



Dignification of Victims Through Exhumations in Colombia

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Abstract

Exhumations aim to restore victims' dignity because they constitute a step towards their individualisation and recognition as members not only of a particular family but of the human family. This article aims to contribute to the critical assessment of how the notion of human dignity and dignification are used in the context of mechanisms of transitional justice, such as exhumations. It focuses on the Colombian case from an interdisciplinary perspective based on socio-legal studies. The research is based on participant observation, interviews, and thematic analysis of the uses of the term dignity and dignification in the texts of the laws and protocols for the exhumations of victims of the armed conflict in Colombia. It explores two dimensions of dignification, which in turn contributes to the understanding of the complex relationship between victims, the state, and institutions of transitional justice.

Keywords Mass graves · Forced disappearance · Search commissions · Massacre victims · Peace process

Introduction

Exhumations of victims of armed conflicts are important tools for individualising a victim who was disposed anonymously in a mass grave. Exhumations intend to restore the dignity of the deceased and their relatives, who continued to be harmed by the uncertainty of not knowing the fate of their loved ones. The idea of exhumations as a form of dignification is a paradigmatic idea that can be found amid several transitional justice (TJ) procedures across the world. The terms human dignity and dignification are part of what Nauenberg (2015: 655) has aptly identified as 'rationalized myths' of transitional justice; these are 'socially constructed cultural logics legitimated by actors in the global environment to guide the practices, policies, and operation of state institutions, independent of their actual efficiency (Meyer and

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Rowan, 1977)'. This article aims to contribute to the critical assessment of human dignity as a concept that has prominently impacted transitional justice.

Focusing on the Colombian case, this article explores the ideas of dignification and human dignity in exhumations, from an interdisciplinary perspective based on socio-legal studies. The conclusions reached at the end of this paper show two dimensions of dignification in the Colombian TJ. These dimensions have been identified through thematic analysis of the uses of the term dignity and dignification in the texts of the laws and protocols for the exhumations of victims of the armed conflict in Colombia, as well as the examination of the uses of these terms in the publications, websites, and interviews with victims' organizations demanding to know the fate of the disappeared victims in Colombia (Nowell et al. 2017). Additionally, I conducted participant observation at several meetings and events organised by the Commission for the Clarification of Truth, Coexistence, and Non-Repetition and at a ceremony for the 'dignified transfer of victims' remains' in 2019. This article is part of a larger research on how transitional justice measures (truth commission, reparations, and historical memory) contribute to the restoration of victims' human dignity in Colombia. This project has gathered 53 interviews with a diverse group of transitional justice stakeholders from both institutional organisations and civil society in Colombia. From these interviews, five of them were specifically directed toward bureaucrats and activists working on exhumations.

The structure of the paper is as follows: the first part analyses the process of transitional justice in Colombia, including the problems that make exhumations a requirement for the reparation of the victims that perished and of the victims who survived them, their families, and loved ones. The second part shows the alleged goals of exhumations of victims of armed conflict. The third section explains what we mean by dignification in the context of transitional justice, and particularly, in the context of the socio-legal and political culture in Colombia. Such a perspective of analysis is justified, given the profoundly legalised approach to transitional justice used in Colombia.¹ Finally, the last section explains the exhumations from the perspective of two models of dignification, which help to clarify the position of the State vis-à-vis victims.

Transitional Justice and Peace Process in Colombia

The Single Registry for Victims² uses 1985 as the date in which it starts recognising victims and enrolling them in the different mechanisms of reparation, while land and property restitution applies to acts committed after 1991: 'Almost 7.5 million of

¹ Humphrey (2018: 470) argues that 'The state has tapped into Colombians' faith in rights, advanced through the 'constitutionalization of everyday life', to turn transitional justice into the administration of hope of long human rights queues'. This is a legal fetishism and an idealization of human rights institutions that is not realizable in practice.

² A tool created by the government as part of the system of attention and assistance to victims. Although sometimes there is dispute between the official numbers of victims presented by the Registry and those managed by victims' organizations, the Registry is generally used as a reference by most actors.

the approximately 8.8 million victims registered by the Single Registry for Victims are internally displaced people. Threats, homicide, forced disappearance, and loss of property also stand out as victimising acts due to the high numbers of registrations.’ (Sánchez et al. 2019). Several transitional justice mechanisms have been implemented, including trials of members of illegal and official armies, amnesties, historical memory commissions, and individual and collective reparations. The Justice and Peace Law 975 (2005) followed the reintegration of the paramilitary group United Self-Defence Forces of Colombia (Autodefensas Unidas de Colombia) in 2003; the Victims and Land Restitution Law 1448 was created in 2011, also known as the Victims’ Law. This law provides a framework for reparations and historical memorialisation, among other TJ elements. The FARC guerrillas and the government signed a peace agreement in 2016, following 4 years of negotiations in Havana, Cuba. The negotiations presented a unique space for victims’ participation, ‘which seems to be more pronounced than in other transitional justice initiatives.’ (Pabon 2018: 7).

Law 975/2005 and the Victims’ Law have been criticised for their ‘lack of social policies that dealt with discussions about income distribution,’ (Buchely 2015: 45) although the Victims’ Law has facilitated victims’ access to justice and recognised their agency in symbolical acts of reparation and construction of memory and truth. The implementation has only reached a selected number of victims, and even when it does reach them, it often does not respond to the real needs of victims on the ground: ‘Vulnerable groups and individuals have been particularly hit by the deficient implementation, as prioritisation mechanisms that aimed to facilitate their access have only begun being deployed in the last three years.’ (Sánchez et al. 2019: 2).

