

Notes on the Role of the Armed Forces in Reparation Processes in Colombia

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ABSTRACT *In this article, we present and reflect on the role of the Armed Forces in the reparation of the victims of the Colombian conflict. The article recognizes that reparation is a very important part of a comprehensive process involving truth, justice, compensation, forgiveness, reconciliation and non-repetition. The development of this article is a theoretical-reflective component of the triad: Truth, Justice and Reparation; it further develops the concept of reparation, and presents some international experiences in order to examine the elements that constitute successful reparation processes. Then, it reflects on and analyzes reparation in Colombia, and envisions some scenarios in which the Military Forces of Colombia could help to strengthen this process. Finally, it provides a series of reflections on the contributions and responsibilities of the Armed Forces in regard to the victims of the armed conflict in Colombia.*

Introduction

In the context of negotiations in Havana, representatives of the Armed Forces were questioned about the possibilities and opportunities they have as key contributors to an eventual post-conflict agreement. One of the areas of greatest interest and attention is the process of reparation and the role the Armed Forces could play in this process. On the one hand, some members of the Armed Forces have suffered the consequences of war directly on their bodies and minds; on the other hand, the members of the Armed Forces are aware that, as actors in the conflict, they must assume responsibilities in the post-conflict era and find an opportunity to address their responsibility through the process of reparation.

Indeed, for the Armed Forces to question their role in post-conflict era means that they must recognize that in the heat of war they may have made mistakes and, in some circumstances, may have deviated from their mission or made errors in judgment, as in the case of homicides of persons protected (called

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Insight Turkey
Vol. 19 / No. 1 /
2017, pp. 185-206



Colombian President Juan Manuel Santos and the head of the FARC guerrillas, Timoleon Jimenez aka Timochenko, seen during the second signing ceremony of the peace deal on November 24, 2016.

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false positives). In seeking to understand and engage in dialogue as part of the reparation processes, the Armed Forces as an institution must assume its role in a post-conflict scenario, and as an actor, provide opportunities for reconciliation and peace. The ultimate goal of the Military Forces in terms of the role they may play in the post-forces agreement is to recognize their achievements in accomplishing lasting peace for all Colombians.

In this article, we present and reflect on the role of the Armed Forces in the reparation of the victims of the Colombian conflict. Reparation is a very important part of a comprehensive process involving truth, justice, compensation, forgiveness, reconciliation, and an end to the conflict.

The development of this article is a theoretical and reflective exploration of the triad Truth, Justice and Reparation. Subsequently, it develops the concept of reparation, and presents some international experiences of reparation, in order to provide a classification of the elements to be contained in a successful reparation process. Then, it reflects on and analyzes the process of reparation in Colombia, and envisions some scenarios in which the Military Forces of Colombia could help to strengthen this process in the country. Finally, it provides a series of reflections on the contributions and responsibilities of the Armed Forces toward the victims of the armed conflict in Colombia.

Truth, Justice and Reparation

Truth, justice and reparation are the three primary elements that have been part of the discussions undertaken in recent years in Colombia, from the

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agreements between the State and paramilitary groups in Santafé de Ralito, and the negotiations between the Colombian government and the Revolutionary Armed Forces of Colombia, or “People’s Army” (FARC-EP). These three elements correspond to the major issues that must be addressed in the processes in which the cessation of armed confrontation and the possibility of agreeing to peace is negotiated. In Colombia, the issues of truth, justice and reparation have great relevance due to the long-running nature of the conflict and the multiplicity of actors who have been part of it.

Colombian law 1448 of 2011 addresses truth, justice, and reparation, and states that victims’ rights have to be enforceable in the State. The right to truth is characterized as imprescriptible and inalienable, a process of seeking to understand the reasons and circumstances surrounding the victims of events occurring in the armed conflict (Art. 23).

