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July 10, 2009

before the
House Committee on Foreign Affairs,
Subcommittee on the Western Hemisphere

My name is Joy Olson. I'm the Executive Director of the Washington Office on Latin America (WOLA). WOLA has a long history of working with civil society partners in Honduras, and I spent two formative years early in my career living there and working in community development. You have asked me to comment on the recent coup in Honduras, the U.S. response, the mediation efforts now underway, and the role of the Organization of American States (OAS).

What Happened?

On June 28th there was a coup. The Honduran military forcibly removed democratically-elected President José Manuel "Mel" Zelaya, by gunpoint from the presidential palace, and put him on a plane to Costa Rica.

The immediate cause of the coup has to do with the ousted president's efforts to advance a process to create a new constitution. Several months ago, President Zelaya began to talk about a "consultation" or non-binding referendum on installing an additional ballot box in this November's federal elections where the population would vote on whether or not to establish a National Constituent Assembly to reform the constitution. This "consultation" was to take place on June 28.

Opponents of President Zelaya, however, argued that he wanted a constituent assembly to rewrite the electoral laws, allowing him to run for another term in office. It is important to point out that there is no concrete proof that this was his intent, much less any guarantee that an assembly, if called, would include a clause on presidential re-election in a new constitution. Even if the non-binding referendum had been approved, and a second vote in November called for a constituent assembly, any potential reform of the constitution would have happened well after President Zelaya had already left office.

Despite, or because of, the president's silence about the content of the constitutional reform he was seeking, political positions began to polarize. President Zelaya's own political party allied with its traditional opponents in the

Congress to oppose the initiative. They alleged that President Zelaya's goal for the referendum was to permit him to return to power. The coup itself in part reflects the weakness of Honduran democracy and the inability of the state to manage political disagreements between the three branches of government.

As the date for the "consultation" approached, political leaders in the Congress grew increasingly nervous about the upcoming vote. In the days before the coup, the Congress sought to halt the "consultation" and the Supreme Court ruled it unconstitutional. President Zelaya did not back down, and ordered the military to organize and conduct the vote. When military leaders refused, citing the Supreme Court decision, President Zelaya fired the senior commander and the Defense Minister in accordance with the powers granted to the president in the constitution. The Honduran Attorney General granted an appeal to reinstate the Minister; tensions continued to rise and coup rumors to circulate.

Accompanied by some popular movement leaders, President Zelaya personally seized the ballot boxes that were stored at a military base, and announced plans to move ahead with the vote. On the evening of June 27, rumors circulated claiming President Zelaya planned to consider the vote binding and use it as a mandate for calling a constituent assembly.

While there is no clear impeachment process in Honduras, there are legal mechanisms in place to remove a public official from power. It is indisputable that due process was not followed in Zelaya's case. Any legal accusations against President Zelaya should have been heard in Honduran courts. There was no reason to remove him from the country instead of presenting President Zelaya before judicial authorities.

When all was said and done, many of the actors in the play seem to have overstepped their legal authorities. In this story, there are no heroes of democracy.

The Coup in the Broader Context

The coup must be understood in the context of a broader political crisis in Honduras. Historically and even since the transition to formal democracy in the 1980s, the political and economic systems of Honduras have been profoundly unresponsive to the needs and aspirations of the poor.

Honduras is one of the poorest countries in the Western Hemisphere, along with Bolivia, Nicaragua, and Haiti. According to the 2007/2008 UNDP Human Development Report, 50.7 percent of Hondurans live below the poverty line. As with many of its neighbors, Honduras also has high levels of economic inequality, with the poorest 10 percent of the population accounting for only 1.2

percent of the country's income, while the richest 10 percent accounting for 42.4 percent.¹

Along with its extreme poverty, Honduras is characterized as a country where the political parties are not known for their policy differences and for rampant government corruption. Nearly 60 percent of the electorate does not vote in elections because they view the choices between the political parties as meaningless. And, as recently as 2008, Honduras failed the corruption indicator of the Millennium Challenge Corporation, a requirement for continued funding. Simply put, over 20 years of "democratic" transitions in the country have done little to address the political and economic marginalization experienced by the majority of the population.