Regarding the peace agreement, it included items on integral rural reform, political participation for the opposition, end of the conflict (surrendering weapons, reincorporation to civil life and warranties of safety), reforms to drug policy, victims (issues of truth, justice, reparation, and warranties of non-repetition), and implementation, verification, and public endorsement. After the initial agreement was rejected in a plebiscite by a small margin, a majority of the Congress and the lower house voted in favour of a revised agreement. During the administration that followed the signing of the agreement, the peace process has faced opposition by Iván Duque’s administration (2018–2022). There has been a strong backlash in the implementation of the peace agreements, such as the rearming of a dissident section of the FARC and the strengthening of paramilitary groups that took control of the areas previously controlled by the FARC.

Mass Graves, Forced Disappearance, and Search Commissions

Exhumations are part of the process of finding and identification of victims of crimes such as massacres and forced disappearance. Exhumations are tools used for the recovery of bodies of victims of armed conflict, war, or authoritarianism. Navarro García et al. (2010) identify three different types of situations in which exhumations are necessary. These are, in the case of collective massacres when there are victims who have been detained and disappeared as a result of state repression,

in mass graves resulting from collective violence, and when selective deaths occur under democratic regimes. Exhumations are ‘in many ways a process of unearthing the truth,’ (CNMH 2014: 27) because they provide evidence of the events that led to the murder of the victim, giving a sense of closure to families of disappeared victims after years of searching.

Reparations in the context of TJ determine that, whenever possible, victims should be restored to the situation before the violence occurred, through compensation and measures of satisfaction. Integral reparations, such as the one implemented in Colombia, include symbolic reparations, which are measures focused on the public recognition of the harm caused by insurgent groups and by the state. In the case of the deceased missing and the disappeared, it is not possible to achieve the condition that he or she had before the harm took place. However, exhumations followed by the identification, return to relatives, and proper burial of the remains offer a possibility of integral reparation of victims and their relatives, who have also been victimized due to the harms caused by the death and disappearance of their loved ones.

The victims who are exhumed do not have something in common other than the type of harm that they suffered. Different armed actors in Colombia use this technique of disposal of the victims’ remains in order to achieve different goals, such as social cleansing, grab land, or punishment. Despite the ongoing mobilization of different social organizations such as the Colectivo Orlando Fals Borda or the Fundación Nydia Erika Bautista, the disappeared victims do not hold a collective victimhood identity. Humphrey (2018: 468) explains that ‘[I]nstead the disappeared have been de-politicized as ‘missing’ and administered as just one victim category in the National Register of Victims which has reached 8.6 million victims’.

The reparation of the dead victim who lay anonymously in mass graves, cemeteries or dumps, implies restoring their rights. But, what are the rights of the dead? Rosenblatt (2010: 161) argues that ‘it seems nearly impossible to imagine that a vaporized person, a person turned to ash, a person whose body is irrevocably lost, can have human rights... This is what the violation of the dead really means... it can render them “rightless” in a *definitional* sense’. Exhumations are an attempt to restore some of their rights to them but also to their relatives. The relatives of forcibly disappeared victims do not know what happened to them, which in some cases enhances the ongoing search for truth, an exhausting and often hopeless task. Giving a proper burial to their loved ones is a way to empower families and re-dignify the deceased victims (Dreyfus and Gessat-Anstet 2015; Henderson et al. 2014). Another form of re-dignify the relatives is to recognize their efforts in finding the victims, their ongoing demand for finding the fate of their loved ones, particularly in cases where there is no identification of remains. There is also the possibility of a ‘symbolic return of the remains’ when it is not possible to return the material remains of the victim to their relatives.

Furthermore, there is an obligation from the state to respectfully dispose of the dead, as has been stipulated in the Geneva Conventions, ratified by Colombia (Council of State, Administrative Case No. 10941 (ibid., § 456)), and has been mentioned in (Rule 115) Customary International Humanitarian Law (ICRC 2017). The CNMH (The National Historical Memory Centre—Centro Nacional de Memoria Histórica) estimated that between 1970 and 2015, 60,630 people were forcibly disappeared in

Colombia, and according to Claudia García, the director of the National Institute of Legal Medicine and Forensic Sciences, there are approximately 200,000 bodies in legal cemeteries and clandestine graves across Colombia (CNMH 2016b). Nevertheless, in Colombia, most cases of search for the disappeared victims will not have a positive outcome. In some cases, exhumations do not happen because there are not enough resources, the places where the bodies have been left are dangerous or not easily accessible, there might not be political will to do it, or there are cases of discrimination in the treatment of victims (Roza Álvarez 2016).

A protocol has been developed in order to train civil servants in the procedure of exhumations. It is called ‘dignified transfer of human remains of victims of forced disappearance and murder in the framework of the Internal armed conflict’, which is part of the Inter-institutional Protocol for the Dignified Return of Bodies of Disappeared People (Ministerio de Salud 2020). This procedure is based on the principle of ‘re-establishing the dignity of victims and their relatives’. The document defines dignity as respecting victims’ integrity and honour. The protection of and respect towards victims are enacted through the information, assistance, and accompaniment from the relevant offices to the surviving victims. This approach to dignification highlights its character mostly related to psychological health assistance, provided on an individual or family basis, which in Colombia is known as the psychosocial approach. The protocol explains the different phases of the process, including review and documentation, interinstitutional attention, judicial proceedings in the return of the bodies, and archive and documentation of the return process.

The protocol frames the dignified conditions of the location of the remains of the disappeared victim and the recognition of the history of diverse forms of resistance by the families of the disappeared, as two sides of the process of dignification. According to Lina Rondón Daza, psychologist and adviser to the general direction of the psychosocial attention team for the Victims Unit, ‘the goal is to give meaning not only to the process of finding the body but to what these families have done in order to finding them, to what they have done in order to cope’. There is an element of political recognition of the actions of search and resistance led by the families of the disappeared. Rondon argues that ‘[The psychosocial scheme includes a phone call done in dignifying manner, psychosocial accompaniment during the transfer, and then everything that seems to be logistical but that is arranged in such a manner that helps to create a “structure” for the person. This [the disappearance] is a de-structuring moment, and the purpose is to provide structure to the chaos’.³

The psychosocial approach to dignification is focused on the process that recognises the humanity of the family involved, their cultural and religious traditions, and what is known as ‘accompaniment’, which means close attention to the persons involved in several steps along the way. The forensic teams involved and the non-governmental organisations that observe these processes seek to guarantee a balance between procedural requirements (what is required by law regarding the handling, identification, and transfer of the remains to the families), and the psychological impact it can have on families.

