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The Right to Truth in Colombia's Comprehensive System of Truth, Justice, Reparation, and Non-Repetition. A Direct Approach to the Intrinsic Relationship between its Mechanisms and Objectives

El derecho a la verdad en el Sistema Integral de Verdad, Justicia, Reparación y No Repetición en Colombia. Una aproximación a la relación intrínseca entre sus mecanismos y objetivos

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Abstract: The peace deal between the Colombian Government and the former Revolutionary Armed Forces of Colombia established the Comprehensive System of Truth, Justice, Reparation, and Non-Repetition, comprised of the Truth, Coexistence, and Non-Repetition Commission, the Special Jurisdiction for Peace, and the Unit for the Search of Persons Presumed Disappeared in the context and because of the armed conflict. This set of mechanisms guarantee the rights to truth, justice, reparation, and measures of non-recurrence as stipulated in the Final Agreement for the Termination of the Armed Conflict and the Construction of a Stable and Lasting Peace. One of its most critical and imperative aspects is the right to truth for the victims of serious human rights violations and their relatives. This right, conceived primarily as a human right, coexists with the other three pillars of transitional justice, interacting and complementing them. This paper aims to define the content of the right to truth in the three bodies that make up the Comprehensive System, to conclude that, although each mechanism pursues a different kind of truth, there is a bond of complementarity between them, addressing the rights of its victims and their needs, structuring a collective memory on the war in Colombia.

Keywords: Right to the truth, transitional justice, human rights, Comprehensive System of Truth, Justice, Reparation and Non-Repetition..

Resumen: La firma del Acuerdo de Paz entre el Gobierno colombiano y las Fuerzas Armadas Revolucionarias de Colombia-Ejército del Pueblo estableció el Sistema Integral de Verdad, Justicia, Reparación y No Repetición, compuesto por la Comisión para el Esclarecimiento de la Verdad, la Convivencia y la No Repetición, la Jurisdicción Especial para la Paz y la Unidad de Búsqueda de las Personas dadas por Desaparecidas. Estos mecanismos garantizan los derechos a la verdad, la justicia, reparación y medidas de no repetición, tal como fue estipulado en el Acuerdo Final para la Terminación del Conflicto Armado y la Construcción de una Paz Estable y Duradera. Uno de sus componentes más críticos e imperativos es el derecho a la verdad para las víctimas de violaciones graves a los derechos humanos y sus familias. Este derecho, primariamente concebido como un derecho humano, coexiste con los tres pilares adicionales de la justicia transicional, interactuando y complementándolos.

Este artículo busca definir el contenido del derecho a la verdad en los tres organismos que componen el Sistema Integral, para concluir que, aunque cada mecanismo persigue un tipo diferente de verdad, existe un vínculo de complementariedad entre ellos, abordando los derechos de las víctimas y sus necesidades, y estructurando una memoria colectiva sobre el conflicto armado colombiano.

Palabras clave: derecho a la verdad, justicia transicional, derechos humanos, Sistema Integral de Verdad, Justicia, Reparación y No Repetición.

1. Introduction

Throughout history, societies worldwide have set aside authoritarian governments or internal armed conflicts to advance toward peacebuilding and democracy. A critical question arises at any such time of radical change: "Should a country punish its former regime or let bygones be bygones? Transitional justice takes this question to a new level with an interdisciplinary approach that challenges the very terms of the contemporary debate" (Teitel, 2000, p. 45). The object of transitional justice goes far beyond eradicating impunity through the adoption of legal norms and instruments. It also implies social transformation, the search for truth, reparation, and reconciliation involving the joint efforts of a social conglomerate, the State, armed groups, and the international community.

From the Nuremberg trials during World War II to the truth commissions in Peru, Sierra Leone, and South Africa (Summers & Gough, 2008), and more recently, the peace process in Colombia, the experience of transition has promoted change in political orders, incorporating new conceptions of justice and new intuitions about building liberal governments that respect the rule of law and more importantly, human rights.

