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**The Inter-American Human Rights System and the Truth Commissions**  
*El Sistema Inter-Americano de Derechos Humanos y las comisiones de la Verdad*

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***Abstract***

This paper analyses the Inter-American System and the experiences of Truth Commissions in Latin American to answer the question whether or not the Inter-American System has gone beyond these experiences in the pursuit of the Right to Truth. For the above, we examine the

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imposition of amnesty laws that spoiled the peace processes in Argentina, Chile, El Salvador, Guatemala and Peru and the role of the Inter-American Commission in these cases.

Keywords: Inter-American Human Rights System, Right to Truth, Truth Commissions, Justice, Reparation, Victims.

***Resumen***

Este artículo analiza el Sistema Interamericano de Derechos Humanos y las experiencias de las Comisiones de la Verdad en Latinoamérica para responder la pregunta de si el Sistema Interamericano ha ido más allá que éstas en la búsqueda del derecho a la verdad. Para lo anterior, examinamos las leyes de amnistía en Argentina, Chile, El Salvador, Guatemala y Perú, y el rol desarrollado por la Comisión Interamericana en estos casos.

Palabras clave: Sistema Interamericano de Derechos Humanos, Derecho a la Verdad, Comisiones de la Verdad, Justicia, Reparación, Víctimas.

### *Introduction*

The Inter-American System for the protection of human rights has developed one of the most progressive and advanced jurisprudence (Salazar et al. 2007, p.9) on accountability, due process and remedies. It has represented a way to seek justice when the State is unwilling or unable to investigate human rights infringements or when it has exhausted all domestic remedies and the victims cannot find justice. For victims, the Inter-American System represents a way to seek for reparation, memorialisation, protection and satisfaction of the guarantees of non-repetition.

On the other hand, post-conflict processes in Argentina, Chile, El Salvador, Guatemala and Peru accompanied by Truth Commissions experiences have been spoiled with the imposition of amnesty laws that do not permit the total satisfaction of the victims' expectations.

This paper will analyse if the Inter-American System's doctrine has gone beyond that of the local Truth Commissions' experiences in regards to the victims' rights to truth, justice, reparation and non-repetition. It will also analyse instances in which the Inter-American System challenges the imposition of amnesty laws, and instances where it replaces the absence of formal Truth Commissions (such as in Colombia).

This article will be divided into five sections. The first section will briefly analyse the different types of truth commissions and some criticisms that are made about them. Section two will give a short description about the process before the Inter-American System. In section three, the Inter-American doctrine about 'the right to know the truth', and 'the right to a societal truth' (Inter-American Commission on Human Rights 1986 & 1999b) that emerged alongside amnesty laws of El Salvador, Argentina and Peru will also be analysed. Then, in the fourth and final sections, we will illustrate the leading role that the system has had in processes of victims' memorialisation in Colombia and communal reparations in Suriname, as a way to vindicate, dignify and safeguard the victims.

### *Truth Commissions*

Recently, the role to find the truth in transitional processes in post-conflict societies has been subrogated to the institutions of Truth Commissions, in a way of making a '*break-down*' with violent previous administrations to new democratic regimes, and bringing the societies justice and reconciliation (Laplante & Theidon 2007, pp. 228 – 229). In practice, political interests of new administrations have corrupted this aim.

The Truth Commission Institution has been attributed with different functions and objectives such as: to uncover the truth; to process the facts, to '*formally acknowledge past abuses*'; to

address responsibility; to describe government accountability, and to make recommendations to the government in order to meet the needs of the victims. Also to stop impunity and to promote reconciliation (Hayner 2011, p.19). But governments' aims to uncover the truth and find institutions' acting legitimately have not allowed these objectives to be met in Latin America.

Truth Commissions take different forms; they can have public hearings with only victims or with victims and perpetrators like within South Africa. Also, it is possible for them not to have any public hearings and just focus on a final report, like in Argentina. Some of their findings can be anticipated or followed by amnesties like in Chile or El Salvador respectively, which can be general or partial. They can also be accompanied by International Criminal Tribunals like in Sierra Leone and Kenya; and have complete local funding or international funding and participation like in the case of El Salvador (Eltringham 2012). Every one of these different forms is sometimes adopted, depending on the result that is wanted to be achieved in each case; it could be focused on victims or on perpetrators.

