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A Few Comments on a Comment : the UN Human Rights Committee's General Comment no. 32 on Article 14 of the ICCPR and the Question of Civilians tried by Military Courts

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In its recent General Comment No. 32, the UN Human Rights Committee ('the Committee') has addressed the question when civilians may be tried by military tribunals. This article analyses the Committee's statements on this contentious issue and traces the negotiation history of the relevant paragraph in General Comment No. 32 on Article 14 of the International Covenant on Civil and Political Rights. The Committee insisted that whenever a State tries a civilian before a military or another special tribunal, the State party not only needs to offer the due process standards contained in Article 14 of the Covenant, but that States are moreover required to provide objective reasons to try a civilian in a military court. The second condition was one of the most controversial issues during the drafting of the General Comment. This article concludes that claims of a novel and unjustified departure from previous jurisprudence are exaggerated. While the Committee's statements on the use of military tribunals to try civilians are legally wellfounded, the article recommends how the Committee could explain and defend its stance in a more robust way if faced with subsequent individual communications.

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