The right to justice obliges the State to conduct investigations that effectively shed light on the truth of what happened with respect to the victims of armed conflict (Art. 24). While reparation, according to the law, must obey the principle of comprehensiveness, which means that victims have the right “to be compensated properly, differentiated, transforming and effective for the damage they have suffered as a result of the violations” of their rights (Art. 25). Reparation also addresses “restitution, compensation, rehabilitation, satisfaction and guarantees of non-repetition, in its individual, collective, material, moral and symbolic dimensions” (Art. 25).

As evident in the text of Colombian law 1448, these elements are related to each other almost inter-dependently; the successful outcome of these processes should look for a series of social and state changes that ensure the non-repetition of conflict, facilitate the processes of forgiveness, and promote the resocialization and reintegration of Colombian society.

The relationship between truth and reparation is especially intertwined, particularly considering the scope of the concept of truth in the reparation processes. International experiences such as that of Uganda reveal the opportuni-

Reparation for the Armed Forces should be understood as different forms of voluntary compensation to contribute to the forgiveness process and the post-conflict reconciliation of Colombian society

ties and challenges of the process of telling the truth. The case of Uganda shows that the processes of opening to truth narratives provide a country “an opportunity to confront its past, official denials and imposed silences, and will provide victims with public validation of their suffering and make unquestionable the state’s obligation to provide integral reparations.”¹ In other words, the

airing of truth narratives requires that societies, through their States, recognize victims who have left the armed conflict, and define and implement reparation tools, forms and programs.

The search for truth, justice, and reparation implies that the victims are the center of these processes, which means that emphasis should be placed on ensuring that victims are heard, that their suffering will be publicly recognized, that they are partakers of the reconciliation processes and are compensated for the suffering produced.²

It is important to clarify that truth alone is not enough to do justice and ensure restitution; similarly, it should be understood that these three elements (or rights, as expressed in the Victims Act), are exercised in a coordinated and complementary way to overcome the conflict situation and impose a state of lasting and stable peace.

Reparation?

As indicated, Colombian law considers that reparation should be comprehensive; however, the law lacks a clear definition of what reparation means. Some international cases, such as Uganda’s “Working Bill,” promoted by different social actors to generate the Demobilization, Disarmament and Reintegration process (DDR), include an explicit definition of reparation. Such a definition would contribute to the possibility that the Colombian Military Forces can understand and carry out their role in this process. Reparation is defined by Acirokop as “any remedy or any form of compensation, symbolic or *ex gratia* payment, restitution, reconciliation, satisfaction or guarantees of non-repetition made with respect to the victims.”³ On the other hand, Borzutzki understands reparation as “the act of restoring something to a previous condition, to amend for wrong done, compensation, atonement, restitution. In Spanish, *reparación* is defined as “*desagravio, satisfacer al ofendido* (relief, to satisfy the offended).”⁴

For the *Comisión Colombiana de Juristas*, reparation seeks, as far as possible, to restore the situation in which the victims lived before the onslaught of vi-

olence in their lives.⁵ Clearly, reparation should be understood by following the Ugandan “Working Bill,” given that restoring the victims’ situation, before violence, may not be possible. Reparation for the Armed Forces should be understood as different forms of voluntary compensation to contribute to the forgiveness process and the post-conflict reconciliation of Colombian society.

Reparation in the International Context

Like armed conflict, the nature of the reparation reflects the particular characteristics of the societies and groups of power involved. Therefore, the following lines present some examples of international reparation processes, identifying their scope and foci.