Therefore, Truth Commissions are also a good example of government tactics to rebuild nations and legitimise new administrations and institutions, after an internal civil war, pushing its citizens to have an unnatural reconciliation. It has been a way to impose forgiveness, peace and avoid investigations, justice and all kind of victim demands. In other words, Truth Commissions can be a victim-oriented remedy, but it also can be instrumentalized to be exactly the opposite, to become an institutions remedy for legitimation, as Gibson says in his article about legitimacy theory and the effectiveness of truth commissions. He argues that legitimacy is *'the belief that authorities, institutions, and social arrangements are appropriate, proper and just'*, if this sense of legitimacy is spread during a process of truth-telling, a proper compliance can be obtained from the population with the purpose of creating credibility and obedience (Gibson 2009, p.137). What undoubtedly is left behind is any victim perspective.

Different transitional governments in Latin America have created Truth Commissions' institutions: Argentina (1983 - 1984), Chile (1990-1991 and 2003-2005), El Salvador (1992-1993), Haiti (1995-1996) Guatemala (1997-1999), Ecuador (1996-1997 and 2008-2010), Uruguay (1985 and 2000-2003), Panamá (2001-2002), Paraguay (2004-2008) and Peru (2001-2003), (Hayner 2011, p. xi – xii). These processes have been accompanied by amnesty laws, except in the case of Ecuador, not permitting to investigate the findings of the Truth

Commissions and not meeting the victims needs of justice, reparation (expect of the Peruvian Truth Commission) and reconciliation.<sup>2</sup>

Nowadays, there is a strong international commitment about establishing Truth Commissions everywhere, but recent efforts are emphasised on compromise and reconciliation and not 'concentrated on what and why' (Hayner 2011, p.234). There is a clear shift from focusing on the perpetrators instead on the victims.

The Inter-American System has been in opposition to amnesty laws and public pardons without the protection of the 'right to know', in order to bring truth and justice to a region characterized by violence, forced disappearances, extra-judicial executions and mass killing of civilians (Mendez & Mariezcurrena 1999, pp.2 – 3). This is a context where identifying the perpetrators has been a difficult task, because of the nature of the crimes and the States' accountability in many of these gross crimes. Proper investigations of the perpetrators, construction of individual and societal truths, justice and individual and communal reparations have been the outcomes delivered by the Inter-American Court (Antkowiak 2001, pp.996 – 1009). Truth Commissions in Latin America have not been enough and their role has been complemented and in some cases supplemented by the regional system.

#### *The process before the Inter-American Commission and the Inter-American Court of Human Rights*

The Inter-American System of human rights was created by The Organization of the American States (OAS), to offer protection to all the American States (Pasqualucci 2003, pp. 2 - 3). The American Convention enables individuals from country parties to the Convention, to file petitions against the State, which is a non-traditional practice in international law. This authorization has brought in practice, that since the beginning of the System operation, no State has filed inter-state complaints, meanwhile, the hundreds of individuals, victims, groups of people or NGOs have been standing to file petitions before the Inter-American System (Pasqualucci 2003, pp. 5 – 6).

The Convention establishes the procedure to apply to process individual complaints of human rights violations before the Commission and the Court. An individual, who stands to file a petition in the Inter-American System, must show the petition first before the Commission located in Washington D.C, which solicits information to the parties in order to make a

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<sup>2</sup> Note: Note: In Mexico after the defeat of the PRI in the year 2000 was analyzed to create a Commission of the Truth by the massacres of Tlatelolco in 1968 and Thursday of Corpus in 1971, but quickly was discarded by the government of Vicente Fox.

decision of the admissibility of the complaint and find the facts that surround the petition. The stage in the Commission ends with the Commission's proposal of friendly settlement between the parties and some recommendations for the government, when the Commission finds its responsibility in the infringement of the Convention (Organization of American States 1978).