³ Personal Interview, Lina Rondon Daza, 15 September 2016, Bogotá.

The ‘search for persons that are disappeared in the context and because of the armed conflict Unit’ (UBPD) was created as a result of the 2016 peace agreement. The main difference between the UBPD and the previous units in charge of the search for the disappeared is its humanitarian and extra-judiciary approach. The UBPD intends to focus on the disappeared victims and their relatives, instead of clarifying or finding evidence of the crime and the perpetrator. It includes the participation of the relatives in the search for the disappeared in a more effective manner, and in the different steps of the process of exhumation and *entrega digna* (dignified transfer) of the remains. The humanitarian character of the UBPD intends to mobilise access to information that is useful for locating the bodies in a more agile manner and the information that it produces cannot be used in judicial proceedings. However, the UBPD has been subject to multiple criticisms from some of the victims’ organisations. For instance, it has been criticised for taking years to organise itself before it started working, which delayed the work that many victims’ organisations were already doing, and it has not been entirely successful in including the participation of victims’ relatives.⁴

The Goals of Exhumations of Victims of Armed Conflict

Exhumations intended for reparation purposes are conducted following humanitarian principles and global ethical standards for the identification of remains and values such as scientific rigor, high ethics, historical contextualization, and evidence, as well as a family-centred approach. On one hand, what forensic teams offer to dead bodies in terms of dignity is very specific: they name and identify those bodies (Rosenblatt 2010: 949). They relocate them and take care of them, by handing them over to families and other mourners. Furthermore, exhumations are a way of ‘unmaking “absolute exclusion” in the present’; the exclusion that took place when the mass death of groups of people went unnoticed or forgotten (Rojas-Perez 2013: 151). The rights of the exhumed victim require that the process of exhumation is conducted in a dignified manner, following the appropriate protocols, as explained below. The immediate goal is to allow for their location, identification, and return to their relatives for appropriate reburial. The long-term goal is to transform the social and cultural context in which these deaths occurred and were denied or ignored.

On the other hand, the rights of the relatives include the rights to truth, justice, and reparation. Exhumations of victims of conflict can be used as evidence in courts of law or truth commissions (Koc-Menard 2014). In the case of exhumations of victims of forced disappearance, exhumations can help answer questions about the crime, and once the remains are properly identified, they can be returned to the families, allowing them to carry out proper burials of their relatives. Shari Eppel calls these ‘transformative exhumations’ because they have emotional and psychological benefits for the grieving family (Eppel 2014). In terms of reparation, exhumations can also facilitate the assent of relatives’ rights to economic compensation.

⁴ Personal interview, victim, Bogotá, June 2020.

Despite the emphasis in conducting exhumations in a dignified and humanitarian manner, there is still a risk that exhumations retraumatize victims. The goals of reparation might be at odds with other objectives of the government, such as finding criminal evidence (Ferrandiz and Robben 2015). Additionally, forensic teams have to deal with limitations in terms of adequate funding, volatile settings, presence of unexploded ordnances, corruption or lack of goodwill, lack of resources and adequate training, tight deadlines, political complications, ethical dilemmas, and other competing goals among stakeholders. There are at least two qualifications of the impact that exhumation can have over truth, justice and reparations: it can change over time, and it is not always successful in terms of location, identification, and return of the remains to the families. The exhumation of victims of conflict does not guarantee a straightforward path towards their proper burial. In practice, this process can take several years, and there might not be any or only minimal accountability afterwards (Grewal 2019).

These added factors mean that not all exhumations have the same impact on the reparation of victims. Sometimes, the flaws in the procedure can lead to the re-victimisation of victims, opening old wounds, or creating division among families. For instance, some victims report that, during the moment of *entrega digna* or dignified transfer of the remains of the victims, the mandatory presence of members of the Technical Body of Investigation (Cuerpo Técnico de Investigación—CTI) in charge of the judiciary investigation constituted an offense to the relatives, because that institution was perceived as either a collaborator or complicit in the disappearance of thousands of victims of extra-judiciary killings in Colombia.⁵

There is also the added component of exhumations without identification. In those cases, exhumations can help to reveal the massive character of the crime, as has happened in the revelations of several mass graves in Colombia. However, the lack of proper identification means that the next steps related to truth, justice, and reparation might not be followed, or they might receive truth as part of a broader pattern of recovery of truth about crimes. The presence of the bodies that are exposed after the exhumation can help to challenge narratives that denied that criminal events took place, but they are done under a narrative that instead of individualizing victims shows patterns, modes of operation, and emblematic cases.

Human Dignity and Dignification of Victims

A basic definition of human dignity explains it as the inalienable worth of human beings due to the fact of being humans, and a broader definition also includes the relationship between human and non-human nature (Guerrero 2015). The concept of human dignity has become important due to its role in the justification of international human rights covenants, and similarly, over 150 constitutions in the world see dignity as a central value and principle (Dupré 2015; Waldron 2012). In Colombia, dignity is also an essential value and a principle (Cepeda Espinosa and Landau

⁵ Personal Interview, victim, Bogotá, September 2020.

2017), but in a context of prolonged conflict, ‘the law offers dignity that the State cannot provide’ (Eslava 2009: 191). As a result, the struggle for the recognition of people’s rights and dignity has been a central demand of the social movements in Colombia. Similarly, the post-peace agreement scenario in Colombia presents the dignification of victims as an ideal that meets a lack of political capacity or willingness to be realized. Namely, there has been continued resistance to the implementation of the agreement and lack of institutional support to the Truth Commission and the Special Jurisdiction of Peace in the last years (Lang 2020).

