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International and Regional Organizations Call for Guatemala to Reject Sanction of Judge Yassmin Barrios, Lead Judge in Guatemala's Historic Genocide Trial

Organizations Call for Respect for Judicial Independence in Guatemala

10 November 2014 – International and regional organizations call for Guatemala to respect judicial independence and reject the illegal sanction of Judge Yassmin Barrios. Guatemala's constitutional court is now considering a challenge concerning the authority of the country's lawyers' association to sanction Judge Barrios for her actions as a presiding judge during the 2013 trial of former dictator Efraín Ríos Montt and his then head of intelligence Mauricio Rodríguez Sanchez.

Nine international organizations and organizations from Latin America – Open Society Justice Initiative (OSJI), Center for Justice and International Law (CEJIL), the Due Process of Law Foundation (DPLF), the International Federation of Human Rights (FIDH), Center for Legal and Social Studies (Centro de Estudios Legales y Sociales – CELS), the Robert F. Kennedy Center for Justice and Human Rights, the Guatemala Human Rights Commission (GHRC), International Platform Against Impunity in Guatemala and the Washington Office on Latin America (WOLA) – call on Guatemala to reverse this sanction, and guarantee protections for the independence and impartiality of the Guatemalan judiciary.

Guatemalan Judge Yassmin Barrios has acted admirably and with independence in high-profile cases over a nearly two-decade career. Besides the Ríos Montt genocide trial, Judge Barrios presided over the cases relating to the assassinations of archbishop Monsignor Juan Gerardi and the anthropologist Myrna Mack, the massacres of Dos Erres and Plan de Sánchez, the death of Rodrigo Rosenberg, and cases regarding crimes committed by drug traffickers, among others.

She now faces severe retaliation, including threats to her ability to practice freely as a judge, arising out of her oversight of the genocide trial.

On April 4, 2014, the Ethics Tribunal of Guatemala's lawyers association (known by its Spanish acronym CANG) suspended Judge Barrios from practicing law for one year, following an unfounded complaint from a member of the legal team of Ríos Montt's co-accused. The lawyers' association ordered a public reprimand, imposed a fine, and referred the case for prosecutorial

investigation. Her unethical act, according to the association: “causing ridicule and human degradation” of the defense counsel.

The use of a lawyers association to sanction a judge is exceptional in Latin America, but also in Guatemala where the law provides that a Judicial Disciplinary Board (*Junta de Disciplinaria del Organismo Judicial*) handles disciplinary matters related to alleged judicial misconduct. Indeed, a parallel complaint against Judge Barrios had already been heard—and rejected—by the judicial disciplinary authority a year earlier.

Domestic and international actors condemned the actions of the lawyers’ association at the time. However, while an administrative oversight body rejected the penalty, it maintained a stain on her record. Judge Barrios filed a constitutional challenge which was illogically transferred to the court responsible for femicide. On October 22 (decision dated July 18), the appeals court for femicide notified Judge Barrios that it had rejected her legal challenge. Her last appeal now is to the constitutional court.

A year ago, Guatemala showed the world that it was possible to effectively prosecute grave crimes in domestic courts. Now it stands as a model of the political challenges to such domestic processes—and the tremendous risks that remain for independent judges and prosecutors who dare to pass judgment on the country’s powerful actors.

The significance of this decision is heightened as it comes in the midst of contentious nominating processes for all of the country’s supreme and appellate court judges. The bar association plays a central role in the appointment of all of these crucial judicial actors.

A sanction on Judge Barrios threatens judicial independence and the ability of all Guatemalan judges and prosecutors to act without fear of interference or sanction. It violates fundamental international law and should be overturned.

November 10, 2014