If the State decides to challenge the Commission's acknowledgment of responsibility, or the State does not satisfy the Commission's recommendations, the Commission might submit the case before the Court, when the State has accepted the Court's jurisdiction. Finally, if the Court holds the State responsible it may order it to make reparations to the victims (Pasqualucci 2003, pp.6 – 7).

*The right to the truth for the Inter-American System of Human Rights and its ability to shape transitional regimes in Latin America*

In Latin America, as it was mentioned before, the most common crimes suffered by civilians have been massacres, torture, extra-judicial killings and forced disappearances (Inter-American Institute of Human Rights 2011, pp.39 – 41) (Mendez & Mariezcurrena 1999, pp.2 – 3), which are the 'grossest' crimes against humanity and are well-known war tactics to spread terror throughout the population, to seek obedience from the survivors and to avoid persecution with a permanent threat of retaliations. It is also possible to say that forced disappearances have been massively used (Antkowiak 2001, p.978) as a way to hide the crime of murder or constrain illegally the right to liberty and avoid persecutions. This offence is internationally recognized for putting the indirect victims in the most inhumane situation (Antkowiak 2008, p.374) of unknowing the whereabouts of their loved ones and the uncertainty of their fate. That is the reason why finding the truth in these cases should be a priority.

Having this context, the right to the truth has a huge relevance and importance in Latin America and it is a major social debt, often accompanied with an outstanding social inequality and poverty (O'Donnell 1996, pp.2 – 3) in the majority of the countries. After the Cold War, in many Latin American countries, the winning parties which were often military factions, imposed amnesty laws as a way to hide all the human rights violations that these regimes had committed in order to keep themselves in power. These are: Argentina, Brazil, Chile, El Salvador, Guatemala, Haiti, Honduras, Nicaragua, Peru, Suriname and Uruguay (Antkowiak, 2002. P. 979). Amnesty laws, public pardons, and a substantial pressure to reconcile have been ways to escape responsibility for human rights violations.

In the Latin region, the Inter-American System intervention has been very important and it has become either a complementary or supplementary measure to the truth commissions'



experiences. It is possible to find a major result in places like Colombia, which is living a protracted violation of human rights (UN High Commissioner for Refugees 2005, pp.184 – 191) and because the internal conflict is unfinished it has not had formal truth-telling experiences (Inter-American Institute of Human Rights 2011, p.13) that allow society to build a picture of what has happened in more than fifty years of domestic war.

Arguably, it is possibly to manifest that this system of justice is working in the Americas, on developing countries in conflict like Colombia or with post-conflict processes such as Chile, Argentina, Peru and Guatemala, where their doctrine has had more acceptance (Salazar et al. 2007, p.1). This is because of great pressures received from the United States related with economic incentives and offers of free trade agreements in order to comply with the international human rights standards, although the United States signed the Inter-American Human Rights Convention, but never ratified it.

On the other hand, some left-wing governments such as Venezuela and El Salvador do little or nothing with respect to International pressure to adopt domestic human rights directives. Some examples of this are the resistance from Venezuela to adopt the Commission's recommendations in regard to the freedom of speech of the local media (Inter-American Commission on Human Rights 2010b) and from El Salvador with its determination on applying amnesty laws (Salazar et al. 2007, p.172). Similar cases have happened in United States with the execution of some people jailed in Guantanamo following a Commission's petition of freedom (Inter-American Commission on Human Rights 2010a) because of due process violations.

In spite of these difficulties that the System has found on ground, the Inter-American Court in an effort to face opposition, it has developed a strong doctrine about the 'Right to Truth' as a not only important to establish the individual truth, but also a societal truth as a societal right, especially designed to counteract amnesty laws. The Inter-America System has based this doctrine in the articles 1(1), 8, 13 and 25 of the Convention.

Every society has the inalienable right to know the truth about past events, as well as the motives and circumstances in which aberrant crimes came to be committed, in order to prevent repetitions of such acts in the future (Inter-American Commission on Human Rights 1986, p.193).