Dignification is used as a legal term to describe the action of restoring the dignity of a person who has lost it, usually, after a violation of their human rights. The predominant meaning of dignification used in Colombia’s transitional justice is associated to ideas of satisfaction of victims. Dignification appears as a strong motivation for the interpretation of the Victims’ Law, which in its Article 139 establishes that symbolical reparations or measures of satisfaction aim to publicly construct and restore historical memory, to recognise victims’ dignity, and to rebuild the social fabric. Article 170, Decree 4800 (2011) also confirms the necessity of facilitating individual and collective grief for the relatives of the disappeared. These measures seek to ‘re-establish the individual dignity through the recognition of the suffering of the grieving people, but they also have a collective orientation ... they bring to the present the memory of past violence in a way that recognizes social responsibility’. Despite the legal recognition, there is a lack of implementation of the measures of dignification in practice. The space left by the lack of political support from the institutions and the elites in the process of dignification of victims has been filled by citizens and local communities, who play a crucial role in creating and protecting human rights themselves.

This article explores these two dimensions of dignification in the exhumation process, the one that comes from the institutions of the state, and the one that comes from the victims themselves. Following Zivi (2018: 398), I argue that an important aspect of *human dignity* understood as *the right to have rights* ‘is realized through participation in the public realm with others; it comes into being or is made meaningful in the everyday efforts of ordinary citizens’.

In this context, the demand for the dignification of victims would mean the demand for implementing the adequate policies that would benefit victims in their autonomy, material conditions (reparations), and physical and moral integrity (truth, justice, guarantees of non-repetition) as equal citizens. In the following section, I explore how these ideas of dignity and dignification are used in the policies and practices of exhumation in Colombia.

Can Exhumations Bring Dignification to Victims and Their Families?

Wemmers and Manirabona (2014) define different notions of victimization, primary (direct) victimization, secondary victimization (relatives of the primary victims), and tertiary victimization (still impacted people). In the context of exhumations, there are two types of victims who are the main target of policies of reparation, those who died and those who survived them, their relatives. In the case of the victims

who perished, one of the main goals of exhumations is humanising the victims who were forcefully disappeared or those who were part of a collective crime that denied their individuality, such as the victims of a massacre. The case of the surviving victims, the relatives and loved ones of those who perished or disappeared, is to know the truth, to receive justice, reparations, and guarantees of non-repetition. The way exhumations contribute to achieving these goals is explained below following two cases in Colombia, I focus on two dimensions of dignification: top-down (in the case of Bojayá) and from below (in the case of La Escombrera).

On the 2nd May 2002, a massacre of at least 79 persons, 45 of them who were children, took place in the San Pablo Apostol Catholic Church in the municipality of Bellavista, Bojayá—Chocó. The massacre was the result of a confrontation between FARC guerrilla members and paramilitaries (with connivance of some members of the Army).⁶ In 2017, after prolonged demands from the victims' organizations, social movements, and human rights activists, the bodies that had been hastily buried by the villagers, were finally exhumed.⁷ The process of identification took 2 years and in November 2019, a ceremony for the 'Dignified Return' of the bodily remains of the victims, took place.

Exhumations are mostly seen as a means to an end (for example, to achieve truth or to support trials by providing evidence); in the case of Bojayá, the truth of the events had been mostly revealed by some of the involved responsible actors: the FARC, who had presented public apologies repeatedly in December 2015, as well as the recognition of the involvement of the paramilitary and members of the army that had appeared in official accounts of historical memory, such as the report *Bojayá: La Guerra sin Límites (Bojayá: The war without limits)* (GMH-CNRR 2010). The exhumations responded to the ontological desire for the families to properly bury their relatives (Rojas-Perez 2013). Relocating their remains to a proper place, under the right circumstances, helped victims to conduct funerary rituals and overcome their feelings of ongoing grief.⁸

It took 17 years and several stages of negotiations, protests, and mobilizations. Lack of capabilities, difficulties in the terrain, and insecurity were some of the alleged reasons why the process of exhumation, identification, and proper inhumation of victims took so long, despite the social and political relevance of the case. For example, after Juan Manuel Santos received his Nobel Peace prize in 2016 the first public visit was performed in Bojayá. The case of Bojayá was also highly politicized during the debates that preceded the Peace Plebiscite in Colombia (Semple 2016).

The top-down dimension of dignification in the case of Bojayá is carried out by the State, which acts as the main responsible actor for the dignification of victims. From June 2017 to August 2019, assemblies, technical tables, and articulation sessions were held by the Victims Unit to explain to the relatives about the progress in

⁶ For more information on this case, see Author: 2015.

⁷ See: <http://www.comitevictimasbojaya.org/>

⁸ Elsewhere, I have explained the social maladies of the bad death (*mala muerte*) resulting from the lack of proper funerary rituals following the Afro-Colombian religious traditions (Rios Oyola 2015, 2021).

the identification process of the exhumed bodies in Bojayá. The Victims Unit disposed of more than 1500 million pesos in order to guarantee the participation of the direct relatives of the victims of the Bojayá massacre.⁹

The official ceremony of the dignified return of bodily remains of the victims of the massacre that took place in 2019 was 2 weeks long. During the first week, groups of victims and their families met daily with the Equitas team and members of the Victims Unit, in order to explain the process of exhumation and identification of the victims' remains.¹⁰ This action contributed to manage the expectations and to enhance the transparency of the process. During the ceremony, actions that demonstrated respect to the relatives of victims and that promoted their participation were visible. There was a public space for the traditions of the Afro-Colombian communities, dialogue, and spaces for the exposition of the ongoing demands of the communities. Further, the presence of different public servants such as local authorities and members of the Victims Unit and the National Historical Memory Center highlighted the importance of the event. However, there were still mixed messages that denied the responsibility of the state in the discourses of the officials of the state, and there was no presence of a high-ranking official in the ceremonies, which created distrust among members of the community, as was commented during those days.¹¹ The ceremony for the dignified return of the bodies of victims meant to finally identify and offer a proper burial to the victims, and it was also an opportunity for the State to reconcile with the surviving victims through the public recognition of their responsibility and public acts of collective symbolic reparation.

