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Chair

Mr. Scott Reid

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● (1305)

[*Translation*]

The Chair (Mr. Scott Reid (Lanark—Frontenac—Lennox and Addington, CPC)): Order, please. We are the Subcommittee on International Human Rights of the Standing Committee on Foreign Affairs and International Development. Today is March 26, 2013, and we are holding our 74th meeting.

[*English*]

We welcome our witness, in person, Michael Kergin. We may or may not be able to get our other witness, Rolando Sierra, who is also scheduled to attend. He is in Tegucigalpa and we are trying to reach him by teleconference, not video conference.

Unfortunately, there's a technical issue right now, colleagues. We may have to disrupt our process and reconfigure, for which I apologize to everybody. That may cause me to have to make some changes on the fly with regard to the length of questions and all of that stuff. I know you're all very consensual about this. Please bear with me and with each other. If it looks like I'm getting it wrong, don't be shy about mentioning it.

Without further ado, let's go to the witness we do have here in person.

Mr. Kergin, we're very glad to have you here, and we invite you to begin your testimony.

Mr. Michael Kergin (As an Individual): Thank you very much, Chair.

As I mentioned to the clerk of the committee, I really have to confine my remarks I think to the role and the time that I was involved in the truth and reconciliation commission that was mandated and sat from April 2010 to July 2011.

I have not followed Honduran events since that time. One moves on to other things, I guess. I will make comments about the commission, about it's principal findings, it's principal recommendations, and an evaluation of the commission work as it relates to the human rights situation we were looking at.

The truth and reconciliation commission was established by the Government of Honduras, by President Pepe Lobo. Most truth and reconciliation commissions are established by a government; otherwise they would not have an opportunity to get into the records and have as much freedom of movement.

It was a simple mandate really to examine the events leading up to the July 28, 2009, expulsion of President Zelaya, and then to present recommendations to ensure that such events, such a failure of governance, would not happen again.

Interestingly enough, human rights per se or an investigation of human rights per se were not a formal part of the mandate as it was established by the decree.

The commission itself met for about 450 days with the five commissioners. I was the Canadian commissioner, the chair was Guatemalan, one other commissioner was a former minister of justice of Peru and a supreme court justice herself, and then there were two Honduran commissioners—one was the current, at that time, president of the national university and the other was her predecessor. Interestingly enough, each of these two Honduran commissioners had contacts on either side of the political centre, so they were really well connected from left to right.

The commission visited all 18 Honduran provinces and held over 300 meetings, including 20 town halls of people in the very small pueblos or towns around the country. They received testimony from about 150 personalities that were linked to the events of the time of the coup. They collected some 50,000 pages of documentation and stored about 900 items in the video tech; many of our interviews were actually videoed.

The total budget was about $2.5 million for the commission, which by most accounts is not a large amount of money. The commission, however, decided on its own that it was very important to look at the human rights aspects of the situation, in particular during the interim government of Mr. Micheletti. The commission contracted four human rights experts who were selected by the United Nations development program. That was financed by the European Union. They were separate but reported to us, and we took over and put into our own words their report to us.

Those experts operated for about one year and received confidential testimony from approximately 250 victims of alleged human rights abuses. They travelled around the country, as did we, but separately.

The opposition in Honduras, called La Resistencia, established its own what was called Comision de la Verdad, or truth commission. Our commission did attempt several times to contact them to see if we could cooperate together, but for reasons that only that commission best knows, they decided they would prefer to operate on their own, and in fact I believe they did a separate report completely from ours.

Briefly, the key findings from our truth and reconciliation commission found that the forceable removal and extradition of President Zelaya constituted a definite *coup d'état*. The executive and legislative judicial branches, however, all transgressed the constitution leading up to, during, and after the coup. It was basically a failure of government by the three branches of government.

● (1310)

Micheletti became de facto president on the expulsion of President Zelaya, and he stayed there until the inauguration of President Lobo —the election was in November—in January of 2010. Given the fact that he actually relinquished power at the time of the elections in November 2010, in what we felt were fair and free elections given the circumstances of Honduras at the time, our conclusion was that the election and government of President Lobo itself should be considered a legitimate government.

