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Honduran Judges Fired for Opposing Coup Confront Judiciary Representatives at Inter-American Commission on Human Rights

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Category/Department: Honduras
Published: 2012-04-19

Both the fired judges and the Honduran state staunchly upheld their positions again late last month during a hearing at the Inter-American Commission on Human Rights (IACHR) at Organization of American States (OAS) headquarters in Washington.

Four judges, fired almost two years ago by the Honduran Corte Suprema de Justicia (CSJ) for having outspokenly opposed the June 2009 coup, returned to the commission to again present their case and this time to ask the regional body to issue its final report on the matter. So did the Honduran state, represented by a delegation of CSJ magistrates who again rejected the judges’ allegations of human rights violations and political persecution.

On March 31, 2011, after studying the case brought months before by the Honduran Asociación de Jueces por la Democracia (AJD) and the Washington-based Center for Justice and International Law (CEJIL), the commission admitted it (NotiCen, Dec. 16, 2010). Almost a year later, at the end of last month, both sides confronted each other yet again.

The four judges, along with CEJIL lawyers, contended the CSJ violated the judicial officials’ rights when, in a 10-15 vote, it decided to dismiss the group, claiming they had taken part in political-partisan activities and had to be punished.

The group and CEJIL underlined that the reason behind the dismissals was to prevent the four from further signaling the CSJ for having supported the coup by, among other actions, describing it as a "constitutional succession," not a disruption of Honduran constitutional order.

Former judge Tirza Flores explains case

Tirza Flores, one of the four judges fired in the May 5, 2010, vote, recalled that the bloody coup that toppled Honduran President Manuel "Mel" Zelaya (NotiCen, July 2, 2009), who was immediately sent into exile—initially to Costa Rica—was followed by a strong, yet peaceful, opposition movement that started spontaneously and eventually became the Frente Nacional de Resistencia Popular (FNRP).

Military and police repression ensued, leading to still-unpunished human rights violations, added Flores, whose brother, Zelaya’s minister of the presidency Enrique Flores, was placed under house arrest in June 2011 and charged with embezzlement shortly after he returned with Zelaya and other exiled leaders.

Exiles were allowed back under an agreement between the opposition and Honduran President Porfirio "Pepe" Lobo’s administration, more than a year after it took over from the de facto regime as a result of elections in November 2009.
In the midst of repression, "the Corte Suprema de Justicia...justifies and supports the coup d'état, and this is taken up in numerous international reports...leaving much doubt regarding its impartiality and its commitment to the rule of law," Flores told the commission. "Within this context of political persecution, our dismissals took place, and all the dismissals are linked to actions we carried out in opposition to the coup."

Referring to one of her three colleagues, Flores recalled that Guillermo López was fired because he took part in a peaceful march demanding that constitutional order be restored. "The Honduran state considered that a political-partisan activity," and "the Consejo de la Carrera Judicial confirmed his dismissal in August 2011," added Flores.

The Consejo was created in 1998, as part of the CSJ, to assist the court in matters related to personnel policies and in solving conflicts derived from the implementation of judicial legislation.

Judge Ramón Barrios was sacked "for having given a lecture, later published by a Honduran newspaper, explaining...why the coup was illegal," Flores also said. "The Honduran state considered that, in his capacity as a judge, it wasn’t possible for him to publicly express his opinion," but the Consejo revised the resolution, deciding to keep him in his post, but only arguing that the cause for dismissal hadn’t been proved."

"In the case of Luis Alonso Chévez, he was fired because he had been illegally arrested by police for having asked them not to use excess force on a group of demonstrators, and the Honduran state deemed the action to infringe on the dignity of the administration of justice," said Flores. "The Consejo de la Carrera Judicial decided to pay him compensation, but it prevented him from being reinstated."

"In my case, I was fired because I filed an appeal against President Zelaya’s expatriation, and I also filed a complaint at the Ministerio Público against the officials responsible for the coup," Flores said. "On August 24, 2011, the Consejo confirmed my dismissal."

Colleague López, who portrayed the Honduran judiciary as historically politicized, because its magistrates are appointed by the unicameral Congreso Nacional, told the commission that the Consejo "had no legal power to deal with dismissal resolutions or sanctions imposed by the CSJ."

New legislation, passed in November 2011 and in force since last January, "is a step in the right direction," although "it doesn’t solve the major institutional problems of the judiciary," because it is headed by the CSJ president, and the other four members are appointed by Congress, López added.

CEJIL argues case

In her presentation, CEJIL lawyer on Honduran affairs Marcia Aguiluz pointed out that all of the judges’ rights were violated, including their rights to judicial guarantee, freedom of association, freedom of expression, along with all their political rights.

The officials taking part of the proceedings against the judges had taken a position about the legality of the coup, besides the fact that the court’s decisions on the matter were not duly sustained, Aguiluz further said. The court’s aim "was to prevent the judges from continuing to criticize" the magistrates’ position in support of the coup.
The punished judges’ actions "weren’t political-partisan expressions but expressions that were transcendental and necessary for democracy within a particular context in Honduras," Aguiluz said. "Thus, they were expressions protected by the American Convention on Human Rights."

"It’s surprising that the CSJ punished Judge López Lone for his participation in a demonstration against the coup, while the same body promoted participation of judicial employees in demonstrations that took place to support the de facto regime," Aguiluz pointed out. "This is the first case that covers part of the human rights violations that took place starting with the coup, and it shows the deplorable behavior of one of the state’s powers against guaranteeing a major part of the Honduran population’s human rights."

"The case aims not only at restoring the victims’ rights but at promoting structural reform aimed at staving off political influence in the judiciary and at fully guaranteeing judicial independence," the lawyer pointed out. "This case can promote those processes," and this is why "we respectfully request that [the commission] submit the report as soon as possible."

**State responds**

After hearing the petitioners’ arguments, the state—represented by magistrates María Luisa Ramos and Reina Solórzano—rebutted all allegations.

"In the state’s concept, the petitioners have had all the opportunities to access the internal judicial system, and they were guaranteed the due process established under Honduran law," Ramos said. "They’ve also had the opportunity, within the legal framework, to provide evidence, and the right to all the options legislation offers them."

Solórzano said that, "against the petitioners’ allegations, the CSJ has taken no action to dismiss on political grounds, against freedom of association. On the contrary, that freedom is respected within the CSJ. No action has taken place to limit the freedom of expression and of thought. The Honduran state trusts that, based on elements included in the file, the Inter-American Commission on Human Rights consider the inadmissibility of the petition."

-- End --