The case of La Escombrera allows us to explore the bottom-up dimension of dignification, which reflects the agency of victims themselves, and how they regain or restore their own dignity through the claim of their own rights. Here, the role of the state regarding the dignification process is more blurred than in the top-down dimension. The process of exhumations in La Escombrera in Comuna 13 also started as the result of the mobilisation of victims' organisations, as in the case of Bojayá. This section also shows the tensions that exist between said mobilisation, the state, and the Special Jurisdiction for Peace (*Jurisdicción Especial para la paz—JEP*).

In the Comuna 13, a low-income neighbourhood of Medellín, several armed actors were present, including the CAP (Comandos Armados del Pueblo—People's Armed Commands), the insurgent militias of the FARC and the ELN (Ejército de Liberación Nacional—National Liberation Army), and different blocks of the AUC (Autodefensas Unidas de Colombia—United Self-Defense Forces of Colombia). At the end of the 1990s, the incursion and offensive of paramilitarism were consolidated in this area, and the Bloque Cacique Nutibara (BCN) displaced the other armed groups (Correa 2020). In a joint action between the BCN and the official armed forces (DAS, CTI, members of the office of the National General Attorney, National General Ombudsman, as well as informants who were dressed

⁹ <https://www.unidadvictimas.gov.co/especiales/bojaya/comunicado.html>

¹⁰ Equitas (Equipo Colombiano Interdisciplinario de Trabajo Forense y Asistencia Psicosocial—Colombian Interdisciplinary Team of Forensic Work and Psychosocial Assistance) www.equitas.org.co

¹¹ Fieldwork notes, November 2019.

in camouflage clothes and two helicopters from the Air Force), they carried out a number of military operations; among them, “Operación Orion” (Orion Operation), which intended to take control over the territory and in doing so, committed an unaccounted number of human rights violations, such as torture and forced disappearance (CNMH 2015).

Victims’ organisations, such as *Hasta Encontrarlos* (Until We Find Them) and the ‘Movice’ (Movement of Victims of State Crimes), have joined collective efforts to find their disappeared relatives through lobbying for better and more effective search mechanisms, as well as taking cases to domestic and international courts (CNMH 2016a, b). The search for the disappeared victims has brought these groups of people together, raising uncomfortable questions in the hegemonic discourses that hide the truth of what happened and transforming the official narrative of the conflict: ‘In this reading, the Colombian state, through its army and paramilitary actions, was not only fighting guerrilla violence, but also persecuting political opposition.’ (Navarro 2019). In this way, they also aim to transform the narrative that has created victims’ stigma into victims’ dignity.

The mobilisation of these organisations has national and international components. For example, in 2002, the civil organisation MCV (Mujeres caminando por la Verdad—Women Walking for the Truth), together with the Interdisciplinary Group for Human Rights and other human rights organisations, managed to get the Inter-American Commission on Human Rights to be present at the Comuna 13, a poor neighbourhood in Medellín where hundreds of forced disappearances had occurred within the framework of military operations, and where the bodies were left in an open field known as La Escombrera (The Slagheap) (Corporación Jurídica Libertad 2020). According to the relatives of the missing victims, this place, a field where rubble is deposited daily, holds the largest number of bodies of missing relatives from Comuna 13. Although in 2008 there was an agreement that the slagheap to close, the arrival of rubble continued (Collazos 2020).

In 2014, the *Corporación Jurídica Libertad*, MCV, the Movice, the Mayor’s Office, the Prosecutor’s Office, and other stakeholders formed a Working Group to coordinate the exhumation of the victims’ bodies. Following information supplied by ex-members of paramilitary groups, a process of exhumation of bodies of victims in La Escombrera started in 2015, based on evidence presented by the ex-paramilitary members’ ‘versiones libres’ or free testimonies that pointed at the location of the bodies of close to 300 disappeared victims, to be in La Arenera and La Escombrera (sentence presented by the Magistrate speaker Ruben Darío Pinilla Cogollo, to the Tribunal Superior del Distrito Sala de Conocimiento de Justicia y Paz, Medellín 2015).

During the press conference that launched the excavations, the national general attorney, Eduardo Montealegre Lynett, claimed that:

It is estimated that La Escombrera may be one of the largest urban graves in the world and for this reason the act of today is also a symbolic act of dignifying victims, of opening spaces for victims to express their pain and to continue in the search for the disappeared in Colombia; it has a very important message

on transitional justice issues, within the framework of justice and peace. (Fiscalía General de la Nación 2020).

The case of La Escombrera reveals the tensions between the state and the victims, and how the top-down dimension of dignification can become problematic. Victims' organisations collected crucial information to demonstrate that the military interventions in their neighbourhoods were plagued with human rights violations and that their relatives were not criminals or that their deaths were not merely the result of violent attacks by common crime. After years of being ignored and silenced, the victims' organisations brought this claim to the highest level of national and international courts. Finally, a largely publicised process of exhumation started in 2015 and finalised on 15 December 2019, without any findings of remains. In 2020, the JEP created a database of the victims of forced disappearance from Comuna 13, which identified 435 victims of enforced disappearance. It also demanded that the Attorney's Office hand out the information about the excavations and order a new intervention in La Escombrera (Alvarez 2020).