We felt from our investigations that both the Zelaya and Micheletti regimes had engaged in certain corrupt practices, and finally that there was a range of human rights abuses, including police violence and murder, that occurred and went unpunished during the Micheletti regime of about five months, from July 2009 to December 2009, the same year.

Our key recommendations covered two basic areas: governance on one side, because we felt that the failure of governance had led to the coup, and on the other side the human rights issues. The key recommendations on governance included the following.

The constitution should be amended to add a procedure for the impeachment of the president and senior officials following due process. One of the problems in the constitution was that there was no legal process to impeach President Zelaya should there have been a reason to do so.

Secondly, consideration should be given to passing legislation to hold a constituent assembly in order to review the entrenched powers of the constitution, including the possibility of presidential re-election. It may be remembered that one of the reasons why the military moved against President Zelaya was the impression—although never proven—that he was seeking a second term.

The third recommendation was that political functions that are undertaken by the military should be removed from their mandate. In the Honduran constitution, the military has certain policing powers that we felt were wrong, and they also had the mandate to distribute ballot boxes during the election and to safeguard the election itself. We felt this was not an appropriate use of the armed forces of Honduras.

Fourth, a judicial tribunal should be established with authority to arbitrate disputes between the executive and legislative branches of government. Honduras, like the United States, has divided powers, which occasionally come into dispute. Unfortunately, the judiciary were unable to deal with this. We felt that a judicial tribunal should be established to arbitrate disputes among the three branches.

Fifth, the political parties' machinery should be reformed so as to ensure financial and electoral transparency while including its caucus members in decision-making. We found that the democratic party structure in Honduras was highly undemocratic in terms of excluding members from participating in caucus and indeed the party leadership determining who should be running in different constituencies rather than having an iterative process between the caucus and the leadership.

Finally, under governance, appointments to high-level judicial and legislative watchdog bodies—for example, the superior tribunal of elections—should be depoliticized and should be on the basis of impartial decisions rather than at the will of political representatives of the governing party.

On the human rights side, the commission came up with seven principal recommendations. The first was that the government should pursue, prosecute, and punish perpetrators of human rights abuses during the Micheletti regime, ensuring, however, that due process is observed to those who are accused of human rights abuses.

Secondly, a national plan of reparations should be established, to include restitution, indemnification, and guarantees of protection against reprisals for those having legitimate and verifiable human rights grievances.

Third, the prosecutor general office should be provided with sufficient resources and independence to enable it to establish an investigating unit to respond promptly to future human rights complaints.

● (1315)

Fourth, the actions of the human rights commissioner during the Micheletti regime should be reviewed by an independent committee of Congress. There was a human rights commissioner throughout the Micheletti period. Our commission felt he had not performed according to the terms of reference.

Fifth, the government should review, and as necessary revise, legislation to ensure compatibility with international norms and standards, especially with respect to personal security related to freedom of expression, particularly for journalists, and freedom of association. We felt that the Honduran legislation was lacking in terms of international norms and standards.

Sixth, access by tribal and indigenous people to justice in their own language should be guaranteed. In the Mosquito area, on the coast of Honduras, which we visited, a number of the aboriginal peoples were complaining about not being able to receive justice in their own language.

Finally, the government should ensure compliance with the International Labour Organization convention regarding the duty to consult about the use and exploitation of natural resources in aboriginal territories—a problem I'm sure you're aware of, which is very much indigenous to Central America, where mining companies do not always respect the laws of the aboriginal areas.

Let me give, then, a final brief evaluation of the human rights section of our report.

Internationally, and to some extent domestically, interest in the work and findings of the commission centred on its examination of the human rights situation in the period July 28, 2009, to January 18, 2010, the inauguration of Pepe Lobo. The commission concluded that violations were broadly prevalent during the five months of the Micheletti government. There are indeed factors that might explain, but certainly not excuse, the excessive use of force during this period. There is in Honduras a traditional culture of violence, decentralized control over widely and thinly dispersed police forces, and a lack of professional training at the operational level of the police.

The small country at this time was also suffering a collective paranoia, quite honestly, out of its isolation from the international community, exacerbated by its former president, President Zelaya, testing its borders, with support from such South American heavy-hitters as Brazil, Venezuela, and Argentina. In fact, we concluded that the fact that the OAS expelled Honduras so rapidly—the only other country to be expelled from the OAS, of course, being Cuba—took the OAS out of any brokering or mediating role to try to bring the situation back to a more stable situation, and to some extent, the Hondurans rallied against the OAS at that time.