The Commission firmed up this concept in 1998, after analysing a group of petitions from Chile, where it established that by applying the Chilean amnesty law, the State infringed the

right of the victims of the Pinochet regime, and recognised that the right to the truth belonged to the society as a whole (Inter-American Commission on Human Rights 1998). Since then

it has been intervening in countries in post-conflict processes, with the purpose to protect the victims' rights to the truth, justice and reparation and shape domestic legislation with its human rights doctrine.

*The interference of the Court with the amnesty laws in Latin America*

No domestic law or regulation- including amnesty laws and statutes of limitation- may impede the State's compliance with the Court's orders to investigate and punish perpetrators of human rights violations (Inter-American Commission on Human Rights 1998).

There is a debate about the necessity of transitional justice institutions such as Truth Commissions and International Criminal Tribunals that in some cases are accompanied by amnesties with the purpose of achieving peace agreements and democratic stability. As is being examined in this essay, the Inter-American Court has been in a firm position of being in opposition of amnesty laws and public pardons (Salazar et al. 2007, p.186), being on the side of the victims and vindicating justice over peace, after serious human rights violations, it is positioned to be more protective of the victims' rights and more adequate to the particular necessities of the Latin region.

A good example of its position is 'The Barrios Altos' judgement in 2001, which is a major contribution to the transitional justice in Peru that influenced the entire region, when the Court declared the amnesty laws invalid. It coincided with the establishment of the Peruvian Truth Commission and it strengthened the national aim to seek for truth, that contributed the failing of the attempt of the Fujimori administration for withdrawing from the Inter-American convention, in order to protect the amnesty laws and avoid interference from the Inter-American Commission to investigate the mass violation of Human Rights committed during their administration, with the aim of perpetuating his mandate (Salazar et al. 2007, pp.95 – 121).

Unfortunately, it was a different story in El Salvador, where the Commission's intervention had little repercussions when the government launched the local amnesty laws, arguing that it was the civilian population's aim to forget and reconcile that made them decreed the concerning laws (Salazar et al. 2007, p.44) and not following the Truth Commission's recommendations to investigate the perpetrators, make justice and repair the victims. The laws were expedited just after the report of the Salvadoran Truth Commission 'From

*Madness to Hope*, who had the involvement of the United Nations, after their participation in the peace agreement (Eltringham 2012).

Despite this panorama, the Inter-American Commission encouraged the government to gradually apply the Truth Commission's recommendations and to obey the international commitments, such as the Inter-American Convention of Human Rights, due to the amnesty laws that were arbitrarily opposed with the Convention stipulations (Salazar et al. 2007, p.44). But the government was unwilling to comply with the Commission requirements. Therefore, in 1999 in the annual report, the Inter-American Commission found the State responsible for denying access to the truth to the victims of different executions, dodging the persecution of the perpetrators and delivering justice, specifically focusing on the case of the extra-judicial execution of six Jesuit priests, their cook, and her daughter by military personnel. This report recommended:

A full, impartial and effective investigation in an expeditious manner, consistent with international standards in order to identify, prosecute and punish all the material and intellectual authors of the violations determined, without reference to the amnesty that was decreed (Inter-American Commission on Human Rights 1999a, p.241)

The judgement cited above is just one of the multiple cases found in El Salvador, although cases like it found a recalling in the Inter-American System intervention, but the responses of the government were insufficient and non-committal with the achievement of justice. In that specific case, The Commission found El Salvador guilty of denying the victims' right and the society at large to know the Truth and identifying the perpetrators, when the State showed its resistance to adopt the Truth Commission's recommendations to investigate the findings of the report, when imposing in 1993 the amnesty law, just after the launch of the Truth Commission's findings.

The "right to the truth" is a collective right which allows a society to gain access to information essential to the development of democratic systems, and also an individual right for the relatives of the victims, allowing for a form of reparation, especially in cases where the Amnesty Law is enforced. The American Convention protects the right to gain access to and obtain information, especially in cases of the disappeared, in regard to which the Court and the Commission have established that the State is obligated to determine the person's whereabouts (Inter-American Commission on Human Rights 1999b, p.151).