Although the exhumations and complete identification of the victims' remains are few of the goals of their relatives, one of the most pressing claims is to guarantee their participation in the process of exhumation and identification of the bodies. Contrary to the case of Bojayá, the position of the relatives of the victims from La Escombrera represents a more complex form of victimhood, since they were victims of crimes such as social cleansing and other forms of state violence as well as paramilitary violence; they are rarely perceived as innocent victims (Gonzales Gil 2019). The demand for participation of relatives is based on the idea that exhumations should not only be conducted under a technical or forensic framework, but they should incorporate the experience and knowledge of the families. According to Pablo Cala:

'[the exhumation] is also very limited in a very technical part, very forensic, their expertise justifies the exclusion of family members from many cases because they argue that [to allow the participation of families] can be painful, but we have found that, on the contrary, when a family member has the possibility of touching, of feeling the bone, the remains of your loved one, that is a unique moment of conclusion, it is like being able [as in] that image of Michelangelo's *Pietà*: I am touching the body of my loved one and not only his body, but his history, his life project that was concluded in such an evident way through their disappearance'. (Personal Interview, Bogotá, October 2020).

The analysis of the case of La Escombrera reveals two issues regarding the interaction of the State and bottom-up activism:

1. The work of the victims' organisations can help to transform a narrative that labels victims as responsible for their own harm. Even though the excavations were not successful, the fact of receiving an official response that would start the exhumations increases the legitimacy of the victims' narrative and their recognition. This narrative demonstrates the systematic character of disappearances in Colombia.

2. Although a psychosocial benefit for the families is not achieved because the bodies have not been found, the public visibility of the search for the disappeared can be used to socially expand the circle of grief. According to a leader of these organisations: ‘Enforced disappearance does not only hurt the family, it hurts others. The great challenge is that all of society hurts, that everyone takes to the streets, to say that this cannot continue to happen, that this cannot only be a struggle of family members, of human rights defenders, but of the entire society.’ (Pablo Cala, personal interview, 01 October 2020).

In summary, the process of dignification from the bottom-up is to some extent independent of the success of the exhumations. It is the result of victims’ struggle against stigmatisation, of their collective mobilisation, and agency. At first glance, the bottom-up model seems to have ideal elements to guarantee the successful dignification of victims; however, it is not independent from the state, and it needs to negotiate and hold a conversation of mutual recognition between victims’ organisations and the state.

Conclusions

Human dignity is a flexible term that sometimes has been criticized for being overly ambitious. Nevertheless, it has become a ‘rationalized myth’ that has influenced the interpretation of transitional justice and is an unavoidable notion stressed by victims’ associations and other social movements in Colombia and across the globe. Considering the richness and malleability of this concept, it is a logical consequence that different interpretations of human dignity and dignification of victims can be found in the field of transitional justice.

In Colombia, the exhumation of missing victims of the armed conflict is seen as one of the most straightforward measures for the dignification of both primary and secondary victims because it allows to recognize the rights of the families to know the truth about the fate of their relatives and to have proper funerals for them according to their culture and/or religion. The analysis of the case of Bojayá shows that dignification has an important top-down dimension, in which the State is the main granter of dignity for victims, and one of its main roles is to protect their psychosocial welfare. This is ensured through the accompaniment of victims by different organizations, such as in the case of Bojayá, listening and respecting victims’ culture, Afro-Colombian traditions, and facilitating their participation in rituals of dignified transfer of remains. However, in practice, it is not always possible to properly follow the protocols for exhumations because of multiple reasons; in some cases, there is a large number of disappeared victims that makes it difficult to target individual cases in a respectful way, in others because the conflict is ongoing, or there is a prolonged wait before exhumations can take place.

One of the current problems is that the principle of dignification of victims in the context of exhumations has been reduced to a minimal version of psychosocial accompaniment, which is a consequence of not properly giving space to the bottom-up dimension of dignification. The official psychosocial discourse has taken hold

of the steps required for the dignification of victims, where the psychological welfare of the victims and their capability of taking control over aspects of their life becomes synonymous with regaining their dignity. However, victims' organizations have demanded a broader version of a public policy of psychosocial attention and integral health, that includes 'a bio-psycho-social perspectives for the actions and interactions of the health staff with victims, in the horizon of an integral reparation that is seen as a right' (Mesa Psicosocial 2016: 3).¹² Furthermore, they argue that:

'This is an exercise that demands to demystify psychosocial care as a transitory and exclusive scenario of the health sector, and to entail on the State from the perspective of psychosocial care as a transcendental process for the construction of peace.' (Mesa Psicosocial 2016: 9).

Exhumations also are an opportunity to transform the narrative about the conflict. In the case of La Escombrera, successful exhumations would provide evidence of the systematic and widespread attack against civilians that was carried out amid this urban conflict, in the joint operations between the public forces and the paramilitary groups. In this case, a successful exhumation could help to show that their relatives, often young men and women, were no criminals murdered by gangs, but civilians unfairly caught in the urban face of the conflict in Colombia. At the moment of writing this article, the Special Jurisdiction for Peace is conducting the last efforts to find the remains of those hundreds of victims.

Some of the risks of overestimating the role of exhumations in the dignification of victims are not only that the path from exhumations to funerary reburials can be too long, but also that it may involve multiple risks of re-victimisation, such as misidentifying the remains, reviving the trauma, or exposing the relatives to new threats to their safety (Robin Azevedo 2016). During exhumations, there might be military or other actors that were either responsible for the crimes or allowed them to happen in the first place. Exhumations of corpses in mass graves are also more difficult in situations where populations have been forcefully displaced and armed actors continue to have inderence in their home villages, where the bodies are buried. Even in very judicious attempts to identify the bodies of victims in mass graves, it is often not possible due to natural decomposition or manipulation of the bodies. Expectations are not carefully managed, because there is an over-emphasis on the forensic process, where individual identification is the main goal. Instead of actively participating, 'families have been turned into clients and spectators and not participants as was promised' (Humphrey 2018, 457).