That said, however, there could never be any justification for the complicity of the senior levels of government, reaching to Micheletti himself, in condoning police violence, in failing to investigate obvious politically inspired assassinations, or in restricting freedom of movement through the imposition of extended curfews without corresponding constitutional authority.

The human rights situation during this period, although grave, remained limited in scope and time compared to the horrors of violations involving mass killings in Guatemala, El Salvador, and Argentina or the torture and targeted assassinations in Peru and Chile at an earlier time. We do not feel they were of that scope, but they were definitely to be condemned.

The failure of institutions, the lack of clarity of governing precepts stemming from a weak constitutional regime, and an insufficiently rooted democratic construct were the principal factors leading to the coup. These inadequacies created the conditions that allowed for the complicity of the Micheletti ad hoc government in the perpetration of violations with respect to personal liberties and security. This assessment in the latter half of 2009 impelled the commission to focus extensively on Honduras's governance regime and to concentrate much of its work on developing recommendations not only to reinforce the rule of law but to find ways to broaden citizens' access to the law. This emphasis also corresponded to a consistent refrain heard during a dozen town hall meetings conducted by the commissioners: the impunity of the few and the inequality of the many before the law.

● (1320)

Let me just end with two quotes that best illustrate this sentiment. Witness number 132 of the victims of human rights indicated: “These wounds are not healed with the passage of time: they are healed by the application of justice.”

My second quote comes from Archbishop Desmond Tutu, who stated in a different place with different problems: “Without justice, there can be no reconciliation. Without reconciliation, there can be no future.”

Thank you.

The Chair: Thank you very much. That other place, I'm assuming, was in South Africa's truth and reconciliation commission?

Mr. Michael Kergin: Yes, correct.

The Chair: Okay. Thank you.

Despite the assiduous efforts of our technical people to get hold of Rolando Sierra, although they'll continue to try, I think we can make the assumption that he won't be available, for which I apologize. We will try to reschedule him at another meeting and give everybody adequate notice to ensure that people can adjust their schedules for that.

We have enough time to give six-minute question and answer rounds, but we will have to be fairly diligent about wrapping up on time. We have to get back to the House, and there will be some considerations there that will cause us not to be able to go over, as we sometimes do.

I'm told that Ms. Grewal will be the first speaker.

Please go ahead.

Mrs. Nina Grewal (Fleetwood—Port Kells, CPC): Thank you, Chair, and thank you to our witness here today, Mr. Kergin, for your time and your presentation.

In your opinion, do you believe that the truth and reconciliation commission has been successful in securing Hondurans from human rights violations? In addition, do you envision an alternative strategy, rather than the truth and reconciliation commission, that could contribute to the strengthening of the country's political institutions?

Mr. Michael Kergin: I think the commission's major contribution probably was to stimulate a dialogue amongst Hondurans, to look back on what happened in the lead-up to the coup that took place in 2009 and try to examine where there might be improvements in terms of their governance to do that.

The society was incredibly split between left and right, and the coup put a stake almost through this society. We would go to these small pueblos, these small villages and so forth, and you could see how much there'd be the pro-Zelaya group and the pro-right wing, if you will, or National Party group. The nice thing about these things, though, in these small towns is that people recognized they had to live together. The thing about Honduras is it's a very mountainous region. These towns are quite isolated, and they're kind of caught in the valleys. You can't really escape, so you have to have a fairly amiable relationship with your neighbour. You can't allow politics to drive too much of a conflict in that small context.

My sense was that I don't think we made great progress in actually changing the institutions of government, but as I say, I haven't been back since that time. We gave an awful lot of press conferences, and from what I could gather in talking a bit to our colleagues in Foreign Affairs, it did stimulate a fairly good discussion on how we can improve our governance mechanisms. Whether in fact they will be improved is another story.

● (1325)

Mrs. Nina Grewal: Mr. Kergin, critics have argued that the commission has failed to adhere to the internationally recognized standards for truth commissions. Can you please explain to the committee what the international standards for truth commissions are, in your opinion? Has the truth commission developed for Honduras failed to meet international standards? If so, why?