In the case of South Africa, a Committee on Reparations and Rehabilitation was established that initially recommended symbolic reparations. This type of reparation emerged as the most effective way to engage in reparation, due to the high number of victims involved in the conflict. The proposed reparations were characterized as “monuments, re-burial, streets nomination, and commemorative and Memory days.”⁶ However, with the passage of time, the same Committee raised the need to compensate the victims monetarily and provide psychological and medical assistance, given that the victims did not feel fully compensated by these symbolic gestures, and began to demand more tangible forms of reparation.⁷

In Rwanda, the reparation system is articulated within the Transitional Justice system called *Gacaca*. This system sought the prosecution of more than 100,000 people for genocide, war crimes, and crimes against humanity. Although the first law that established the *Gacaca* system had an extended perspective on reparation, which included damages against honor, property, and the physical and personal integrity of victims, the reparation processes were modified in 2004, resulting in a reparation system that focuses solely on “restitution of the property looted whenever possible” or paying the value of the property or compensation according to evaluation of the property despoiled.⁸

In the case of Chile, the amnesty law initially determined that the military would not pay for any deprivation of liberty, and did not include reparations, despite claims being made by victims. When the center-left came to power there was a process called “coalition” that sought to redefine the state role and address the reparation scope requested by the victims.⁹ Following this change, Chile established the Reparations and Reconciliation Corporation, whose sole function was to compensate the victims; this program included different forms of reparations, such as access to pensions, special health programs, educational benefits, and sometimes benefits for access to housing.¹⁰

As seen in these international cases, a truly adequate reparation process involves moments in which victims obtain a voice; it guarantees opportunities for truth-telling, justice and tangible reparation. It should also be noted that none of these cases, or others closer to the Colombian reality (like those of Brazil or Argentina) were motivated by the Armed Forces, nor are military institutions viewed as actors that undertake or encourages reparation processes. To date, the literature on reparation processes do not document the experiences of reparation initiatives met by the Armed Forces. Military Forces appear as agents of conflict but not as proactive actors and participants in the processes of reparation and reconciliation. There may be a factor that can transcend the vision and perspective that many hold *vis-à-vis* the Armed Forces by attempting to include a reparations role as a form of contribution to the post-conflict agreement and to achieve peace.

Elements of Reparation Processes and Their Main Challenges

The following elements presented in this section are based on the work of De Greiff, which presents a detailed, comprehensive, comparative analysis of eleven representative cases of reparation around the globe, including the cases of Chile, Argentina, South Africa, and the United States (with Reparation to Japan and Reparations to victims of 9/11), among others.¹¹ It draws together the most important characteristics that must be considered when developing effective reparation programs. Identifying these elements can better illuminate the potential role the Armed Forces could play in the process of providing restitution to the victims of the conflict in Colombia.

Scope

There is no prescribed or predetermined amount of money that defines what the scope of a program or institution of reparation should be. Having a broad scope in a reparation program implies that the total population of victims to be compensated can be higher than if the scope were limited or predefined in some way. For De Greiff, the scope of a program is related to the number of victims and the different forms of reparation that can be made to the victims.¹² For our purposes, this raises the question: what is the scope that can effectively involve the Armed Forces in the process of reparation?

Coverage

Coverage means the ability of a program or institution to cover the entire population recognized as victims in need of compensation. De Greiff notes that there is no program or institution which can compensate the full population of victims.¹³ This is due to several factors: (i) Not all violations are subject to reparation, because reparation always emphasizes violations to human rights, international humanitarian law, and private property rights. In Co-


Colombia this limiting factor is particularly relevant due to previous clarifications regarding which violations are or are not subject to reparation. Regarding the Military Forces, the military victims' reparation programs did not include family members of soldiers killed in combat since, in the words of Iris Marin, deputy director of the Victims Unit, "being killed in the midst of confrontation is not considered a breach of international humanitarian law and the law only includes victims of violations of this rule."¹⁴ (ii) By the considerations or legal definitions of who is a victim and whether the victim is able to be compensated. (iii) The level of evidence and proof to be established to verify that the alleged events actually did take place, and to properly identify the subject to be compensated. If the burden of proof is very high, this can exclude populations that might otherwise be recompensed. (iv) There are some other limitations such as the operational parameters and bureaucratic organization of the program (including its advertising program, requirements and reparation routes, deadlines, program execution sites, etc.).

