

Intervention during the General Debate
11th Session of the Assembly of States Parties
The Hague, 15 November 2012

Distinguished delegates,

I would like to take this opportunity to address this important audience on behalf of the Colombian Commission of Jurists. In addition to celebrating the tenth anniversary of the ICC, we would like to set out some points regarding our concern for the grave situation of impunity in Colombia, where measures are being adopted that are deterrent to the administration of justice for war crimes and crimes against humanity.

Over the past year, Congress has approved bills and enacted legislation that have resulted in favoring impunity for grave crimes. One of these concerns a constitutional amendment known as the “Legal Framework for Peace”, which allows judicial authorities to abstain from conducting criminal prosecutions for gross human rights violations and grave breaches to international humanitarian law. Consequently, the rights to truth, justice and reparations for victims would be addressed through non-judicial mechanisms. The only cases that can be criminally investigated and prosecuted are those related to perpetrators bearing the gravest responsibility for international crimes. Paradoxically, this framework allows for suspended prison sentences in these very cases.

A second constitutional amendment, set to be approved in December, aims at expanding the scope of Military Jurisdiction in order to impede civilian courts from investigating and prosecuting such violations and breaches when committed by members of the security forces. On 2nd October, 11 mandate holders of the Special Procedures of the UN Human Rights Council expressed their concern on the possible adoption of this reform, considering that this would “*represent a historic step backwards regarding Colombia’s developments in the fight against impunity, as well as to respect and ensure human rights*”.

Furthermore, an amendment has been approved to a law that allows reduced sentences for paramilitaries convicted for crimes against humanity. This law was adopted in 2005 under the attractive and pretentious name of Justice and Peace Law (JPL). Such reduced sentences will no longer be subject to the condition of providing integral reparation to victims, given that the procedural phase of judicial reparation has been eliminated. Thus, victims will only be entitled to administrative reparation, consisting of minimal sums, arbitrarily defined through yet another law, and without taking into account the assessment of damages incurred. Moreover, the possibility of continuing to allow sentence reductions for international crimes has been extended for those crimes committed after 2005.

With measures such as the aforementioned, in a country where crimes under the jurisdiction of the ICC continue to be perpetrated, we are witnessing not only the continuing situation of impunity, but we are also under a scenario in which no policies are adopted in order to prevent future atrocities. While important laws have been adopted in Colombia in the past two years, such as the Law on Victims and Land Restitution, and a peace negotiation between the government and the guerrillas has been recently initiated, this is not a compensatory argument for justifying the impunity awarded to these international crimes.

Under article 17, the Rome Statute enables the ICC to exercise its jurisdiction in relation to international crimes when it considers that a State is unwilling or unable to carry out national

prosecutions. By promoting the aforementioned national measures, Colombia falls under the scenario envisioned in article 17, given that it is limiting its capacity and willingness to provide justice to those affected by grave international crimes.

It is for these reasons that we respectfully reiterate our call to the ICC and the OTP to open a formal investigation in the situation in Colombia.

Thank you.