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Human Rights Organizations Condemn Suspension of Guatemalan Judge Yassmín Barrios

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On April 4, the Tribunal de Honor of the Colegio de Abogados y Notarios de Guatemala (CANG) temporarily suspended Judge Yassmín Barrios from practicing law for one year and ordered her to pay a US$650 fine.

Judge Barrios oversaw the trial of former dictator Gen. Efraín Ríos Montt (1982-1983), who faced charges of genocide and crimes against humanity (NotiCen, April 4, 2013, and May 9, 2013). Although Ríos Montt was found guilty, the Corte de Constitucionalidad (CC), under pressure from Guatemala’s conservative business establishment, controversially overturned the verdict. Local and international human rights organizations have strongly condemned this decision and have argued that it runs contrary to the principle of judicial independence.

The Tribunal’s decision to suspend Judge Barrios was based on a complaint filed by attorney Moisés Galindo, defense counsel for José Mauricio Rodríguez, director of intelligence under the Ríos Montt regime and his co-accused in the genocide trial.

Galindo accuses Judge Barrios of disrespecting and publicly humiliating him after she ordered him to temporarily represent Ríos Montt after the three-judge panel evicted attorney Francisco García Gudiel from the courtroom. García Gudiel had acted as Ríos Montt’s defense counsel on the first day of the trial but proceeded to argue that the trial should be delayed and that the presiding judges should be disqualified on the grounds that there was "an intense hatred" between himself and Judge Barrios that would affect the outcome of the trial.

Even though the Judicial Disciplinary Board, the only body that has jurisdiction in the actions of judges, had already heard Galindo’s complaint and had resolved to dismiss it in April 2013, the CANG’s Tribunal de Honor heard his arguments and concluded that Judge Barrios had gravely violated the rules of professional ethics. Its resolution is dated Jan. 9 but was officially released on April 4.

In her defense, Judge Barrios defended her actions, denied being disrespectful toward Gudiel, and pointed out that the Judicial Disciplinary Board had already rejected the case. In an interview with El Periódico newspaper, Judge Barrios described her suspension as an "unjust and illegal" decision that was outside the CANG’s decision. "This jeopardizes judicial independence and the rule of law. It means that anyone can, without grounds, accuse a judge to avoid being prosecuted. This opens the door to impunity and corruption. .... Judicial independence is a guarantee, more than for the judge, it is a guarantee for Guatemalans to be able to depend on honorable and dignified judges," she said.

Iván Velásquez, head of the UN-backed Comisión Internacional Contra la Impunidad en Guatemala (CICIG), the UN Office of the High Commissioner for Human Rights (OHCHR), as well as a number of local and international human rights organizations, have emphatically condemned the Tribunal de Honor’s ruling. The US government also expressed "deep concern" about the
decision and said that "capable and independent public officials are essential for democracy to function."

Added to this, on April 21, the Consejo General de la Abogacía Española, (the Spanish Bar Association), which gave Judge Barrios its annual Human Rights Award in 2013, said that the Tribunal de Honor's decision amounted to "a frontal attack on judicial independence."

Judge Barrios has presided over some of Guatemala’s most sensitive cases, such as the trial of the Army officers accused of murdering Bishop Juan Gerardi (NotiCen, June 14, 2001), the Dos Erres massacre case (NotiCen, Aug. 2, 2012, and Jan. 23, 2014), and a number of high-profile cases involving gangs and drug cartels.

In March this year, US first lady Michelle Obama presented Barrios with the US State Department’s Women of Courage Award, in recognition to her efforts to end impunity in Guatemala despite adverse and highly dangerous circumstances, including a number of death threats in the past few years. This angered her opponents, including García Gudiel, who said that he would not rest until Judge Barrios and the other judges who heard the Ríos Montt trial were sent to prison.

Tribunal revokes suspension

After she was notified of the Tribunal’s decision, Judge Barrios appealed to the Asamblea de los Presidentes de los Colegios Profesionales. She also attempted to file a legal challenge (recurso de amparo) before a civil court but Judge Liliana Joaquín Castillo rejected the amparo and ruled that Judge Barrios needed to exhaust all other means of appealing, including the Asamblea de los Presidentes.

Finally, on April 29, the Asamblea de los Presidentes ruled that Judge Barrios had acted wrongly by ordering Galindo to represent Ríos Montt but that the alleged misdemeanor was not serious enough to require her suspension and resolved that both the fine and the suspension should be revoked. Instead, Judge Barrios received a private reprimand. "The Asamblea showed the courage that Judge Liliana Joaquín Castillo lacked, as she failed to defend the principle of judicial independence. This is not only a victory for me, it’s a victory for the system," said Judge Barrios after receiving the news.

Although her suspension was revoked, the reprimand of Judge Barrios is a blemish on her track record that could prevent her for running for high-level public jobs such as magistrate, president of one of the courts, or attorney general.

And the saga is not over yet as Galindo has decided to sue the Asamblea's legal advisor for moral turpitude, collusion, and influence peddling.