Therefore, coverage is an essential element of reparation programs, requiring theoretical and conceptual development and proper application. De Greiff notes that the legal existence of the program does not entail that it will be successful in compensating the victims.¹⁵

Given the wide-spread presence of Armed Forces members throughout the country, this institution can effectively contribute to the equitable coverage of the reparation program, if they become local actors that enable and ensure the implementation of these processes throughout the Colombian territory. Such a role could be quite innovative to the extent that the Armed Forces would be the standard-bearers of the processes of Reparation and Reconciliation. At the same time, this would create new challenges for the Armed Forces, as such a role would require that the soldiers prepare for peace and not for war, and would necessitate a reformulation of civil-military relations.

Comprehensiveness

Comprehensiveness refers to the "different types of crimes or harms [the program] tries to address."¹⁶ Although in international law there is not yet a firm, universal definition of which crimes or damages should be recompensed, there is an emerging consensus about the "obligation to provide reparations for disappearance and death," while "there is much weaker or no consensus on whether the obligation extends to territorial displacement."¹⁷



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A woman holds the figure of a white pigeon during a march for peace through the streets of Cali, Colombia, on October 9, 2016.

AFP PHOTO / PHILIPPE LOPEZ



At times, where a reparation program is instituted, a catalog of civil and political rights and criminal acts adversely affecting these rights is defined; it can generate the exclusions of rights and facts, which calls into question the exhaustiveness that should characterize the reparation processes. Thus, one has to bear in mind that “all existing programs of reparation can be faulted for being insufficiently comprehensive.”¹⁸

This deficiency should be a factor to consider, given that reparation programs tend to fall short of true comprehensiveness due to their non-inclusion of events that generate victims, and their tendency toward differential inclusion of culturally marginalized groups such as women, children, the disabled, etc. It is necessary to understand that comprehensiveness is an essential condition for a successful reparation program. The different cases studied by De Greiff show that none of the cases has ended, due to the poor level of comprehensiveness, which has limited the definition of victim. If the Armed Forces are really interested in participating in a successful reparation process, they must negotiate with all actors of the armed conflict that consider themselves victims, incorporating different elements according to their characteristics and qualities; that is why De Greiff notes that it is better, in moral and practical terms, for reparation to include as many categories of crimes as possible and feasible.¹⁹

By broadening the spectrum on the comprehensiveness of the reparation effort, a larger stage for reconciliation and empowerment of victims in what De Greiff calls “the dynamics of inclusion and ownership behind law-making” occurs.²⁰ There is another implication of such broad comprehensiveness, which is that the debate remains on the political stage and thus avoids recourse to actions of self-defense or vigilante justice.²¹

Complexity

The complexity of the reparation processes refers to the ways in which it operates, and the variety of its efforts aimed at redressing victims. The more complex a reparation program is, the greater the variety of its ways of functioning and of its different types of benefits; for example, “monetary compensation, health care services, educational support, business loans, and pension reform, as in Germany and Chile, increase the complexity of the reparations efforts.”²² Although it is desirable to have complex reparation processes, under such cir-

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cumstances a flexible bureaucratic apparatus, or the specialization of some institutions, is required to implement the various forms of reparations.

Integrity and Consistency

For De Greiff,²³ reparations programs must maintain consistency in two dimensions: internal and external. The dimension of internal coherence refers to the “relationship between the different types of benefits a reparation program distributes.”²⁴ The above means that the benefits of the program are supported, complemented and articulated between themselves; for example, in the case of Brazil, the benefit of monetary compensation complemented the State’s assumption of responsibility for acts committed in times of dictatorship.

External coherence refers to the articulation of the reparations with other transitional mechanisms; for example, transitional justice measures, truth narratives and institutional reforms.²⁵ These consistency dimensions facilitate understanding of the need for, and scope of, the reparation efforts, and meet citizens’ interests with respect to post-conflict processes.²⁶

The implication of the elements of coherence in terms of integrity and consistency in the reparation processes suggest that reparation is one part of a process that involves the pursuit of truth, justice, forgiveness, reconciliation and reintegration; therefore, the programs, initiatives and institutions engaged in the reparation process must be coordinated with other programs and institutions to ensure a comprehensive and inclusive reconciliation process for post-conflict Colombia.