As the field has expanded and diversified, transitional justice has acquired the necessary support in international law. For instance, the Guiding Principles and Framework for United Nations approach to transitional justice processes and mechanisms emphasize the central role of this kind of transformation. In this regard, they state that the term

> includes the full range of processes and mechanisms associated with a society's attempt to come to terms with a legacy of large-scale past abuses, to ensure accountability, serve justice, and achieve reconciliation. It consists of judicial and non-judicial mechanisms, including prosecution initiatives, truth-seeking, reparation programmes, institutional reform, or an appropriate combination. Whatever combination is chosen must be in conformity with international legal standards and obligations. (Secretary General of the United Nations, 2010)

> At the regional level, the Inter-American Court on Human Rights has ruled in Velasquez Rodríguez v. Honduras that States have four fundamental obligations: "to take reasonable steps to prevent human rights violations; to conduct a serious investigation of breaches when they occur; to impose suitable sanctions on those responsible for the violations, and ensure reparation for the victims of violations" (International Center for Transitional Justice, 2009).

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This paper incorporates a legal analysis of the right to the truth in the three bodies that make up the Comprehensive System of Truth, Justice, Reparation, and Non-Repetition. For this purpose, the following research questions will be addressed: what is the content of the right to truth mandated by each of these three institutions and what kind of relationship can be established between them? I will argue that there is a complementary bond between these mechanisms and not an exclusive relationship; they balance, reinforce, and permeate each other, creating a complete and innovative experience designed to overcome a past of systematic human rights violations, bring the armed conflict to an end, and repair the victims of these atrocities.

Based on its structure and guidelines, the first part of this essay will focus on the right to the truth in international human rights instruments. The second part seeks to contextualize the transitional process in Colombia by describing a system intended to satisfy the victims' rights. The third part will examine the objectives and content of truth in the three components and the nature of the concept. Finally, the last section concludes that there is an intrinsic relationship between the right to truth in all its forms and the main objectives of the transitional justice pillars in the peacebuilding process in Colombia.

2. The right to the truth in international human rights instruments

The Special Rapporteur has established four practical components to achieve the mandates of transitional justice; these are truth, justice, reparations, and guarantees of non-recurrence "as a set of victim-centered approach measures that are related to and can reinforce one another when implemented to redress the legacies of massive human rights abuses". (United Nations, 2012, p. 18). Although all these four sections share a close bond of complementarity, in recent times, in the field of international human rights law, the right to the truth as an inalienable human right has become recurrent, despite its lack of specific recognition in international instruments. It has developed through the jurisprudence and doctrine of international courts.

There are treaty indications on the right to know certain facts, including the Additional Protocol I to the Geneva Conventions (Olásolo, 2018) and the International Convention for the Protection of all Persons from Enforced Disappearance. Moreover, other soft-law documents also

approach this right, such as two guides prepared by the United Nations Commission on Human Rights, the *Basic Principles and Guidelines on the Right to a Remedy and Reparations for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law and the Updated Set for the Protection and Promotion of Human Rights through Action to Combat Impunity*.

The latter constituted one of the first indications of such entitlement. Referring to the right to truth as an inalienable right of victims to know and a duty to preserve memory (Sullo, 2018), the instrument stated:

> (...) that this is not simply the right of any individual victim or closely related persons to understand what happened, a right to the truth. Besides, the right to know is a collective drawing upon history to prevent violations from recurring in the future. Its corollary is a "duty to remember," which the state must assume to guard against the perversions of history that go under the names of revisionism or negationism; the knowledge of the oppression it has lived through is part of a people's national heritage and as such must be preserved. (United Nations, 1997)

Indeed, victims of gross violations of their rights and their families are entitled to an effective remedy. This includes their right to know the reality of the mistreatment they have experienced, the identity of the perpetrators, the causes that led to these abuses, and, sometimes, the fate or whereabouts of the forcibly disappeared (Scovazzi & Citroni, 2007). This imprescriptible right is interconnected to the right to a remedy and reparation, including an empirical inquiry, corroboration of facts, public disclosure of the truth, and a set of measures that prevent such violations in the future. It should be pursued through judicial and non-judicial procedures, such as truth commissions and forms of recollection and commemoration such as memorials, museums, and community centers.

Therefore, knowing the truth "to the fullest extent possible" is extremely important to help communities understand the causes of an armed conflict and bring it to an irreversible end. Without detailed understanding of past violations, it is difficult for a society to initiate a reconciliation process and create safeguards against impunity and public denial.