The Chair: This is very unusual. I'm going to interrupt for a second. I apologize. We're stopping the clocks to get the rest of your question. We have Mr. Sierra on the line. I have to do a sound check so that we can confirm that he can hear us.

We'll let you continue with the answer, Mrs. Grewal, with the rest of your time. Then we'll go to his testimony. Then we'll continue on with questions after that.

My apologies for interrupting.

Mr. Michael Kergin: Sorry. Do you want me to answer?

The Chair: Yes, please give an answer now.

Thank you.

Mr. Michael Kergin: Did we study the constitution of other commissions?

As I mentioned, the key about a commission is that it is established by a government, and you're pretty well locked in to what the government says the commission can do. We, in our case, as I mentioned, added the human rights dimension; it wasn't in the original mandate. In that respect, I think we lived up to what was required.

The commission, however, did not have prosecutorial powers. We could not summon witnesses against their own volition, and we had no powers of prosecution—we couldn't actually prosecute individuals. Our sense was to share with government cases in which there had been violations of human rights, and then it was up to the government to take the actions of prosecution.

If I have a criticism of the commission, it is that we weren't terribly successful in publicizing our recommendations on governance. I think that's important, because other countries, such as the Nordic countries and Canada, wanted to help strengthen Honduras's governing systems. Although we had our report—and it was about the size of two Ottawa telephone books—it was in Spanish. It took Foreign Affairs in this country about six months to translate it so that we could send the report to countries that were English-speaking and perhaps weren't prepared to get exercised or interested in a Spanish publication.

I think we could have done a slightly better job of trying to make our report internationally accessible, and that might have helped more to bring in technical assistance and aid from other countries that were trying to support Honduras in its efforts to become more democratic.

The Chair: You still have a minute and a half.

Mrs. Nina Grewal: Can I go ahead?

The Chair: Yes, please.

Mrs. Nina Grewal: Freedom House issued a world report last year. The report mentioned that in Honduras, media ownership is concentrated in the hands of a few powerful business interests.

To your knowledge, is the media currently restricted in Honduras? Have reporters and journalists been able to use the Internet to spread useful, uncensored information?

Mr. Michael Kergin: That's definitely a problem area. I didn't get into it in great length, but the report gets into quite a few suggestions for at least trying to bring to the attention of the authorities that the media, like everything in Honduras, I guess.... You have five or six, if not families, at least groups, that own the banks; they own the sources of media. They tend to get together behind closed walls and decide who should be the presidential candidate, and so on, and they have the power of finance, of course. To some extent, it is a problem in Honduras.

The press is extremely lurid. It's a terribly violent society, as I'm sure you're aware. It has the highest homicide rate in the world, I think, by quite a long shot. The press indulges in sensationalism; it does not indulge in serious, objective analysis of events.

There is a press that represents different perspectives, I suppose, but it's certainly the conservatives' press that seems to dominate, and to some extent, as a result, it doesn't always provide an objective view of what's happening.

Yes, journalists are very much an endangered species there, partly because of political reporting, but also because the drug situation has now become completely out of control. It was so even in my day, when I was involved. Any investigative journalists who were looking into the drug issues were subject to potential assassination, not for political reasons but because they were revealing issues related to drugs and drug abuse and so on.

● (1330)

The Chair: We're going to stop at this point to see whether we can get Mr. Sierra on.

Hello. Can you hear us? We can hear you.

Ms. Sonia Wayand (Assistant, As an Individual) (Interpretation): Mr. Sierra, can you hear us?

Mr. Rolando Sierra (As an Individual) (Interpretation): I can hear you well.

Ms. Sonia Wayand (Interpretation): Mr. Sierra, can you speak English?

Mr. Rolando Sierra (Interpretation): No, I cannot speak English.

Ms. Sonia Wayand (Interpretation): You will be connected to the interpreters. You can speak Spanish and they will proceed with the interpretation.

You will be in contact with Mr. Scott Reid, who is presiding over the committee.

The Chair: What I'd like, Mr. Sierra, is for you to please feel free to begin your testimony. The translators will then translate for the benefit of our committee members. When that is done, some of the committee members will ask you some questions.

