

NEWS RELEASE

Colombia: UN experts warn Bill on military criminal justice a setback for human rights

GENEVA (29 September 2014) – A group of United Nations human rights experts are calling on the Government and the Congress of Colombia to reconsider the possible adoption of Bill No. 85 (Senate) of 2013, which aims to restructure and expand the scope of the jurisdiction of military courts.

The experts had expressed similar concerns two years ago with regard to another legislative act reforming the military justice system, which was subsequently declared unconstitutional by the Constitutional Court of Colombia.

“If adopted, this Bill could seriously undermine the independence and impartiality of the judiciary,” the independent experts said in an open letter* made public today. “Such a reform would also represent a major setback in Colombia’s long-standing fight against impunity for international human rights and humanitarian law violations.”

The reform would give military courts extensive jurisdiction covering, among other, homicide, breaches of international humanitarian law, breaches of information and data protection, crimes against public security and other crimes that should fall within the jurisdiction of ordinary criminal courts.

“We call on the Government to ensure that the jurisdiction of military tribunals be limited to criminal offences and breaches of discipline of a strictly military nature and allegedly committed by active members of the armed forces,” they said.

“Crimes amounting to serious human rights violations should always fall within the jurisdiction of ordinary courts, including when the alleged acts were committed by military or police personnel,” the UN experts underscored.

Since military courts in Colombia are part of the executive branch, extending their jurisdiction to matters that should be heard by ordinary criminal courts would exacerbate the problems and concerns already existing in terms of access to justice, impunity for human rights violations, and respect for the fair trial and due process guarantees of the accused.

Despite the fact that the Bill excludes some gross human rights violations – crimes against humanity, genocide, enforced disappearance, extrajudicial execution, sexual violence, torture and forced displacement– from the jurisdiction of military courts, these courts would in practice retain jurisdiction over a number of ordinary crimes that might also constitute human rights violations.

“For instance, under the new Bill, military justice would exercise jurisdiction over cases of

alleged extrajudicial executions perpetrated by military or police personnel, because extrajudicial executions are prohibited by general criminal law provisions on homicide and do not constitute typified human rights violations under domestic criminal law,” they noted.

The UN ‘Special Procedures’ experts offered their advisory services to assist Colombia in its efforts to strengthen its legislative and institutional framework for the achievement of human rights and peace for all.

(*) Read the Open Letter:

<http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=15116&LangID=E>

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The experts:

Mads ANDENAS, Chair-Rapporteur of the Working Group on Arbitrary Detention

Patricia ARIAS, Chair-Rapporteur of the Working Group on the use of mercenaries as a means of violating human rights and impeding the exercise of the right of peoples to self-determination

Pablo DE GREIFF, Special Rapporteur on the promotion of truth, justice, reparation and guarantees of non-recurrence

Ariel DULITZKY, Chair-Rapporteur of the Working Group on Enforced or Involuntary Disappearances

Michel FORST, Special Rapporteur on the situation of human rights defenders

Christof HEYNS, Special Rapporteur on extrajudicial, summary or arbitrary executions

David KAYE, Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression

Maina KIAI, Special Rapporteur on the rights to freedom of peaceful assembly and of association

Gabriela KNAUL, Special Rapporteur on the independence of judges and lawyers

Rashida MANJOO, Special Rapporteur on violence against women, its causes and consequences

Juan E. MÉNDEZ, Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment

Frances RADAY, Chair-Rapporteur of the Working Group on the issue of discrimination against women in law and in practice

‘Special Procedures’, the largest body of independent experts in the United Nations Human Rights system, is the general name of the independent fact-finding and monitoring mechanisms of the Human Rights Council that address either specific country situations or thematic issues in all parts of the world. Currently, there are 38 thematic mandates and 14 mandates related to countries and territories, with 73 mandate holders.

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