The case-law of the Inter-American System also provides a significant development on this subject (Micus, 2015), expressing that

> the right to know the truth with respect to the incidents which took place and the [serious human rights violations which occurred in El Salvador], as well as to know the identity of those who participated in them, constitutes an obligation which the state has to the relatives of the victims and to the society, as a consequence of the obligations and duties assumed by that country in its capacity as a State Party to the American Convention on Human Rights. Such obligations fundamentally arise from the provisions of Articles 1(1), 8, 25, and 13 of the Convention. (Inter-American Commission on Human Rights, 1999)

Moreover, the Inter-American Court of Human Rights has linked this right to certain massive and systematic phenomena commonly committed during armed conflicts, such as forced disappearances, torture, and extrajudicial executions[2], concluding that

> [2] According to the report by a group of international advocacy organizations, the Colombian warfare has been marked by constant enforced disappearances, kidnappings, torture, and murders:
>
> «As of September 2012, 75 345 persons were reported on the National Registry of Disappeared Persons, with an estimate of 25 007 enforced disappearances, although this is a crime that is massively under-reported. There has also been 27 000 kidnappings, of which 24 482 were by the guerrillas. Estimates regarding the total number of people killed range from 220 000 to 600 000». (ABColombia, 2013, p. 6)

> thus, the right to the truth first manifested itself as a right pertaining to relatives of victims of forced disappearance. The state must take all measures necessary to establish what happened and locate and identify the victims. The Commission has taken into account that deter mining the final whereabouts of the disappeared victim eases the anguish and suffering of their family members caused by uncertainty about the fate of their disappeared relative. The Court has held, therefore, that denying access to the truth concerning the fate of a disappeared loved one is a form of cruel and inhuman treatment to immediate family members, which explains the connection between a violation of the right to humane treatment and a violation of the right to know the truth. (Inter-American Commission on Human Rights, 2014)

The right to the truth becomes notably relevant in the Colombian armed conflict; it is not only included in the mandate of the three bodies that compose the Comprehensive System of Truth, Justice, Reparation, and Non-Repetition, but it is a transversal element in the whole experience of the transitional process, being a right that has a double connotation. On the one hand, it is an individual right of those who have suffered the consequences of the conflict (Quiñones, Cabello Tijerina, Vicuña de la Rosa, & Quiñones Londoño, 2020). But, on the other hand, it has a collective dimension since it is a right of Colombian society to know its past, to preserve a communal memory, and thus prevent these systematic violations from being committed again in the future. Moreover, truth is linked to the State's duty in this transitional justice process. It has a binding obligation to reveal the information about the facts and circumstances of the war, redeeming victims from the unbearable middle ground between lingering hope and full-blown grief (Biggar, 2003).

3. From the peace agreement to establishing the Comprehensive System of Truth, Justice, Reparation, and Non-Repetition: A brief analysis of the transitional justice process in Colombia

One of the most relevant events in the history of Colombia has been the demobilization and reintegration into civil society of thousands of former members of the Revolutionary

Armed Forces of Colombia-FARC EP, triggered by the Final Agreement for the Termination of the Armed Conflict and Construction of a Stable and Lasting Peace between the national government and this armed group after more than six decades of war. This agreement conceived a series of transitional justice mechanisms (Rojas Orozco,

2021) to facilitate the end of the confrontations and guarantee the rights of victims. Consequently, the Comprehensive System of Truth Justice, Reparation, and Non-Repetition was incorporated into the Political Constitution of Colombia through the Legislative Act 01 of 2017 (International Commission of Jurists, 2019) as part of the efforts to ensure accountability for the serious human rights violations committed during the war, guarantee legal security of those who participate in the truth-seeking process and contribute to peacebuilding, reconciliation, and the non-repetition of those circumstances that originated the conflict.

First, the system is composed of the Truth, Coexistence, and Non-Repetition Commission (CEV by its acronym in Spanish), whose function is to truthfully investigate the reality of what happened during the war, to provide a comprehensive clarification to Colombian society on the difficult circumstances that have historically surrounded the conflict, thus contributing to the construction of conditions of community coexistence based on forgiveness, tolerance, and respect to avoid a possible recurrence of these victimizing events.

The second component is the Special Jurisdiction for Peace (JEP), which guarantees the administration of justice through the investigation, prosecution, and conviction of serious violations of human rights and international humanitarian law and the eventual granting of amnesties for political crimes and related offenses.

In addition, the agreement also established the Unit for the Search of Persons Presumed Disappeared in the Context or Due to the Armed Conflict (UBPD). Finally, a series of comprehensive reparation and non-repetition measures were adopted, such as land restitution, monetary compensation, construction of memorials, and community centers.