Please feel free to begin at any time.

Mr. Rolando Sierra (Interpretation): In the first place, I would like to say that in the last few years the state of Honduras has not shown any policy of human rights violations, like we saw during the last century. The state has also recognized that there has been infiltration of different sectors, like the police, for example, and in that respect the state has had to take measures related to how to proceed with the investigation of human rights violations.

The main aspect of these processes is that we have proceeded to do a cleanout of the police services. We have created a special unit of investigation, and also for development of careers in the police. There has been a reform of the public safety sector, and the Ministry of Justice and Human Rights has also been created as a new ministry by this government to provide answers to the issues related to human rights.

This year we've seen the publication of a report on the situation of human rights violations that has information relating to 2011 and 2012. In this respect it is recognized that the country continues to be immersed in a situation of violence. The right to life continues to be an issue, and this is an issue that has been growing within Honduran society.

[*Technical difficulty—Editor*]

Included in the report by the Ministry of Justice and Human Rights produced by a state institution are facts about the wave of violence in recent times in the country, with an increase to 2,631 homicides, particularly in sectors such as cases of violence against women, as well as homicides of men, of judicial and legal figures in the country, and of professional actors and players like journalists and those in social communication. This is something we have seen.

The main problem outlined in the report is the weakness of state institutions in proceeding with investigations in a timely and effective manner to fight against impunity. That's one of the challenges the state is facing right now in Honduras. It is also important to mention that we are looking for solutions and alternatives.

● (1335)

As I said at the beginning of my presentation, we are currently going through a reform process in the public safety sector, with the objective of strengthening judicial institutions to facilitate the investigation and cleanup of the institutions involved. Journalists are also going through a process in hand with the secretariat of human rights to produce a law for the protection of human rights that would include journalists and social communicators, with the participation of all players in the justice system, to facilitate protection, and also investigations, particularly in the case of journalists.

On the other hand, and further to the case of journalists, we have seen in the national committee for telecommunications a proposal for reforms in this sector, to reform the law governing the telecommunications sector, which presents topics, the main one being the democratization of telecommunications to include private and public media as well as community media.

The country is also going through a process of open discussions regarding freedom of expression as well as freedom of the press. The different sectors include the private sector, media, journalists, and organizations related to the different social sectors as well as players in the human rights and freedom of expression sectors in the country who are participating in this debate.

We must also recognize the challenges surrounding violence and human rights in the country. During the last few years, in an area of the country known as Aguan, where access to land has been an issue...despite the fact that there have been some agreements with different sectors of the government, it represents the highest rates of violence and conflict, with a strong presence of police forces and state players and continued conflict between the peasant sectors and the entrepreneurial sectors of the area.

I don't know if you have any questions now regarding any particular topics.

● (1340)

The Chair: Our members of the committee would like to ask you some questions.

We'll go first to Mr. Scott from the New Democrats.

Mr. Scott, why don't you begin. We'll give you six minutes.

Mr. Craig Scott (Toronto—Danforth, NDP): Mr. Chair, is it okay if I focus on Mr. Kergin?

The Chair: It is your choice who you focus upon. You're next on the list.

Mr. Craig Scott: Mr. Kergin, thank you ever so much for—

The Chair: I might just inform our witness, if you don't mind. I'm not sure Mr. Sierra knows that.

Mr. Craig Scott: Okay.

The Chair: Mr. Sierra, I should explain for your benefit, because I don't know if you know this, there are two witnesses here. You are one. The other witness is Michael Kergin, who is physically present in the room in Ottawa. The member who is about to ask a question will be putting his question to Mr. Kergin.

Mr. Craig Scott: Thank you, Mr. Chair.

Just also for full disclosure—Mr. Kergin knows this—I was a member, until elected, of the alternative commission in Honduras. So we share a role, in some sense, but my commission was a civil society one, and plagued with difficulties different from yours, probably.

I just want to ask three or four questions and then have you respond as you would like. Otherwise we might not get to them.

First, Mr. Kergin, given what you found out about Honduras and what exists now, did the commission consider, and do you think it's a good idea to have, something like what we have in Guatemala, the International Commission against Impunity in Guatemala? I know that the Canadian government has shown some interest in that. Is it still on the table, and should it be?

