UN Forum on Human Rights, Democracy and Rule of Law

“Equal access to justice for all: a necessary element of democracy, rule of law and human rights protection”

Side Event: Concept Note

Military jurisdiction over gross human rights violations and access to justice for victims - Lessons from Latin America

Duration: 1 hour

When military personnel commit gross human rights violations, the military justice system usually has jurisdiction to investigate, prosecute and punish. The UN Special Rapporteur on the independence of judges and lawyers has observed that “the administration of justice through military tribunals raises serious concerns in terms of access to justice, impunity for past human rights abuses, the independence and impartiality of military tribunals and respect for the fair trial rights of the accused”.1

Similarly, the UN Special Rapporteur on extrajudicial, summary or arbitrary executions has held that “[at] its best, military justice has been a separate and inferior system of justice. At its worst, it has provided a pretext for impunity...”2 With the increasing militarisation of public security and law enforcement, both within Latin America and beyond, this is a topic of increasing concern for access to justice for victims.

Event objectives and expected outcomes

The side event aims to identify and share ideas, lessons learnt and areas of best practice to overcome military jurisdiction over alleged gross human rights violations and to ensure the competency of the ordinary criminal justice system to investigate, prosecute and punish such cases. Speakers will explore legal avenues and advocacy initiatives to protect and promote access to justice for victims in this context, highlighting areas of possible synergies.

Topics of discussion

Shaped in part by questions submitted by registered participants, the side event will focus on:

- The impact of military jurisdiction on access to justice for victims of gross human rights violations
- The situation in Brazil: Law and practice following the introduction of Law 13,491/2017
- The situation in Mexico: Journey to reform
- The Inter-American Commission on Human Rights’ case law and approach

Tentative speakers

- Baroness Helena Kennedy QC (Moderator)
  Director, International Bar Association’s Human Rights Institute

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1 UNGA. Report of the Special Rapporteur on the independence of judges and lawyers (7 August 2013) UN Doc A/68/285 [14].
2 UNGA. Report of the Special Rapporteur on extrajudicial, summary or arbitrary executions (20 August 2008) UN Doc A/63/313 [48].
• **Daniel Lozoya (Brazilian perspective)**  
  *Lawyer, Rio de Janeiro Public Defenders Office*

• **Santiago Aguirre Espinosa (Mexican perspective)**  
  *Director, Miguel Agustín Pro Juárez Human Rights Center (Center Prodh)*

• **Silvia Serrano-Guzmán (Inter-American Commission case law and approach)**  
  *Associate Director of the Healthy Families Initiative at the O’Neill Institute and Adjunct Professor of Law, Georgetown University; Former attorney at the Executive Secretariat of the Inter-American Commission on Human Rights*

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