De Greiff, recommends that to achieve the principles of coherence and integrity, a reparation program that should be part of a transitional justice policy. The author indicates that none of the 11 cases studied has a reparation *program*, “I have for the most part referred to the cases under review here not as reparations ‘programs’ but ‘efforts.’”²⁷

Finality

This feature of the reparation processes signals the end –or not– of the claim requested or damage to be repaired. That is, finality refers to the legal endpoint

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of the search for justice, truth and reparations of an injury sustained in the context of the conflict. Reparation programs can have this element or not; for example, in cases of Brazil and Chile there is no end to demand reparations, in the case of Argentina it exists.²⁸

Finality is subject to discussion, negotiation and agreement with all actors and victims of armed conflict, this so that if consensus is achieved, double reparations or other legal claims in the Colombian or international jurisdiction can be avoided. Currently, the process according to the FARC does not

allow for the possibility of discussion and negotiation with all stakeholders in the conflict, especially the victims, which can be problematic for the irrevocability of the reparation.

Munificence

Munificence refers to the magnitude of benefits from the perspective of the victims requesting reparation. That is, the monetary value of the reparation with respect to the expectations of the victims.²⁹ It is clear that the success of the reparation does not depend on the amount of money to be awarded to the victim, rather, what ensures the success of the reparation process are the efforts made by the society as a whole to negotiate with the victims, taking into account their expectations in relation to the real possibilities of reparation and, of course, assurance that the agreements that are reached are honored by society as a whole.

Reparations in Colombia

In Colombia, reparation has to become a reality and a social process that goes beyond the technicality of rights, a process that facilitates acts of repentance and forgiveness and, above all, assurances “that the atrocities are not ignored nor justified; that the competent authorities investigate, judge and punish those responsible for these acts; and that the dignity of victims is recognized and their living conditions restituted.”³⁰

It is also important to note that the search for truth, the pursuit of justice, and the acquisition of reparation should be subjected to a political, economic and social process that defines, plans, programs, evolves, and functions in an inclusive manner and without the bias of the government of the day. That is, this process should involve the participation of a society which takes the process of reparation (truth and justice) as their own concern, without deadlines for their achievement.

It is necessary to establish that the processes of truth-telling, justice and reparation conform to the characteristics and understandings of the societies in which they develop. There are no “magic formulas or predefined strategies,”³¹ and we should take into account the cultural elements in which these processes occur.

In Colombia, it has been demonstrated that, because the relationship of the victims to the State is established through an administrative procedure, namely Law 1448 of 2011, there are people who have managed to do “business” to advance these procedures, generating greater mediations and obtaining economic benefit from the reparation process.

Why Is It Important to Undertake Reparation?

The first thing to ask, to initiate the reparation processes is: what is the purpose of reparation? Is the purpose to achieve some level of justice? What collective or individual effects are being sought? What is being restored or recompensed? Who is responsible for the facts that govern the process of reparation –the regime, institutions or individuals? Who should engage in reparation?

It should be clear that reparations programs occupy a special place, one of great importance in the transition processes that some societies undertake to overcome the conflict and to establish a full democracy.³² It is important to emphasize that reparation is the tangible element by which the State makes an effort to amend the damage and human rights violations (DDHH), that have occurred in the context of armed conflict or civil war.³³

In this sense, the reparation can be a factor enabling the success of the processes of reconciliation, reintegration, and peacebuilding. Additionally, reparation processes may incorporate restorative elements and restitution, i.e. restoring the violated rights of victims; of compensation; rehabilitation; and guarantees of non-repetition.³⁴ Columbia’s Victims Act provides that the reparation should seek restitution, compensation, rehabilitation, and satisfaction, and ensure there is no repetition of the events of the armed conflict.