Second, I understand that the UNDP was engaged at one point by the commission to prepare a human rights report. It's not clear whether that actually is a public document. I just want to know if it's available.

To my third question, I think I know the answer, because we were having the same evidentiary difficulties. Was there any evidence at all that came forward to you, that you found credible, on U.S. government or American involvement in the coup? That's American as in "Americans", not necessarily government.

Finally, as I think we discussed at one point in our former existence, at the alternative commission we were subject to—not so much me, but my colleagues—serious harassment and intimidation. We were focused on human rights violations as they occurred, not just up to Mr. Lobo's inauguration but afterwards, which could explain part of the attention that was paid to us.

Our two Honduran commissioners had to flee the country. We had an attempted assassination of the head of our security team. There was an explosion in our San Pedro office, mock machine gun battles outside of our Tegucigalpa headquarters, and a military officer threatening witnesses in Washington who were members of the commission.

Did your commission experience anything approximating that, or does what I describe sort of resonate with something that's plausible in terms of what you know about Honduran society?

● (1345)

Mr. Michael Kergin: Let me take each one of those very quickly, and in order.

Very much so we recommended that there should be a committee on impunity. We felt that what was going on in Guatemala was actually quite an effective help by the international community. Mr. Stein, who was our chair, of course, knew it quite well, being a Guatemalan.

It is one of our recommendations. I do not know if it has been adopted or not. I believe the government actually requested it, but where it went from there, I'm afraid I just don't know.

Second, on the human rights reports, yes, we asked the UNDP to select four human rights experts. They did a report. I think it is with UNDP headquarters. It was quite extensive. It was longer than...so we melded it a bit into our own report. We didn't attach it as a separate report. I suppose we could have done it as an annex, and I don't recall why we didn't, but we felt we took the essence of it and put it into our own words. That was our job. But I do believe it may be at UN headquarters in New York. I think that's the case.

Regarding evidence of the United States government participating in the coup, we didn't find any. There were rumours that the plane that took Zelaya to Costa Rica was refuelled, and that the Americans knew about this. I happen to know the U.S. ambassador quite well from a previous life and so forth, and I have no reason to believe, having asked him directly if they had foreknowledge or if they were in any way.... But the U.S. government is pretty big and it has a lot of different arms, so I honestly don't know. We certainly would not have put that in our report, because we had no evidence that the U.S. was involved in the expulsion or the coup part of it.

With respect to the harassment question, we did not find we were harassed. Of course we were a creature, in a sense, by a decree-law of the government, and our standing was fairly well known. If there had been any sense of harassment, there obviously would have been a pretty large amount of publicity about it. We weren't harassed at any time.

We had high security, because we were worried about drug dealers and so on in some of these remote areas, and we'd just go through in our cars at about 150 kilometres an hour. Things could be quite sticky in some of the areas, but I think that was more drug-related than related to our own situation as human rights commissioners.

I suppose you do have a kind of parallel group in Honduras of maybe former military, who maybe have links with the current military, or certainly with the police, and they would turn a blind eye, which could involve harassment for one's group. I'd be surprised if it happened in Washington, but it wouldn't surprise me if you say your colleagues had difficulties of that nature, that they might have been perpetrated by these parallel organizations, or paramilitary organizations, or para-police organizations—the wink wink, nudge nudge sort of thing. I wouldn't think it would be happening with official sanction of the presidential palace, but it could possibly be happening.

Mr. Craig Scott: Just to fill it out, the—

The Chair: Actually, I'm sorry, we did turn the clock off to allow the intervention, and we're still over time.

Mr. Sweet, you are next.

Mr. David Sweet (Ancaster—Dundas—Flamborough—Westdale, CPC): Thank you very much.

I just want to do something unusual. If Mr. Scott feels he would like to rebut anything regarding any question, I'd like him to feel free to do so, because not being intimately involved with the two commissions.... Mr. Scott might be able to shed some light on some things.

Were you surprised, Mr. Kergin, after you did the work? You listed 450 days, 300 meetings, 20 town halls, 50,000 pages of documents, 900 video.... You did a substantial amount of work. Were you surprised afterwards that there were citizens' groups calling for more investigation, and that they felt there were some things that were whitewashed?