In spite of the cases of El Salvador and also Uruguay, who argued that *'justice is a value, but so is peace,'* (Salazar et al. 2007, p.187), where it was possible to find resistance from

the governments in front of the Inter-American System work, the cases of Argentina and Peru could oppositely show how civil society, accompanied with a political will, made the Commission intervention welcome to front a generalized repeal for amnesty laws.

Since 1987, the Commission started to receive complains from the Argentinian society about amnesty laws, known as the 'Due Obedience' and 'Full Stop Laws'. The Commission responded with a request to the government to investigate (Report 28/92) without major direct success. However, in 2005 the Argentinian Supreme Court, based on the Commission

Report 28/92, declared the 'Full Stop Laws' inapplicable and unconstitutional (Salazar et al. 2007, pp.181 – 182).

The Peruvian, Argentinean and Salvadorian excuses for making amnesty laws are political justifications that obey the governments' needs to re-build a society and legitimise their governance in countries in a post-conflict process. These reasons have permeated almost all the transitional justice efforts around the world. Amnesty laws have accompanied truth commissions in many countries, arguing that this is the only way to end a conflict and to find peace and reconciliation, but these political motivations are not thought from within a victim perspective, it does not obey with the victims' expectation of truth, justice and reparation. Reconciliation is a slow process that can only be achieved when a nation has a mentally healthy population, which feel themselves equal and important in society and not in a society made of pariahs from nowhere, with people with no rights, no territory and no civil society, in a nation rebuilt without roots.

In conclusion, The Inter-American System has been an important decisive factor, in the regional transitional justice process, playing on the side of the victims, it did not have always-remarkable effects, but it did impregnate some realities, change some domestic normative and some discourses in favour of the population and prevent, in some events, the continuation of massive violation of human rights.

#### *Colombia and the construction of memory in a country in conflict: The Mapiripan Massacre*

The internal conflict in Colombia began with the appearance of the armed opposite groups during the 1950's, when the left and right wing parties started a virtual political civil war; the combats were spread around the whole country. Consequently, the Liberal and Communist parties were able to start consolidating the guerrilla forces by bringing communist militants as an opposition group against the government (Amnesty International 2004, p.7).

In order to restore normality in the country the government decided to foster the creation of self-defense groups. Because of many cases of linkage and connivance found between the

members of the Security Forces and the paramilitary groups, it became quite apparent that the government had been supporting these groups in a sort of direct or indirect manner. In view of the foregoing, it seemed clear to attest that the self-defense groups had misdirected their main objectives and became criminal groups committing crimes against the civil population (Inter-American Court of Human Rights 2005a, pp.39 – 41).

In 1997, in the Mapiripan town, at least 49 civilians were executed or disappeared and at least 2.460 individuals were forcibly displaced from the town, when paramilitary groups with the help of the government arrived in the zone that historically had been territory of the “*guerrillas*” groups. Before executed, the victims were killed, deprived from their liberty and subjected to torture, others were tortured by being forced to witnessing the executions of their love ones (Inter-American Court of Human Rights 2005a, pp.108 – 154).

This case is very important because the Court collected evidence about the connection between the government and the paramilitary groups in the country, establishing the connivance from the State with illegal groups in the perpetuation of multiple actuations and violation of human rights against the Colombian civil population, where the Mapiripan Massacre was just one of them.

The judgement helped the construction of the memory of the Colombian history of violence, as it was seen in the previous paragraphs, even when this memory demonstrates the accountability of the current government in an uncontroversial form that the State acknowledged to the Commission its responsibility in the massacre. The whole judgement in 176 pages tells the history of violence in Colombia and it became a masterpiece (Inter-American Institute of Human Rights 2011, p.37) used by judges, NGOs, victims’ organizations and historians for telling the truth of the violence and internal displacement in Colombia and helping local judgements of the State’s responsibility.

The Court ordered the construction of a monument that remembers the massacre and the victims who died in this event, as a way of keeping them alive for the current and the future generations of Mapiripan people and allow the survivors to make commemorative events, seeking for domestic justice and non-repetition, around the symbol of the State’s accountability in the crime. Also the victims got monetary reparation and the proven facts of what happened were published in a national-coverage diary; that was the clearest form of reparation on the construction of collective memory for the whole society. ‘*The international jurisprudence has repeatedly established that the judgement constitutes per se a form of reparation*’ (Inter-American Court of Human Rights 2005a, pp.285).

