



Judicial Independence

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Implementation of recommendations from the previous period

In the 2018 UPR, there was only one recommendation related to judicial independence. France called on the Colombian State to "combat impunity for crimes committed during the conflict by guaranteeing the independence of the judiciary."

According to Colombia's Political Constitution, the Attorney General's Office, the Ombuds Office, and the Inspector General's Office are the highest bodies that seek to guarantee and promote human rights, protect public interests, and oversee the conduct of those exercising public functions.

These positions have been elected by people close to the President over the last five years. Despite an evident conflict of interest, these officials have made decisions based on the interests of the then President, leading to a questioning of their independence. A clear example were the actions by the Attorney General of the Nation, Francisco Barbosa—known for his closeness and friendship with former President Iván Duque—which did not contribute to the reduction of impunity rates in cases of serious human rights violations. His actions instead concentrated on invading the jurisdiction of the Congress of the Republic, the Constitutional Court, and the Council of State, as well as participating in politics and delivering stigmatizing speeches against defenders and protesters.

Current status

The change in government in 2022 resulted in high-ranking public officials from government programs creating obstacles for the national administration, especially work related to the Total Peace strategy.

The Attorney General's Office has infringed on the jurisdictions of the Congress of the Republic, the Constitutional Court, and the Council of State. These actions: clearly violate the separation of powers; ignore the law that regulates the peace processes; and show the institution's illicit participation in politics. Regarding the latter, meetings were held with coalition parties to tell them to vote against the government's legislation. The Attorney General has accused the national government of favoring drug traffickers and stigmatized social movements and organizations in national and international spaces.

The Inspector General, Margarita Cabello, has led political opposition actions against initiatives proposed by the current administration, through meetings with political parties, where she has requested that they withdraw from the government coalition.

These actions go beyond the institutional mandates and are designed to serve the political opposition. This violates the separation of powers and the independence that should characterize the institutions. The Attorney General's Office has an attitude of open opposition to the government's programs, especially the Total Peace strategy.

Recommendations

1. Avoid political participation of public officials from the Public Ministry (Control Bodies), taking into account that this interferes with the separation of powers.
2. The Attorney General's Office should avoid prosecuting people who defend human rights or exercise their right to social protest and should not press charges without a legal foundation.
3. Select a shortlist of three independent and qualified people who are committed to justice and human rights; and promote reforms to the justice system, such as the selection processes for the Attorney General and the highest positions in the justice system.