● (1350)

Mr. Michael Kergin: To be candid with you, I wasn't aware that there were groups asking that more be done. The commission that Scott was involved with was going on at about the same time. So I can't really answer your question, because I wasn't really aware that there were groups that were seriously saying there had to be more and more done. I'm just not aware of that.

Mr. David Sweet: Was there anything significant regarding recommendations that came from your commission's investigations that were different from those of the second citizens' commission?

Mr. Michael Kergin: I would have to ask him. I don't think I've ever seen any results of that commission, so I'm not in a position....

I think if they reported that, it was much later, and I'm afraid I was not dealing with Honduras at that time.

Mr. David Sweet: Mr. Scott, did you want to comment on that?

Mr. Craig Scott: No, but I'd be happy to talk at some other point, and it could enter into the evidence if it would be helpful.

Mr. David Sweet: Okay, thank you, Mr. Scott.

To your knowledge, did the OAS review their decision? You mentioned that their decision to "out" Honduras...it appears to me now in hindsight to have caused a lot more issues than it solved. Has there been a review of the decision at the OAS and what they would do in the future?

Mr. Michael Kergin: Interestingly enough, I can't answer would they have, but we, in our report, were rather critical. We had a section on international. Time prevented me from getting into it in any detail, but we were very critical that the OAS moved as quickly as they did in expelling Honduras. The secretary general of the OAS came to Honduras within 24 hours of the coup, but refused to meet with anybody except for the judiciary. Therefore, he wasn't able to have—and he was prevented by a decision of the council of the OAS to enter into—any discussions with anybody perceived as being in charge of the coup, i.e., the legislature, Micheletti and company, or the executive branch or the head of the legislature of the party.

He was not able to provide a dialogue, and of course those people in charge, if they weren't able to dialogue with the OAS and couldn't talk to them...it meant that the OAS was not in a position to broker any kind of an arrangement. To some extent, it reinforced the isolated, almost paranoid, feeling of this small country, when the big countries like Venezuela, Brazil, and Argentina had obviously worked the council to stop any kind of communication or mediation type of role.

Mr. David Sweet: Okay. My next question was going to be what precipitated such a swift decision, but you feel that....

Mr. Michael Kergin: Yes, it came very much from Venezuela, Argentina, and Brazil. These were countries who were very supportive of Mr. Zelaya and tried, in fact, to bring him back into the country at one point, sometime in August 2009. I think that, being a small country, the Hondurans felt they were being put upon by the big players outside.

Mr. David Sweet: Neither you nor, as Mr. Scott had mentioned in his preamble to his question, the commissions had the capability to subpoena—

Mr. Michael Kergin: No, we did not.

Mr. David Sweet: —to demand that people testify. You mentioned this handful of families who have a significant play in business and media, etc. On their own volition, did they testify at either commission?

Mr. Michael Kergin: Yes, they did. The only person we asked who didn't appear before the commission was the former president, Mr. Zelaya. We talked to the senior financial groups, and some of Mr. Zelaya's ministers appeared before us, certainly. But Mr. Zelaya himself did not. We had pretty good access to most of the players from the time of the coup.

Mr. David Sweet: Did Mr. Zelaya give your commission a reason why he would not testify?

● (1355)

Mr. Michael Kergin: It's possible. I don't know if he specifically stated it, but our sense was he felt that the commission had been created by the Lobo government and that the Lobo government, in the party Resistencia's view, was an illegitimate government because it had been created out of the period of time of the Micheletti government. The feeling was that the elections were not free and fair. Therefore, the Lobo government had no legitimacy and therefore a commission created as a result of that government had no standing.

Mr. David Sweet: Thank you, Mr. Kergin.

The Chair: Thank you.

Mr. Scott, I'm going to shorten the time a little bit on this. You have just one question. Please go ahead.

Mr. Craig Scott: Mr. Kergin, I was just wondering—Mr. Sweet brought up the inter-penetration of powerful economic elites. It almost is in the hands of a core set of families and it goes out from there, and how that inter-penetrates the political process. You described it well yourself.

I want to ask you for your frank view. Can we in Canada, with our extensive mining interests and mining expertise, get involved in Honduras in light of the way that economy works, in terms of inter-penetration of the political elites, the almost complete lack of rule of law? I know you understand the difficulties of mining investing overseas. Do you have anything to tell us about Canadian mining in Honduras? Is there a cautionary tale that we need to keep in mind?