In addition, this judgement stimulated a culture of memorials, that in the case of Mapiripan it contributed to the consolidation of the ‘*Mesa de Homenaje a Mapiripán – 12 años*’

(Tribute to Mapiripan workshop – 12 years), who made a campaign called '*Lucha por la impunidad - Resistencia al olvido*' (Fighting for impunity – Resistance to forgetfulness): '*Caravana por la vida, la memoria y la paz; que no se olvide, que no se repita*' (Caravan for life, memory and peace; not to be forgotten, not to be repeated), celebrated in 2009 with marches and some documentaries about what happened and the Inter-American Court judgement (Mesa Homenaje a Mapiripán s. f.). The victims protested because 12 years after the slaughter and 4 years after the judgement, the State had not implemented justice, or identified and prosecuted any of the masterminds of the massacre.

The construction of memory has vindicated and empowered the victims in large to demand participation in public decisions and enabled them to reach a more horizontal relationship with the government. Victims of other massacres in Colombia, such as 'Rochela', 'Santo Domingo', 'Ituango' and 'El Salado', are starting to take notice of the Mapiripan victims' consolidation as a group. As a consequence, they are forming similar organizations. Similarly, larger organizations like Movement of Victims of State Crimes –MOVICE– opposed the 'Justice and Peace Law' by coordinating different victims movements for mobilizations and promoting a public debate of the law (Inter-American Institute of Human Rights 2011, p.42).

#### *The impact on victims*

The Inter-American System as well as it has protected the victims' rights during post-conflict processes after amnesty laws, it also has been protecting the victims of countries in conflict, helping them to build societal truth, but also granting the victims of internally forced displacement the right of freedom of movement and residence (Art. 22 American Convention on Human Rights). From this right the system has created a powerful doctrine, not even developed by the African Court, on Human and People's Rights that deal with the greatest (IDMC 2011) problem of internal forced displacement in the world.

It is the aim of this section to show the impact that this doctrine has had on the victims of the Moiwana Village from the Court's judgement. This doctrine was developed in 'The Moiwana Village v. Suriname Case' and 'The Mapiripan Massacre Case' in 2005 and has been applied to at least 4 more cases in Latin America (The case of the Massacre of Ituango v. Colombia in 2006, the case of the Massacre of Puerto Bello v. Colombia in 2006, the case of Chitay Nech and others v. Guatemala and the case of the Massacre of Santo Domingo v. Colombia in 2011), having similar impacts on the population.

The Moiwana population is a tribal community that owing to a deliberate massacre in 1986 of at least 39 people, of which 70% were children and 50% were women or girls, in the Moiwana Village, they had to flee from there, mainly to French Guiana, making this minority

group internal IDPs or international refugees (Inter-American Court of Human Rights 2005, pp. 11 – 31).

The Court found that the impunity suffered by this community had a very negative impact on the survivors who argued in the hearing that when a crime against them remains unpunished, their avenging ancestral spirits would not let them live in peace and reconcile with the past. They added that if they return to their land without a purification ritual of the land and without having found justice met, they might suffer from physical and psychological illnesses. (Inter-American Court of Human Rights 2005b, pp.44 – 45)

The Court guaranteed the Moiwana survivors the right to return voluntarily, in safety and with dignity, indeed, the Court granted them the real possibility to come back to their land after finding justice. Additionally, the community got the right to property of the land because the strict adherence of the community to this land, created a communal property right protected by Article 21 of the American Convention (Inter-American Court of Human Rights 2005b, p.87)

In cases like this one, the Court allowed the compensation of non-identified victims because some of them fled to distant places or because at the time of the judgment the victims did not have a valid identification. In the case of the Mapiripan Massacre owing to the deficient domestic investigation and the acceptance of the State's responsibility by the government, they were compensated (Antkowiak 2007, p.276).