A common denominator throughout the system is the importance of the right to the truth, which plays an essential role in guaranteeing all the other rights of victims. Only when the victims and the community clearly understand what happened in the conflict can the rights to justice, reparation, and non-repetition be ensured, insofar as society will know who was accountable for the atrocities and who should be repaired for them. In the Colombian transitional justice process, this truth can be satisfied in several ways. Judicial truth is obtained through trials against the perpetrators, as in the case of the Special Jurisdiction for Peace (Giraldo Muñoz & Serralvo, 2019).

On the other hand, extrajudicial truth, including social, historical, and humanitarian truth, is created in spaces mainly designed and institutionally recognized to reconstruct the chronological details of the roots and consequences of the armed conflict. It includes social facts, testimonials, and archives obtained as a strategy to preserve collective memory; in the Comprehensive System, these are carried out by non-institutional bodies,

victims' organizations, and the community in general (Sandoval Amador, Andrea, Tulena Salom, & Triana González, 2009). Another central factor is that:

> Truth mechanisms, unlike justice measures, tend to be implemented by institutions that do not require their members to be experts, thus allowing the participation of victims' representatives and other civil society sectors. (...) This possibility allows the rebalancing of power relationships, by giving groups that had previously been invisible and subordinated because of their victimization the possibility of making crucial decisions about the violence that affected them. (Saffon Sanín & Tacha Gutiérrez, 2019, p. 68)

Therefore, truth in the framework of transitional justice processes constitutes one of the fundamental pillars to ensure the adequate change towards the standardization of the nation's social, economic, and political life.

4. Dissecting the right to the truth in the Comprehensive System. An examination of its three main mechanisms

As indicated above, the Comprehensive System of Truth, Justice, Reparation, and Non-repetition Measures is the main transitional justice mechanism within the Colombian peace process. Its objectives include:

- Satisfy the rights of victims of the Colombian armed conflict.
- Ensure the elucidation of the truth and accountability for what occurred.
- Seek recognition of the responsibilities of those who directly or indirectly participated in the
internal armed conflict.
(...)
- Contribute to the promotion of peaceful coexistence, reconciliation, and non-repetition. (Special Jurisdiction for Peace, 2019)

Composed of three main bodies, each of them establishes relevant standards related to the right to the truth, which are listed below.

4.1. Truth, Coexistence and Non-Repetition Commission (CEV)

The Commission is a national, autonomous, public, extrajudicial, and independent "entity whose mission is to listen and understand without judging" (Special Jurisdiction for Peace, 2019). It must be accountable to the citizens every six months and work closely with other institutions to guarantee right to truth for victims and Colombian society (Guáqueta, 2007). According to the Peace Agreements:

> Truth Commission aims to fulfill three main objectives before the end of its mandate: (1) to investigate and explain the armed conflict, and to promote its understanding emphasizing its least known aspects, (2) to promote the recognition of individual and collective victims, and the voluntary acknowledgment of responsibility, in support of non-repetition, and (3) to promote tolerant, respectful, and democratic coexistence across the country's territories based on the dignity and rights of victims (Advocacy for Human Rights in the Americas, 2020, p. 1)

> The main task of the Commission is to listen to the victims, witnesses, and those responsible for the armed conflict in all sectors, regions, and territories to obtain a comprehensive account of the events and contexts than explain a half-century of war. The Final Report will include historical, ethical, and social conclusions. It will be delivered to the community, aiming to lay the foundations of non-repetition (Commission for the Clarification of Truth, Coexistence and Non-repetition, 2018).

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From the wording of its mandate, it is clear that the right to the truth within the Commission framework includes the use of primary sources such as testimonials and accounts of victims, perpetrators, and witnesses, as well as secondary sources such as archives, academic documents, and national statistics, in addition to the voluntary recognition of both individual and collective responsibilities, promoting the necessary conditions for victims and armed groups to have equal opportunities to share their stories. The truth obtained by the Commission will have a social and historical intent, as it seeks to give an overview of the atrocities and the structures that motivated their occurrence. It is also a comprehensive form of truth. It listens to all the actors involved in the war evenly, from their different experiences, backgrounds, and involvement, being particularly sensitive to and prioritizing the rights of the victims.

> In addition, the Commission has defined "clarification" as it is commonly used in its documents and reports. It means to shed light, to elucidate what is confusing or hidden. The testimonies of the victims and of those who participated in the war will be able to construct a complete description of what happened in the framework of the internal armed conflict, contribute to eliminate the uncertainty of the victims, and will generate a reflective analysis of the seriousness of what occurred, transforming this dark period of Colombian society into a positive process of social reconciliation (Comisión de la Verdad, 2018).

