption among journalists, and a fear of government reprisals all help to suppress reporting on corruption.<sup>53</sup>

Honduras's corruption problem extends to the education sector. A 2008 report highlighted widespread abuse of power and mismanagement of funds by headmasters, high rates of absenteeism among teachers, and rigged allocation of teaching posts, which combined to constitute yet another drain on the state budget.<sup>54</sup> In addition, a 2007 UNESCO report revealed that “ghost teachers”—teachers who never existed or had left the school—represented 5 percent of the teachers' payroll in Honduras in 2000.<sup>55</sup>

Public access to government information remains somewhat restricted. The annual budget is submitted to Congress for review but is not first made available to the public. Furthermore, expenditure accounting during the year remains rather opaque. As a result, Honduras received a score of just 11 percent on the 2008 Open Budget Index.<sup>56</sup> Expenditure accounting is monitored by the TSC, but politicization and resource shortages within this institution weaken its effectiveness. In November 2006, Honduras adopted the Transparency and Access to Public Information Law, establishing the National Institute for Access to Public Information as the official body to facilitate citizen requests for information. The law has been criticized for requiring that 10 years pass before a document can be declassified, and for allowing the purging of documents every five years.<sup>57</sup> The institute is operational and is working with civil society organizations to hold workshops on using the information now available. However, some experts warn that the institute has already been corrupted through the politicized selection of its administration.

The awarding of state contracts remains problematic, and numerous corruption scandals involving government contracts have surfaced in recent years. According to the 2001 Government Contracting Law, public works contracts valued at over US\$53,000 must be awarded through public competitive bidding. In addition, a 2006 Competition Law set up an enforcement commission to ensure that anticompetitive practices are effectively discouraged. Nevertheless, in recent years the government has attempted to use “emergency situation” arguments to support its use of noncompetitive procurement measures on hospital and airport projects.<sup>58</sup> The new Information Law is meant to increase the transparency of the procurement information system, but this is still a work in progress.<sup>59</sup>

In a sign of growing public consciousness regarding corruption, nearly 30,000 Hondurans took to the streets of Tegucigalpa in February 2007 to demand government transparency. The anticorruption movement continued to gain momentum in April 2008 with the hunger strike organized by public prosecutors. Leaders of the strike claimed that the attorney general and his deputy had deliberately refrained from investigating at least 16 allegations of corruption against members of the political and business elite. While some dismissed the hunger strike as politically motivated, many observers argued that the highly publicized

and polemical strike achieved a great deal in raising public awareness on issues of corruption and impunity, and created demand for a culture of accountability in the country.

## RECOMMENDATIONS

- The effects of the newly established NGO law should be evaluated to determine whether it helps formalize civil society associations, impedes organizing in some areas of social interest, or limits performance of its mission by restricting access to funding. A revision of the law should be undertaken to address any negative effects.
- An independent commission composed of media directors, journalists, and other experts should be established to assess the role of the media in Honduras's democracy, the challenges and constraints they face, and solutions to improve their performance.
- The government should focus on supporting reintegration programs to reduce recidivism among former prisoners, as the growing size of Honduras's prison population will otherwise constitute a threat to society in the longer term. The state should also provide human rights training to prison guards and establish accountability and monitoring mechanisms.
- The government should continue and enhance cooperation with the U.S. Coast Guard and other law enforcement agencies in the region to track and disrupt the activities of drug cartels.

## NOTES

For URLs and endnote hyperlinks, please visit the *Countries at the Crossroads* homepage at <http://freedomhouse.org/template.cfm?page=139&edition=8>.

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