The lack of positive results in the exhumations does not mean a complete failure in the project of dignification of victims. The mobilization of victims around exhumations has been focused on fighting humiliation, demanding to have a life

¹² The Mesa Psicosocial is constituted by Corporación AVRE (Acompañamiento Psicosocial y Atención a Víctimas de la Violencia política), Tejidos del Viento, Costurero de la Memoria: Kilómetros de vida, Colectivo Ansur, CAPS (Centro de Atención Psicosocial), Corporación Vínculos, Comisión Intereclesial de Justicia y Paz, Colectivo Sociojurídico Orlando Fals Borda, Colectivo Psicosocial Colombiano Cop-sico, Corporación Claretiana Norman Pérez Bello, Diego Fernando Abonia V, Carmen Sánchez.

with dignity, to participate in the processes of exhumation (not only controlled by forensic or psychological expertise), and to expand the circle of grief to include not only the direct relatives but the rest of the Colombian society. The uses of the term dignity and dignification have been stripped of its political and revendicating character, co-opted by politicians and policymakers who introduced an idea of dignity that highlighted the psychological aspect of recognition but left the social and political demands out. The evolution of the term 'dignity' in the case of exhumations is at odds with its usage in other spheres of Colombian jurisprudence, where human dignity has been defined not only in terms of social and psychological recognition, but highlighting the necessity of incorporating what makes a life a good life, or a life with dignity, and the agency and autonomy that guarantees that a person is treated with dignity (Colombian Constitutional Court, Sentence T-088/08, at 3.5.5).

Going back to the interpretation of human dignity presented in the Colombian constitution, these ideals of participation, autonomy, and life with dignity, demonstrate that these are steps toward dignification that can be achieved even before the exhumation has been successful. This article proposes that, in order to guarantee the dignification of victims, it is necessary to facilitate the inclusion of the demands of the families at different stages of the process of exhumation. A full process of dignification requires both a political and a public momentum, which means that a strictly top-down process is highly problematic (lack of participation and agency from victims), while a bottom-up process is insufficient for meeting the demands of the victims (lack of resources and official acknowledgement). Further research can point at the most suitable ways to articulate these two dimensions and include the integration of the international actors and transnational network of human rights institutions as an extra dimension in the process of dignification of victims.

Finally, it is essential to continue studying the meaning of human dignity and dignification for victims, in order to propose better regulations and procedures in TJ that are not framed in too narrow concepts of dignity and dignification. A qualitative and interdisciplinary approach to the study of dignity and dignification in other TJ mechanisms could provide light to this key issue not only on the TJ legislation, but in the wider scope of recognition of victims' rights.

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References

- Alvarez, M. (2020) Intervención en La Escombrera busca cerrar una herida en la ciudad. *El Tiempo*. <https://www.eltiempo.com/colombia/medellin/nueva-intervencion-en-la-escombrera-tras-la-decision-de-la-jep-536091>.
- Buchely, L. (2015) The Conflict of the Indicators. *International Organizations Law Review* (12)(1), 19–49.

- Cepeda Espinosa, Manuel José, and David E. Landau. (2017) *Colombian Constitutional Law: Leading Cases*. First edition. New York, NY: Oxford University Press.
- CNMH (2014) *Textos corporales de la crueldad. Memoria Histórica y Antropología Forense*. CNMH.
- CNMH (2015) *Trece años de la Operación Orión*, <https://centrodememoriahistorica.gov.co/trece-anos-de-la-operacion-orion/>
- CNMH (2016a) *Desaparición Forzada. Balance de la Contribución del CNMH al Esclarecimiento Histórico*. CNMH.
- CNMH (2016b) *Hasta encontrarlos. El drama de la desaparición forzada en Colombia*. CNMH.
- Collazos, M. (2020) Al menos 200 mil cuerpos sin identificar estarían ocultos en fosas comunes. *La FM*. <https://www.lafm.com.co/colombia/al-menos-200-mil-cuerpos-sin-identificar-estarian-ocultos-en-fosas-comunes>
- Corporación Jurídica Libertad. (2020) *Mujeres caminando por la verdad: un ejemplo de memoria, lucha y resistencia social*. <https://cjlibertad.org/victimas/106-victimas/1205-mujeres-caminando-por-la-verdad-un-ejemplo-de-memoria-lucha-y-resistencia.html>
- Correa, M. (2020) Intervención en La Escombrera busca cerrar una herida en la ciudad. *El Tiempo*. <https://www.eltiempo.com/colombia/medellin/nueva-intervencion-en-la-escombrera-tras-la-decision-de-la-jep-536091>
- Dreyfus, J. and Gessat-Anstet, E. (2015) *Human Remains and Identification: Mass Violence, Genocide and the "Forensic Turn"*. Manchester University Press.
- Dupré, C. (2015) *The age of dignity: Human rights and constitutionalism in Europe*. Hart Publishing.
- Eppel, S. (2014) "Bones in the Forest" in Matabeleland, Zimbabwe: Exhumations as a Tool for Transformation. *International Journal of Transitional Justice*, 8, 3: 404–425.
- Eslava, Luis. 2009. "Constitutionalization of Rights in Colombia: Establishing a Ground for Meaningful Comparisons." *Revista Derecho del Estado* 22: 183–229.
- Ferrandiz, F. and Antonius C. G. M. Robben (2015) *Necropolitics: Mass Graves and Exhumations in the Age of Human Rights*. University of Pennsylvania Press.
- Fiscalía General de la Nación (2020) *Inició intervención judicial en La Escombrera, considerada la fosa urbana más grande del mundo* <https://www.fiscalia.gov.co/colombia/noticias/fiscalia-dio-a-conocer-avances-de-exhumaciones-en-la-escombrera-de-medellin/>
- GMH-CNRR (2010) *Bojayá: La Guerra Sin Límites*. Bogotá: Ediciones Semana, Taurus.
- González Gil, Adriana. 2019. "Desaparición forzada, acción colectiva y actores emergentes: el caso de La Escombrera, Comuna 13 Medellín, Colombia." *Historia y grafía* (52): 15–56.
- Grewal, K. (2019) The Role of Victims in Transitional Justice: Agency, Cooption and Exclusion. *International Journal of Transitional Justice*, 13, 3: 608–619.
- Guerrero, A. (2015) *Deconstrucción y genealogía del concepto de dignidad de los pueblos originarios en el pensamiento latinoamericano*. Bonilla Artigas Editores.
- Henderson, E. Catherine Nolin, and Fredy Peccerelli. (2014) Dignifying a Bare Life and Making Place through Exhumation: Cobán CREOMPAZ Former Military Garrison, Guatemala, *Journal of Latin American Geography*, 13, 2: 97–116.
- Humphrey, M. (2018) The Political Lives of the 'Disappeared' in the Transition from Conflict to Peace in Colombia. *Politics, Religion & Ideology*. 19:4, 452–470, DOI: <https://doi.org/10.1080/21567689.2018.1538671>
- ICRC (2017) Customary IHL - Rule 115. Disposal of the Dead. Customary IHL. https://ihl-databases.icrc.org/customary-ihl/eng/docs/v1_cha_chapter35_rule115
- Koc-Menard, N. (2014) Notes from the Field: Exhuming the Past After the Peruvian Internal Conflict. *International Journal of Transitional Justice*, 8, 2: 277–288.
- Lang, Craig. 2020. "Post-Conflict Transitional Justice Choices and the Concomitant Resistance to These Decisions." *Journal of Intervention and Statebuilding* 0(0):1–6
- Mesa Psicosocial (2016). Documento Macro de Denuncias y Recomendaciones. Debate Control Político 18 de Mayo de 2016. Atención Psicosocial en el Marco del Conflicto Armado. https://www.equitas.org.co/sites/default/files/biblioteca/Documento%20Mesa%20Psicosocial_debate%20control%20poli%CC%81tico_VERSION%CC%81N%20FINAL.pdf
- Ministerio de Salud (2020) *Procedimiento de Entrega Digna de Cadáveres de Víctimas de Desaparición Forzada y Homicidio en el Marco del Conflicto Armado Interno* <https://www.minsalud.gov.co/sites/rid/Lists/BibliotecaDigital/RIDE/DE/PS/Procedimiento-entrega-digna-cadaveres.pdf>
- Nauenberg, Saskia (2015). Spreading the Truth: How Truth Commissions Address Human Rights Abuses in the World Society. *International Sociology* 30,6:654–673. <https://doi.org/10.1177/0268580915605647>