Mr. Michael Kergin: I think there is a cautionary tale in the sense that—and it's not just in Honduras, but many of our mining companies would be well advised to have a more open and more respectful dialogue with some of the aboriginal groups or people who are in the area where they're doing the work.

Certainly in Honduras there are concerns about environmental questions on mining and so on. To the extent that Honduras needs foreign exchange and economic interests are involved, it would seem to me that there's a propensity for the government not to be quite as strict about environmental safeguards as one might want or certainly the locals of that area would like to see.

It is a question of whether a foreign mining concern, such as a Canadian one, would go further and be more rigorous with respect to the rules that are on paper or in law, but are often not respected either because of lack of implementation or, to some extent, possibly money changing hands and so forth. If a Canadian mining firm were playing by the rules and had an open dialogue with local groups, it would be acceptable practice. But there's also a propensity in those countries for people to cut corners and to cut costs. They do that by not being as strict with the rules as perhaps they should be when they're on paper.

Mr. Craig Scott: Thank you.

The Chair: That was three minutes.

Mr. Sweet, I'll give you an equivalent amount of time.

Mr. David Sweet: I have one brief question, and I'd like Mr. Sierra and Mr. Kergin to answer it. Maybe we'll go to Mr. Sierra first, since he's been waiting on the line.

Do you feel that enough effort has been put into the recommendations from a truth and reconciliation commission by the Lobo government? Are they taking it seriously and moving ahead with the recommendations?

The Chair: Mr. Sierra, would you like to comment on that?

Mr. Rolando Sierra (Interpretation): Very well.

From here they prepared a plan concerning the 84 recommendations. Of the 84 recommendations, 65 are related to the responsibility of one of the state institutions. The rest have to do with the OAS, with the international community. They also affect political parties and the Civil Society Organizations. Of the 65 recommendations that are the responsibility of the state, in one way or another, 57 are the responsibility of the National Congress, or the Congress of the Republic.

Currently, if we observe the process of compliance with these recommendations, 26 of the 84 recommendations have been complied with: 3 regarding constitutional affairs, 11 regarding human rights, 4 regarding the war on corruption. And there are other recommendations on the electoral system and the media.

Furthermore, there are currently 42 recommendations that are in the process of compliance. In other words, there are 42 recommendations within different areas that are still in the process of being complied with. There has been a low level of compliance, particularly regarding international aspects. That, of course, relates to the OAS and international cooperation. We should underscore that there has been an impact on compliance, but we cannot say that the impact has been immediate in respect of recommendations, proposed constitutional changes, legislative changes, or the drafting of new laws and new public policy.

Now, there has been progress, but we're quite clear about the fact that Hondurans and the international community require monitoring and follow-up with the state of Honduras, so that the progress that may come about actually translates into a strengthening of democratic institutions, a strengthening of the state of the law, and a more democratic and participative society.

● (1400)

Mr. David Sweet: Thank you, Mr. Sierra.

The Chair: Thank you, Mr. Sierra.

To the other committee members, I'm not going to see the clock as being at two o'clock until we've heard from Mr. Kergin in response to this question.

Mr. Kergin.

Mr. Michael Kergin: I hate to disappoint you, but I just haven't followed Honduras since I left, so I can't say whether they have made progress. I do understand, however, that some of our recommendations require legislation, and legislation, like any parliamentary process, takes time. Some of the recommendations were fairly far-reaching. Particularly time-consuming are recommendations dealing with constitutional change, which is what we suggested in a number of areas. For these reasons, I'm not in a position, regrettably, to tell you whether or not Honduras has made that much progress on our report.

The Chair: Thank you.

That completes all the time we have available for testimony. I would like to do some follow up with both Mr. Kergin and Mr. Scott afterwards about getting some written materials. Perhaps I can speak to you offline.

In the meantime, Mr. Sierra, we thank you very much for having attended and for giving your testimony. All members of the committee want to express their gratitude.

● (1405)

Mr. Rolando Sierra (Interpretation): Thank you very much, and good afternoon to you all.

The Chair: Members, we are adjourned.