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Colombia: Congress should reject law reforming the military justice system

Members of Colombia's Congress should reject a proposed law whose purpose is to give greater powers to the military justice system and which will shield members of the armed forces and the police from justice for crimes under international law, Amnesty International said today.

The law, due to be debated soon, will entrench impunity for violations of human rights and international humanitarian law committed by Colombia's security forces.

The security forces, either acting alone or in collusion with paramilitaries, and guerrilla groups continue to be responsible for serious abuses, including unlawful killings, forced displacement, torture, abductions or forced disappearances, and sexual violence.

Very few people have been brought to justice for these human rights breaches, and the proposed law will insulate Colombia's security forces from prosecution before civilian courts.

"If the bill, which will regulate implementation of last year's reform of the military justice system ("fuero militar"), is approved by Congress, it will show yet again that Colombia is unwilling to genuinely investigate and prosecute crimes under international law," said Marcelo Pollack, Colombia Researcher at Amnesty International.

"The passing of the law might potentially prompt the Prosecutor of the International Criminal Court to step in and itself investigate crimes under international law committed in the country since 2002."

Military courts in Colombia have for decades shielded members of the security forces, especially those higher up the chain of command, from justice for crimes under international law, including extrajudicial executions.

The Office of the Attorney General has recorded more than 4,000 cases of extrajudicial executions reportedly carried out by the security forces, including many so-called "false positive" killings. This refers to the unlawful killing of civilians by members of the security forces who are then falsely presented as guerrillas and paramilitaries killed in combat.

Although progress in these investigations has been unacceptably slow, with only relatively few cases advancing and even fewer resulting in convictions, the Office of the Attorney General and the civilian courts have offered at least a modicum of independence and impartiality that is completely lacking in the military justice system.

"There is a risk that the proposed legislative changes will result in even fewer cases of human rights violations – including torture, extrajudicial executions and enforced disappearances – being effectively investigated, and those responsible being brought to justice," said Marcelo Pollack.

“What little progress has been made in recent years to bring to justice at least some of those responsible for crimes under international law will be reversed by this reform, which should not be adopted by Congress.”

Of particular concern are provisions in the law which state that war crimes will be investigated by military courts.

Although in theory some human rights violations, such as extrajudicial executions, will be excluded from military jurisdiction, given the armed forces' continued control over the initial stages of criminal investigation the reform will make it easier for them to define human rights violations as legitimate acts of conflict, thereby making them subject to military jurisdiction.

The Colombian government has also supported other recent legislative measures, such as the “Legal Framework for Peace” and reform of the Justice and Peace Law, which are likely to entrench impunity not only for members of the security forces, but also for members of guerrilla and paramilitary groups implicated in serious human rights abuses and violations.

Background

Colombia is a State Party to the Rome Statute, which set up the International Criminal Court (ICC). The Prosecutor of the ICC can open investigations on the basis of a referral from states parties to the Rome Statute or the UN Security Council or her office can also initiate investigations proprio motu – i.e. on its own initiative – on the basis of information on crimes within the jurisdiction of the Court received from individuals or non-governmental organizations.