This benevolent and also '*imprudent*' (Antkowiak 2007, p.276) treatment from the Court to the victims, has led the formulation of the biggest critics about their performance, due to the recent scandal concerning the Mapiripan victims and the lawyers that took the case before the Inter-American Commission at the end of 2011, when the government found that some of the reported victims of the massacre were either not executed in this event or were still alive (Redacción País 2011). Nevertheless, this fact shows how this imprudent or protective behaviour from the Court becomes evidence of their willingness and compromise seeking for the achievement of the victims' rights.

Similar flexible dispositions can be found in the case of the public hearings before the Court, which allow the victims, their representatives and/or family members to participate during all the stages of the process, if it is possible to safeguard the State's right to defence with the purpose of guarantee that all the parties have the opportunity to express themselves actively in regard to relevant facts (Antkowiak 2007, pp.275 – 276), giving the victims all the possibilities to participate in the hearings if they want to do it per se or through a lawyer or a NGO.

It is a regular practice in its jurisprudence to order the government if it was found guilty of the human rights violations to: make the payment of material and moral damages, as well as legal costs; make a full investigation of the massacre; make a fund to be directed toward health, housing, or/and educational programs in the community; make an official, public apology for the events; and build a monument to memorialize the attack and its consequences (Inter-American Court of Human Rights 2005b, pp.86 – 87) (Inter-American Court of Human Rights 2005a, pp.163 – 169) (Inter-American Commission on Human Rights 2006, pp.146 – 149)

In order to avoid repetition of the events on the victims, for example in the *Moiwana* case, a committee of representatives of the government should visit the community on a monthly basis to check the tribe security, satisfaction and rehabilitation, making sure to allow the victims to participate actively during the meetings (Inter-American Court of Human Rights 2005b, p.85) and also ordering the publication of the judgement, which is a measure commonly taken for avoiding repetition of similar crimes against the victims.

In other judgements the Court ordered prominent measures in pursuit of the commemoration of the event: the establishment of a national day remembrance and to rename a school with the victims' name (*Villagran-Morales v. Guatemala*); and the establishment of an annual scholarship and to call a street or square in honour to the victim (*Mack Chang v. Guatemala*). All these valuable requests and the request to the government to make a public statement of apology dignify the victims' pain and permit their complete healing and mourning. For the *Moiwanan* survivors and the spirits of the dead, the judgement meant a new opportunity either to live or to rest in peace, and an open-door for finding reconciliation.

The victims have found that the Inter-American System pushes governments to implement measures of protection, reduce threats, investigate, allow channels of political participation and design agendas for guarantees of non-repetition. The measures taken by the Court allowed the victims' recognition through the construction of a 'Societal Truth'. This was the only way to dignify the victims and vindicate them as a part of the State's policies. The simple publication of a report without a political will to acknowledge the facts will never reconstruct a civil society and promote real reconciliation.

### *Conclusions*

Truth Commissions are very important institutions of post-conflict local processes for victims' healing and catharsis. They could become for the society as a whole a symbol of peace, hope, reconstruction and even reconciliation. It could be an incentive for the consolidation of a civil society that wants to participate and to be active in the rebuilding of the institutions and also in public spaces. Truth Commissions are powerful institutions, but



this power has been manipulated at the mercy of States' necessities, shifting its focus from the victims to the perpetrators and the legitimations of new administrations.

For The Americas, specifically for Latin America, Truth Commissions have been undoubtedly complemented, corrected and extended by the Inter-American Human Right System and its outstanding jurisprudence on victims' rights. For countries in conflict it has been, in many cases, the only way to seek for justice and State accountability. It has been promoting and contributing to major processes of memorialisation of societal truth.

Its success is not possible to be said in all the cases, however, it is clear how the system has shaped domestically and on a different scale, all the American Convention signing parties' policies and legislation. For victims, it is the only mechanism with a comprehensive victim-oriented remedy doctrine, even though it could be strengthened and depoliticized for being more impartial and effectively applied in all the Americas' countries. Unfortunately, that is unlikely to happen, taking into account that its creator, the Organization of American States is a political international institution.

Bringing truth and justice to victims, means the shift of a country made of pariahs to a country with a civil society, putting the focus on victims is the only way to reconstruct a nation and that is what the Inter-American System is trying to do.

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