While President Zelaya did not originally distinguish himself as an economic or political radical, he did become more populist towards the end of his term. He developed modest but real new domestic initiatives, including dramatically raising the minimum wage which infuriated the business community. And he began to collaborate with the foreign policy initiatives of the Bolivarian Alternative for the Americas (ALBA), the Venezuelan-led political alliance. In March 2008, the Honduran Congress approved a contract signed by President Zelaya and Petrocaribe to receive discounted oil, similar to communities in the United States. Consequently, his populist rhetoric and programs won him a degree of domestic political support from typically excluded sectors, peasant organizations and some trade unions.

President Zelaya also gained support of marginalized sectors and popular organizations for the "consultation" scheduled to take place on June 28, the day the coup was carried out. Indeed, some social leaders and members of civil society didn't necessarily support Zelaya, but supported the idea of implementing significant reforms to the Honduran political system in order to make it more open and participatory. The possibility of a constitutional reform offered the possibility of real change in a country marred by longstanding poverty and inequality.

While President Zelaya's populist rhetoric and programs won him some popular support, it infuriated others, especially the dominant economic and political forces. The political class turned away from President Zelaya and he lost the support of his own political party in the Congress. The stage was set for a clash between the branches of government, a clash that escalated with mistakes and overreaching on all sides, little appetite for compromise, and weak and contradictory institutional mechanisms for arbitrating the conflict.

¹ *UNDP Human Development Report 2007/2008*, "Fighting Climate Change: Human Solidarity in a Divided World," http://hdr.undp.org/en/media/HDR_20072008_EN_Complete.pdf

Regional Trends of Constitutional Change

The committee asked that I address the crisis in Honduras within the context of broader regional trends in constitutional change.

Part of the Honduran crisis is based on the fear that President Zelaya would open the constitution to modification allowing his re-election. Some justified the coup as preventing the subversion of democracy under the guise of constitutional reform. It is important to remember that Honduras was three steps away from making any changes to its constitution and President Zelaya would have been out of office by the time they got around to it.

Other South American countries have had referendums and constituent assemblies to reform their constitutions, namely Venezuela (1998-1999), Bolivia (2007-2008) and Ecuador (2007-2008). Critics have considered these to be essentially anti-democratic power grabs. However, the depiction of these processes as anti-democratic is just wrong. In each case, the reforms came about as the result of broad-based social demands. The constitutional reform processes and outcomes in these countries, whether we like them or not, were expressions of democratic self-determination, not the subversion of democracy.

This is not to say that the new constitutions are flawless, or that their governments are paragons of accountable, democratic governance. But equating constitutional reform with the undermining democracy is nonsense. In fact, results of the respected *Latinobarómetro* annual surveys suggest that among Venezuelans, Bolivians and Ecuadorians, “satisfaction with democracy” in their own countries increased after reform processes were launched.²

The Obama Administration’s Response

The Good: The Obama Administration was swift to condemn the coup in Honduras and to call for President Zelaya’s return to power. The U.S. government’s decision to use the OAS in its diplomatic attempts to resolve the conflict in Honduras was also a welcome change from the history of U.S. interventions in Central America. In the days following the coup, President Obama spoke against “outside interference” and for the respect of national sovereignty.

The Administration has also talked about changing the U.S. government’s modus operandi by working through multilateral institutions. The region was

² In each country, the survey shows that satisfaction with democracy was typically lower than the Latin America-wide average in the several years prior to constitutional reforms, after which satisfaction with democracy rose significantly and has typically been higher than or on par with the regional average.

watching to see how the Obama Administration would handle this crisis. In this case, they walked the walk - both in the days after the coup and by backing Costa Rican President Oscar Arias in the role of mediator. We applaud the Administration in this regard. The situation has de-escalated and the two sides are talking.