Given the extent of its mandate, the Commission will study the most significant and relevant events of the warfare in eleven territories, actively collaborating with the communities, organizations, and sectors involved in the war, especially those subjected to historical patterns of violence or structural discrimination on grounds such as sex, gender identity, race, national origin, religion, and socio-economic status. This includes listening to individual victims, as well as to rural and black communities, *resguardos* and *cabildos*, those exiled by the conflict in other countries, entrepreneurs, traders, LGBTI people, and ex-combatants. In short, the commission is authorized to establish participatory spaces to listen to victims and perpetrators, confront their stories, identify common ground, and create scenarios for social reconciliation.

To advance the protection of the right to truth, and given that the victims themselves can provide concrete and detailed information about the causes and events that led to the war, the Commission will collect all kinds of data such as collective testimonies, biographical accounts, public forums, and the so-called meetings for the truth. The latter is one of the most innovative aspects of this body; it is a tool to tell retrospective stories about the past, present, and future, not only for the victims but also for public institutions and the community. In short, truth-seeking entities, including the Colombian Truth Commission:

> (...) aim at the fulfilment of the right to truth, which is enshrined in several international instruments, notably the International Convention for the Protection of All Persons from Enforced Disappearance and the Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law. (Inter American Commissions in Human Rights, 2014, p. 5)

4.2. Special Jurisdiction for Peace (JEP)

The Special Jurisdiction for Peace is an autonomous judicial entity.

> It has the tasks of investigating, elucidating, judging, and punishing serious human rights violations, war crimes and crimes against humanity committed in the context of the armed conflict up to December 1, 2016.
>
> It is obligated to investigate and adjudicate cases involving ex-combatants of the FARC and members of the Public Forces who have been prosecuted or linked to crimes related to the armed conflict. It also investigates and adjudicates cases involving other non-military State agents and third-party civilians who appear voluntarily. (Special Jurisdiction for Peace, 2019)

The JEP aims to engage with the community by organizing several events to explain to the victims:

> Like the Truth Commission, the Special Jurisdiction for Peace also has a victim-based approach, allowing their effective involvement and giving them a voice, rebuilding and transforming their social relations through access to justice (Special Jurisdiction for Peace, 2020).

> In this way, one of the primary purposes of its mandate is to effectively contribute to the construction of the truth, the bringing to justice of the armed conflict actors, the satisfaction of victims' rights, the achievement of material equality, and compliance with the territorial, differential, and gender approach established in the Political Constitution (Comisión Colombiana de Juristas, 2018).

The Special Jurisdiction recognizes the State's international truth-seeking obligations, including the observance and respect for the right to the truth with a human rights approach. This understanding incorporates the duty of those who participated in the armed confrontations to provide the whole truth, make reparations to the victims and ensure mechanisms of non-recurrence. As a judicial instance, the truth will be the result of a contentious process against those responsible for human rights violations in the context of the armed conflict. This judicial truth considers a legally relevant dimension of the facts and disputes through

procedural guarantees of the parties involved. Although judicial truth can be complemented with social truth, creating an intrinsic link of interaction and not of exclusion between the two, it can sometimes be limited by being framed in the determination of individual responsibility but not considering the clarifications of the facts or the claim of historical truth.

4.3. The Unit for the Search of Persons Presumed Disappeared in the context and because of the armed conflict (UBPD)

The UBPD (by its acronym in Spanish)

> directs, coordinates, and contributes to the implementation of humanitarian actions to search for and locate living persons presumed missing in the context and by reason of the armed conflict, and in the case of death, where possible, the recovery, dignified identification, and delivery of the remains. (Special Jurisdiction for Peace, 2019)

The Unit accesses information on victims of forced disappearance, recruitment, kidnapping, and unlocated ex-combatants through institutional agreements. Due to its humanitarian and extrajudicial nature, the information received by the UBPD on the fate of people considered missing in the context of the war and its origin is entirely confidential. It cannot be used as evidentiary material in judicial proceedings.

As indicated, the Search Unit for Disappeared Persons is permanently articulated with the other two mechanisms of the SIVJRNR, seeking a comprehensive response to the victims and society in general. Together with the Truth Commission, for instance, they have established territorial cooperation agreements (Unit for the Search of Persons Presumed Disappeared in the context and because of the armed conflict, 2021). Given that the purpose of the entity is to determine the location of missing persons in the context of the conflict, contributing to the recognition of reality, it can be concluded that the truth-seeking process is humanitarian, not judicial.

