

00100 149547/2017-65

President of Federal Senate, Eunício de Oliveira
Praça dos Três Poderes, Senado Federal,
Anexo I – 17º Pavimento, Brasília, DF
CEP: 70165-900, Brazil

02010119 (fim from 20/perm.)

Junte-se ao processado do

nº 44, de 2016

Em 12/02/2017

34 Davies Street
Rosanna 3084
Victoria
Australia
18-10-2017

Dear Senator

Bill No. 44/2016 under consideration in Brazil's Senate would transfer to the Military Court the ability to try human rights violations, such as killings and extrajudicial executions carried out by military personnel against civilians. If approved, the proposal would contradict the fundamental principles of fair trial, judicial independence and impartiality of the decisions.

If passed, the bill will amend Law No. 9.299/2016, so that human rights violations, including crimes against life (murder or attempted murder, among others) committed by military personnel against civilians would be tried by the Military Court. The current legislation, based on Article 125 of the Federal Constitution, establishes that crimes committed by military personnel against civilians must go to trial in the Jury's Court. If approved, the Bill would violate Brazil's obligations under international law, including the right to a fair trial, as military courts do not guarantee at all judicial independence. It has already been approved by the House of Representatives and will be voted on by the plenary in the Senate after 10 October.

The authorities have increasingly used the Armed Forces to police urban areas, resulting in many human rights violations. This Bill raises additional concerns, since it will increase impunity in cases of human rights violations committed by the military. Human rights and civil society organizations informally call it a "license to kill".

The Inter-American Court of Human Rights has repeatedly stated that military jurisdiction must be restrictive and exceptional, applied only to members of the military for breaches of military discipline. The Inter-American Court has already directly ruled that Brazil must refrain from using military jurisdiction to investigate and prosecute military personnel for human rights violations.

■ I urge the Senate to reject Bill No. 44/2016 that transfers the power to try crimes, including killings, committed by the military against civilians to the Military Court;

■ I urge the Senate to ensure that any legislation affecting the criminal justice system is in full line with international fair trial law and standards.

Yours sincerely

M. E. Stewart

Elizabeth Stewart

Brasília, 28 de março de 2018.

Senhora Elisabeth Stewart,

Acuso recebimento, nesta Secretaria-Geral da Mesa, do documento sem número, de Vossa Senhoria, encaminhado pela Presidência do Senado Federal. Cabe-nos informar que sua manifestação foi remetida para juntada ao mencionado Projeto de Lei da Câmara nº 44, de 2016, que já aprovado, gerou a Lei nº 13.491, de 2017, que "Altera o Decreto-Lei nº 1.001, de 21 de outubro de 1969 - Código Penal Militar".

Para consulta, a matéria encontra-se disponível em:
<http://www.senado.leg.br/web/atividade/materias/-/materia/126414>.

Atenciosamente,


Luiz Fernando Bandeira de Mello
Secretário-Geral da Mesa