The Bad: Nonetheless, the days following the coup were riddled with mixed messages from the Administration about whether a “coup” really occurred. The execution of a coup in any country triggers a suspension of U.S. assistance under Section 7008 of PL 111-8, the Omnibus Appropriations Act of 2009, which states:

“None of the funds appropriated or otherwise made available pursuant to titles III through VI of this Act shall be obligated or expended to finance directly any assistance to the government of any country whose duly elected head of government is deposed by military coup or decree:...”

It seems that the Administration wanted to use aid as leverage to push the two sides to the table – a noble goal, but the law is clear. Aid to a government must be suspended if there is a coup. If the military sending a President into exile in his pajamas doesn’t qualify as a coup, what does?

Here are a few quotes about aid and the coup from recent State Department press conferences.

6/29 Sec. Clinton, “...we do think that this has evolved into a coup....., we are withholding any formal legal determination.”

6/30 Mr. Kelley, “We need to have our legal experts look at the law, look at the facts on the ground and make a determination.”

7/2 Mr. Kelley, “We are trying to determine if Section 7008 of the Foreign Assistance Act must be applied. In the meantime, we’ve taken actions to hit the pause button, let’s say, on assistance programs that we would be legally required to terminate if it is determined....”

7/6 “We are suspending, as a policy matter, assistance programs we would be legally required to terminate if the events in Honduras are found to have triggered section 7008.”

The Administration was sending very mixed messages about whether or not they thought this was a coup. These messages could be interpreted as tolerance of the coup.

As Congress moves to rewrite the Foreign Assistance Act, I would suggest that you consider further clarifying Section 7008, what should be

suspended and the process by which the suspension is determined. I would also suggest making it clear that military assistance provided through the Department of Defense should be suspended by law as well.

Being wishy-washy about applying 7008 for well over a week after the coup sets a bad precedent for others.

The Role of the Organization of American States

This is the kind of situation that makes clear the need for the OAS. No other country or regional group is equipped to deal with this kind of crisis. A unilateral intervention on the part of the United States or countries such as Venezuela would have dramatically heightened tensions. It cannot be stressed enough how important it is that the U.S. government worked within the OAS. The fact that governments of all political stripes were unified in their condemnation of the coup and the suspension of Honduras from the OAS did two things. It made clear that no matter how many people dislike a president, coups are no longer accepted in this region. Furthermore, it helped push this crisis toward mediation.

Another critical role the OAS played in the last week was to monitor the situation of human rights in the country. The Inter-American Commission on Human Rights, the body within the OAS mandated to protect human rights in the hemisphere, was one of few actors diligently following the aftermath of the coup. The IACHR followed up on reports of violence against Zelaya supporters, compiled detailed lists of individuals at risk or missing, monitored restrictions on freedom of speech and association and consistently pressed the de facto Honduran regime to respect civil and human rights.

It is fairly easy to find fault and wish for more from multilateral institutions such as the OAS. That is certainly the case in this crisis as well, and there are no doubt lessons to be learned to improve the efficacy of the institution. But we should also remember that, as unsatisfying and messy as such multilateral diplomacy can be, it is still better than the alternatives. Some have asked why the OAS, with its Democratic Charter, didn't get involved in the situation well before coup when there were clear violations of the separation of powers. But the rules of the OAS only allow it to become involved once requested to do so by the member government affected. For good reasons, participating countries are reticent to intervene in disputes over constitutional interpretations and the separation of powers in another country. This is a real challenge for the international community, with no neat solutions: how to mediate so as to prevent conflicts from flaring into full-blown crises, yet avoid taking sides and infringing on local democratic self-determination in situations that arouse intense political passions.

Conclusion

There is now a mediation process in place to seek a resolution in the dispute between President Zelaya and the de facto government in Honduras. All should be supportive of President Arias as this process moves forward.

There can be opportunity in crisis. The question is, Will the end result of the mediation be a limping along of democracy until the next election, or some real introspection on both sides about the more fundamental crisis of Honduran democracy and existing political parties?