So far, this paper has analyzed the core of the right to truth addressed by each mechanism. Although they seek different forms of truth, when articulated, they constitute a "whole" truth that can generate complementary relationships needed for a proper functioning. While the Truth Commission and the Unit for the Search of the Disappeared focus on a social, historical, and humanitarian truth of all those facts, stories, and experiences related to the war, the Special Jurisdiction for Peace focuses on the search for a judicial truth according to the legal principles of due process.

However, among these bodies, other forms of assistance can also be found within the system. For example, the Truth, Coexistence and Non-Repetition Commission, the Special Jurisdiction for Peace, and the Unit for the Search for Persons Presumed Disappeared in the context and because of the Armed Conflict have defined two purposes of cooperative

work to strengthen the fundamental nature of the SIVJRNR. On the one hand, exchanging information between the three mechanisms and receiving joint reports from victims and human rights organizations contributing to the process of recognition, access to justice, and search for disappeared persons (Special Jurisdiction for Peace, 2019).

5. Final remarks. Complementary interaction of all forms of truth

The structure and mandate of the mechanisms analyzed indicate that truth, in all its forms and contexts, produces an intrinsic relationship in the peace-building process in the country. It is not a relationship of exclusion, but on the contrary, an operational link obtained, on the one hand, from the victims' statements, the facts that motivated the violence, the territorial analysis of the regions where possible responses can be found, and on the other, from the judicial procedures obtained through the processes carried out by the Special Jurisdiction for Peace increasing the margin of legality and veracity of such facts.

The SIVJRNR itself has confirmed this approach. The system has recently developed a theory of "the whole truth," understood as a conjunction of truths revealed through its different mechanisms and measures. This is nourished by the judicial truth that emerges in the judicial process about the circumstances of time, form, and place of the victimizing events. Likewise, humanitarian truth makes it possible to know the whereabouts of the people considered disappeared; finally, social truth is the critical element for reconciliation arising from the tasks of the Truth Commission (Marín López & Romero Cristancho, 2019).

The complementarity relationship between these different concepts of truth goes beyond the harmonious collaboration of these three mechanisms. Operating separately, they may face considerable obstacles to shedding full light on the atrocities of war. However, the limitations of each can be used to create bonds of cooperation. Thus, in the Colombian case, these categories should not be seen as mutually exclusive. Their interaction also strengthens the other pillars of transitional justice, ensuring justice for the victims through judicial truth, reparations, and measures of non-repetition through social and even humanitarian truth. Through this interaction, the truth-seeking process for both victims and society fosters a reconciliatory dialogue based on tolerance and human dignity. (Uprimmy & Saffon, 2006).

While social truth can help identify the root causes of the conflict and examine the role played by external and non-state actors in exacerbating and continuing the armed confrontations, humanitarian truth can shed light on the fate of relatives and missing persons in the context of the war, bringing definitive closure to the suffering and uncertainty of the victims. Finally, judicial truth contributes to punishing and prosecuting perpetrators, preventing impunity and establishing jurisprudence based on the rule of law. That said, these forms of truth are mutually supportive, creating a nexus of complementarity that counteracts cultures of denial,

and generating spaces for interaction between all those involved in the warfare.

6. Conclusions

The contexts in which the satisfaction of the right to the truth acquires greater relevance are those in which society seeks to radically transform its social and political order due to the transition from an armed conflict to a peacebuilding period. These situations generally develop in transitional processes in which serious violations of international human rights and international humanitarian law must be confronted. Therefore, public spaces for the search of truth are essential, as it is an individual right of the victims and a collective right of society. It is also the basis for the satisfaction of other rights and guarantees: justice, reparation, and measures of non-repetition.

The Colombian case is an outstanding example of truth-seeking in post-conflict. The experience of the peace process in the country has shown that the search for the truth must go beyond legal processes and also focus on the collective constructions of a historical memory that guarantees the equal participation of all those people who have been stripped of their rights and freedoms by the war.

