

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

July 10, 2009

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

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

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

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

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

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

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

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

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

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

MR. ZELAYA ISSUES ILLEGAL EXECUTIVE ORDER

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

ATTORNEY GENERAL AND PUBLIC PROSECUTOR LAUNCH INVESTIGATION

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

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

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

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

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

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

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

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

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

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

CRIMINAL CHARGES FILED AGAINST MR. ZELAYA

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

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

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

SUPREME COURT ORDERS MILITARY TO ARREST MR. ZELAYA

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

LEGISLATURE VOTES OVERWHELMINGLY TO REMOVE MR. ZELAYA

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

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

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

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

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

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

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

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

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

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

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

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

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

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

THE CONSTITUTION OF THE REPUBLIC OF HONDURAS

What everyone should know...

On the Organization of the State

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

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

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

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

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

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

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

On Executive Power

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

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

On the Reform and Inviolability of the Constitution

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

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

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

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

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

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

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

On the Armed Forces

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

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

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

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

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

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

On the Judiciary

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

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