

Justice and Impunity

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Implementation of recommendations from the previous period

In the 2018 UPR, 11 countries made recommendations to Colombia on the adoption of effective measures to combat impunity in cases involving serious human rights violations. Despite this, compliance of these recommendations is weak due to difficulties with access to justice and reparations for victims, as well as a lack of convictions against those responsible for the crimes.

Although Germany, Spain, and France recommended guaranteeing judicial independence to combat impunity for crimes committed during the armed conflict, victims are dissatisfied with the lack of acknowledgement of responsibility and poor contributions to the truth from high-ranking military commanders in the macro-cases opened in the Special Jurisdiction for Peace (JEP). This is especially true for macro-cases related to extrajudicial executions and paramilitary structures.

Belgium, Sweden, and the United Kingdom recommended combating impunity and investigating perpetrators of sexual and gender-based violence. However, public institutions have not been equipped with sufficient capacity to respond to victims' complaints, a situation that particularly affects girls and women. Women and girls have faced barriers with reporting and receiving care as victims of these crimes both during and after the pandemic.

Current status

Investigations into extrajudicial killings, torture, and enforced disappearances. Despite progress within the transitional justice system, impunity for extrajudicial executions persists. Victims face security risks, while perpetrators who appear in judicial scenarios like the JEP are not contributing to the truth.

There are also barriers in the ordinary justice system to investigate these cases. Investigations initiated in 2016 and the JEP has focused on cases involving military personnel who have already had their cases heard, including mid-level commanders. It is concerning that these cases could remain in impunity and is the result of the JEP prioritization and selection processes.

Impunity rates for the crime of torture are high. Between 2017 and 2022, just 4.56% of 1,183 criminal cases for crimes associated with torture reached the sentencing stage and only 9.89% of cases went to trial.

In the same period, 13,129 active proceedings for enforced disappearances were reported, of which 0.42% went to trial and 0.21% reached the sentencing stage. The rest of the cases are in stages that do not contribute to satisfying the right to truth, justice, and reparation for victims of this crime.

(1) Available at: <https://www.jep.gov.co/jepcifras/JEP-en-Cifras-dicimbre-9-de-2022.pdf>

Liability of State agents and civilian third parties. The responsibility of civilian third parties and State agents who are not members of state security forces in the armed conflict has not been thoroughly investigated. Of a total of 16,772 cases generated by the Justice and Peace Law, just 98 criminal cases have been opened.

This does not include the Inspector General's Office's investigations of the participation of public employees in these crimes. The investigation of high-ranking State officials is the responsibility of the House of Representatives' Accusations Commission, a political body that has neither autonomy nor impartiality.

The deaths of civilians caused by members of the state security forces were initially investigated by the Military and Police Criminal Justice System, even though in 2021 the IACHR urged the Colombian State to send these cases to the ordinary justice system. The sharing of information by this justice system with the Prosecutor's Office, the JEP, and the Truth Commission has been very limited.

Investigations for offences against freedom, integrity, and in sexual grooming. Widespread impunity persists for crimes against freedom, safety and formation.

One example are the cases of sexual violence committed in the framework of the armed conflict, where just 1.76% of cases had gone to trial as of October 2019. In addition, only 16.9% of cases of domestic violence had reached trial at the end of 2021.

For cases of sexual violence and femicide, 6.85% and 33.81% of cases have gone to trial, respectively.

Recommendations

1. Increase efforts in both transitional and ordinary justice systems to identify the responsible parties on the highest level for crimes, including civilian third parties and State agents, and coordinate actions between the Prosecutor's Office and the JEP.
2. Reduce the scope of the Military and Police Criminal Jurisdiction so that it is not responsible for investigating serious human rights violations committed by State agents and its jurisdiction is limited to cases that are strictly related to active service. Carry out awareness raising actions about what is known as "operational law."
3. Establish spaces and mechanisms in all jurisdictions to guarantee victims' real and effective participation in decision-making with a focus on attributing responsibility and adopting reparation measures and guarantees of non-repetition.
4. Implement measures to strengthen the institutional framework and guarantee the rights to truth, justice, reparation, and non-repetition by ensuring those responsible are investigated and brought to justice and that widespread impunity in these cases is reduced.