> The reconstruction of the historical and collective truth, the possibility of resorting to the narratives of the victims and society, and the humanitarian nature of the search for the disappeared are relevant examples of how each of the three mechanisms that compose the Comprehensive System contributes to the construction of an even greater truth: the complete truth, which allows contextualizing the past of violence and abuse, avoiding its repetition in the future. As the Constitutional Court has pointed out, this imprescriptible and inalienable guarantee conferred on the victim, the family, and society to know the motives and circumstances in which the violations were committed and, in the case death or disappearance, the fate of the victim and the clarification of his or her whereabouts must be promoted and implemented in the different scenarios where transitional justice operates (Corte Constitucional de Colombia, 2019).
>
> Truth-seeking mechanisms play a decisive role in post-conflict processes. Without truth, justice is incomplete. Without truth, it is impossible to establish who is responsible for human rights violations and infractions of international humanitarian law. Without justice, there is no reparation, and without reparation, there is insufficient possibility of preventing atrocities from occurring (Comisión Colombiana de Juristas, 2006).

Lastly, "given that the right to truth in human rights law is not tied to the precise wording of particular treaties, it is particularly suited to judicial collaboration or trans-judicial dialogue" (Sweeney, 2018, p. 363). The participation of all war-related parties is also essential. The victims, State, and society must come together to generate spaces to search for the truth; this can prevent, rather than jeopardize, the protection of human rights.

References

ABColombia. (2013). Colombia; Women, Conflict-Related Sexual Violence, and the Peace Process. https://www.peacewomen.org/assets/file/abcolombia_conflict_related_sexual_ violence_report.pdf

Advocacy for Human Rights in the Americas. (2020). *A Review of How Colombia's Truth Commission is Advancing. https://colombiapeace.org/advancing-truth-commission/*

Biggar, N. (2003). Making Peace or Doing Justice: Must We Choose? In N. Biggar (editor), *Burying the Past: Making Peace and Doing Justice After Civil Conflict* (pp. 3-24). Georgetown University Press.

Comisión Colombiana de Juristas. (2006). *Verdad, justicia y reparación: algunas preguntas y respuestas.* https://www.coljuristas.org/documentos/libros_e_informes/verdad_justicia_y_reparacion.pdf

Comisión Colombiana de Juristas. (2018). Guía 2. La satisfacción de los derechos de las víctimas: el reto de la JEP y sus comparecientes. https://www.jep.gov.co/Sala-de-Prensa/Documents/guia_02%20SATISFACCION%20DE%20LOS%20DERECHOS%20DE%20 LAS%20VICTIMAS%20JEP.pdf

Comisión de la Verdad. (2018). Lineamientos metodológicos. Escuchar, reconocer, y comprender para transformar. https://comisiondelaverdad.co/images/zoo/publicaciones/archivos/comision-verdad-lineamientos-metodologicos-2019-01-18.pdf (Error 6: El enlace externo debe ser una URL)

Commission for the Clarification of Truth, Coexistence, and Non-repetition. (2018). *21 Key points to learn about the Truth Commission.* Communications office for the Truth Commission. https://comisionverdadcol-eu.org/wp-content/uploads/2020/05/21-keys-comision-verdad-english-version.pdf

Corte Constitucional de Colombia. (2019). *Sentencia C588/19.* M. P. José Fernando Reyes Cuartas. Bogotá: Corte Constitucional.

Giraldo Muñoz, M.; Serralvo, J. (2019). International Humanitarian Law in Colombia: Going a Step Beyond. International Review of the Red Cross 101(912), 1117-1147. https://international-review.icrc.org/articles/international-humanitarian-law-colombia-going-step-beyond-ir912

Guáqueta, A. (2007). The Way Back In: Reintegrating Illegal Armed Groups in Colombia Then and Now. Conflict, Security and Development, 7(3), 417-456. https://www.ideaspaz.org/new_site/secciones/publicaciones/download_boletines/the_way_back.pdf

Inter-American Commission on Human Rights. (1999). *Report No. 1/99. Case 10.480. Lucio Parada Cea, Héctor Joaquín Miranda Marroquín, Fausto García Funes, Andrés Hernández Carpio, Jose Catalino Meléndez and Carlos Antonio Martínez vs. El Salvador.* http://cidh.org/annualrep/98eng/Merits/ElSalvador%2010480.htm

Inter-American Commission on Human Rights. (2014). *The Right to the Truth in the Americas.* http://www.oas.org/en/iachr/reports/pdfs/right-to-truth-en.pdf

International Center for Transitional Justice. (2009). *What is transitional justice*. https://www.ictj.org/sites/default/files/ICTJ-Global-Transitional-Justice-2009-English.pdf