- Navarro García, S. Pérez-Sales, P. and Alberto Fernández-Liria (2010) Exhumation processes in fourteen countries in Latin America. *Journal for Social Action in Counseling and Psychology* 2, 2: 48-83.
- Nowell, L. S., Norris, J. M., White, D. E., & Moules, N. J. (2017). Thematic Analysis: Striving to Meet the Trustworthiness Criteria. *International Journal of Qualitative Methods*. <https://doi.org/10.1177/1609406917733847>
- Pabon, F. (2018) Transitional Justice and the Peace Process. In F. Pabon (Ed.) *Truth Justice and Reconciliation in Colombia*. Routledge.
- Rios Oyola, S. M. (2015) Religion, Social Memory and Conflict: The Massacre of Bojayá in Colombia. Palgrave Macmillan.
- Rios Oyola S.M. (2021) Restoring the Human Dignity of Absent Bodies in Colombia. In: Otele O., Gandolfo L., Galai Y. (eds) Post-Conflict Memorialization. Memory Politics and Transitional Justice. Palgrave Macmillan. Cham. https://doi.org/10.1007/978-3-030-54887-2_10
- Robin Azevedo, V. (2016) Restoring the Dignity of the War's Disappeared? Exhumations of Mass Graves, Restorative Justice and Compassion Policies in Peru. *Human Remains and Violence: An Interdisciplinary Journal* 2, 2: 39-55.
- Rojas-Perez, Isaias (2013) Inhabiting Unfinished Pasts: Law, Transitional Justice, and Mourning in Post-war Peru. *Humanity: An International Journal of Human Rights, Humanitarianism, and Development*, 4, 1: 149–70. <https://doi.org/10.1353/hum.2013.0001>.
- Rosenblatt, A. (2010) International Forensic Investigations and the Human Rights of the Dead. *Human Rights Quarterly*, 32, (4): 921-950.
- Rozo Álvarez, W.R. Una aproximación a las exhumaciones humanitarias a partir del caso Charras (Guaviare, Colombia). *Criterio Jurídico Garantista* (2016) 9. <https://doi.org/10.26564/21453381.642>
- Sánchez, C., Rudling, A., Moffett, L., & Dixon, P. (Ed.) (2019). *Reparations in Colombia: Where to? Mapping the Colombian Landscape of reparations for Victims of the Internal Armed Conflict*. Reparations, Responsibility and Victimhood in Transitional Societies. <https://reparations.qub.ac.uk/assets/uploads/ColombiaReparationsPolicyReportFORAPPROVAL-SP-HR-NoCrops.pdf>
- Semple, Kirk. (2016) With Colombia's Peace Deal in Doubt, a Battered Town Fears a Return to War. *The New York Times*, sec. World. <https://www.nytimes.com/2016/10/11/world/americas/colombia-peace-deal.html>.
- Waldron, J. (2012) *Dignity, Rank and Rights*. Oxford University Press.
- Wemmers, Jo-Anne M., and Amissi Manirabona (2014) Defining Victims: A Proposed Typology for Victims of War Crimes and Their Need for Reparation. In: Emmanouela Mylonaki and Ilias Bantekas (eds.) *Criminological Approaches to International Criminal Law*, Cambridge: Cambridge University Press, 316–37.
- Zivi, Karen (2018) The Promise Is in the Practice. *Human Rights Review* 19(3): 395–98.

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