



**International
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of Jurists**

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Cámara de Diputados and Cámara de Senadores
Asamblea Legislativa Plurinacional
Republic of Bolivia
La Paz, Bolivia

16 October 2014

Honourable Deputy, Honourable Senator,

Re: Trial of Constitutional Court judges by Senate in violation of international law and standards

I write on behalf of the International Commission of Jurists (ICJ), a non-governmental organization based in Geneva, Switzerland. Founded in 1952, the ICJ is composed of 60 eminent judges and lawyers from all regions of the world.

The ICJ is deeply concerned about the cases of Constitutional Court judges Soraida Rosario Cháñez Chire, Ligia Mónica Velásquez Castaños, and Gualberto Cusi Mamani. We understand that the Senate is scheduled to begin a criminal trial two of the judges on 21 October 2014. We understand that proceedings against Judge Gualberto Cusi Mamani have been suspended, but only temporarily.

The ICJ believes that these proceedings violate Bolivia's international legal obligations in relation to independence of the judiciary and the right to fair trial.

The ICJ has examined the facts in relation to: the American Convention on Human Rights, as interpreted by the Inter-American Court of Human Rights and the Inter-American Commission on Human Rights; the International Covenant on Civil and Political Rights, as interpreted by the UN Human Rights Committee; and the UN Basic Principles on the Independence of the Judiciary.

As explained in detail in the attached analysis brief, we conclude:

First, the Senate (and Chamber of Deputies) does not have the qualities of an independent and impartial tribunal of a judicial character, and the criminal conviction of a person by the Senate would violate the right to fair trial under international law.

Second, the proceedings violate the independence of the judiciary, because:

(1) The proceedings appear to be based solely on disagreement with the substance of legal interpretations and decisions by the judges, taken within the competencies conferred on them by the Constitution and Bolivian law.

(2) The individual members of the Senate (and Chamber of Deputies) adjudicating this matter cannot be seen as impartial, given that the impugned decisions concern legislation passed by those individuals.

(3) The Senate (and Chamber of Deputies) lack the institutional independence and impartiality required, particularly in the absence of institutional arrangements to guarantee that the decision of the Senate will be judicial in nature and not political.

The ICJ consequently urges you and other Bolivian officials immediately to:

- nullify or otherwise terminate the criminal proceedings;
- end the judges' suspension from duty;
- cease any other form of interference with the independent administration of justice, including Constitutional justice; and
- initiate reforms of Constitutional and legal provisions for discipline and removal of judges to bring them in line with international standards.

I thank you in advance for your attention to this important and urgent matter.

Sincerely,

Matt Pollard
Senior Legal Adviser & Head of the Centre
for the Independence of Judges and Lawyers
International Commission of Jurists