International Commission of Jurists. (2019). Colombia: The Special Jurisdiction for Peace, Analysis One Year and a Half after its Entry into Operation. Geneva. https://www.icj.org/wp-content/uploads/2020/05/Colombia-Jurisd-para-la-paz-PUBLICATIONS-Reports-Fact- finding-mission-report-2019-ENG.pdf

Marín López, D.; Romero Cristancho, C. (2019). *Sistema Integral de Verdad, Justicia, Reparación y no Repetición. Conceptos clave para su mandato*. Dejusticia. https://www.dejusticia.org/publication/conceptos-clave-para-el-sivjrnp/

Micus, A. (2015). *The Inter-American Human Rights System as a Safeguard for Justice in National Transitions. From Amnesty Laws to Accountability in Argentina, Chile and Peru.* Brill.

Olásolo, H. (2018). *International Criminal Law, Transnational Criminal Organizations and Transitional Justice.* Brill.

Quiñones, K.; Cabello Tijerina, P.; Vicuña de la Rosa, M.; Quiñones Londoño, W. N. (2020). Strategies for Territorial Peace: The Overcoming of the Structural Violence in Women Living in Palmira, Colombia. *Social Sciences, 9*(11), 1-13. https://doi.org/10.3390/socsci9110211

Rojas Orozco, C. (2021). *International Law and Transition to Peace in Colombia. Assessing Jus Post Bellum in Practice.* Brill. https://doi.org/10.1163/9789004440531

Saffon Sanín, M. P.; Tacha Gutiérrez, V. (2019). *La participación en las medidas de justicia transicional. Un estudio comparado.* Dejusticia. https://www.dejusticia.org/publication/la-participacion-en-las-medidas-de-justicia-transicional/

Sandoval Amador, D.; Andrea, M. G.; Tulena Salom, J.; Triana González, P. (2009). Justicia transicional: su contenido y significado. Una breve aproximación al caso colombiano. *Cuadernos de Derecho Penal.* (2), 37-78. https://doi.org/10.22518/20271743.364

Secretary General of the United Nations. (2010). *Guidance Note of the Secretary General. United Nations Approach to Transitional Justice.* United Nations. https://www.un.org/ruleoflaw/files/TJ_Guidance_Note_March_2010FINAL.pdf

Scovazzi, T.; Citroni, G. (2007). *The Struggle against Enforced Disappearance and the 2007 United Nations Convention.* Brill.

Special Jurisdiction for Peace. (2019). *Comprehensive System of Truth, Justice, Reparation and Non-Repetition (SIVJRNR).* https://www.jep.gov.co/Infografas/SIVJRNR_EN.pdf

Special Jurisdiction for Peace. (2020). *Manual de Participación de las Víctimas* https://www.jep. gov.co/Infografas/participacion/manualparticipacion.pdf

Sullo, P. (2018). *Beyond Genocide: Transitional Justice and Gacaca Courts in Rwanda. The Search of truth, Justice and Reconciliation.* Springer.

Summers, J.; Gough, A. (2008). *Non-State Actors and International Obligations.* Brill.

Sweeney, J. (2018). The Elusive Right to the Truth in Transitional Justice Human Rights Jurisprudence. *British Institute of International and Comparative Law, 67* (2) 353-387. https://doi.org/10.1017/S0020589317000586

Teitel, R. G. (2000). *Transitional Justice.* Oxford University Press.

Unit for the Search of Persons Presumed Disappeared in the context and because of the armed conflict. (2021). *Informe de Gestión y Rendición de Cuentas (Management Report 2020).* Bogotá.

United Nations. (1997). *The Administration of Justice and the Human Rights of Detainees.* Sub-Commission on Prevention of Discrimination and Protection of Minorities. (12 August 1999). Economic and Social Council.

United Nations. (2012). *Report to the Human Rights Council on the foundation of the mandate and the importance of a comprehensive approach that combines the elements of truth-seeking, justice initiatives, reparations, and guarantees of non-recurrence in a complementary and mutual.* (9 August 2012). United Nations General Assembly.

Uprimmy, R.; Saffon, M. P. (2006). Derecho a la verdad: alcances y límites de la verdad judicial. En R. Uprimmy; M. P. Saffon, *Justicia transicional: teoría y praxis,* (pp. 345-374). Universidad Del Rosario.

Enlace alternativo

https://revistas.iue.edu.co/index.php/nuevoderecho/article/view/1462/1615 (html)