Reparation Scenarios for the Colombian Military Forces

Reparation and Forgiveness

One of the scenarios that the Armed Forces should explore as a guarantee of non-repetition and as an effective form of reparation is to ask forgiveness. Although economic reparation is usually more valued than asking forgiveness,³⁵ asking forgiveness requires repentance and guilt, feelings that can be read by

the victims as a way for perpetrators to pledge the non-repetition of the acts committed.

However, acts of repentance and forgiveness must be accompanied by other forms of reparation because, by itself, this act of reparation can be placed only in the individual sphere, leaving aside the economic and social factors that contextualize criminal acts. In this sense, forgiveness should be taken as a social act involving the different actors that were part of the conflict. In other words, forgiveness and reconciliation go hand in hand, but they are not enough to fully compensate the victims.

Economic Reparation and Development

Every time we discuss reparation, the idea that first comes to mind is the provision of an amount of money. Monetary compensation is a material form of reparation which is likely to be accepted and legitimized by the victims in Colombia; it is generally acceptable in societies that are overcoming conflict, because many of the victims are people with low incomes or who find themselves in financial need as a result of the victimization they endured.³⁶

It is necessary to understand the reparation process as a way to solve and meet the historical needs of some sectors of Colombian society, whose lack of resources, goods and services has been a determining factor in their victimhood. This expanded way of understanding reparation is evident in Rwanda's case, which "serves as a useful example of how broad poverty reduction, in addition to compensation for individual victims or clans, may contribute to reconciliation... For Rwandans whose homes were destroyed during the genocide, economic assistance has created the necessary foundations for progress in the process of forgiveness and reconciliation."³⁷

It is important to highlight that there must be community compensation, whose emphasis should be to generate local and regional development processes, for which we must invest in infrastructure, increase resources for returns involving increased agricultural and industrial production capacity, and increase resources for training and access to education.³⁸

Development is usually defined as improving the socioeconomic conditions of the population. It relates to transitional justice through the potentiation of capabilities and human rights as part of the development process of a country.³⁹ The approach of Amartya Sen, in regard to social development, is based on the concept of capabilities, that is to say, the choices and opportunities that people have to make rational use of their own agency.⁴⁰ Thus, it is important to think about how the armed forces can help ensure that victims of the conflict have their own agency. How does the reparation of victims contribute to the development of a country, focusing on the skills of citizenship? From an indi-

vidual perspective, reparation, and the role of the Armed Forces in this process, may be a necessary step to building trust between victims and State institutions, which is a precondition for promoting joint initiatives, motivation and legitimacy in the future, necessary aspects for the strengthening of economic activity and social development.⁴¹

However, the relationship between reparation and development is explicit in terms of material benefits.

Roth-Arriaza and Orlovsky state that, although the economic compensation made to victims may not be large enough to make a macroeconomic difference, it can have positive effects related to the balance of power relations within families and communities.⁴²

Likewise, many reparation actions can boost the skills and creativity of previously marginalized sectors.⁴³ In addition, reparations through the guarantee of goods and services can improve health, education and other essential needs for the welfare of people, better than conventional programs, since these are not designed and targeted to meet victim's needs.⁴⁴

This last point is especially relevant for the Armed Forces, which can provide a security service that addresses the needs of victims and effectively boosts the potential of the reparation. An alternative role potentially taken on by the military institution in the post-conflict era corresponds to the transformation of the concept of "military security" to "human security."⁴⁵ The difference between these paradigms is that the first consists of a state-centered vision, and the operation thereof; and the second "refers to the ability to identify threats, avoid them when possible, and mitigate their effects. This means helping victims cope with the consequences of the widespread insecurity resulting from armed conflict, human rights violations and underdevelopment."⁴⁶ In this sense, it is necessary to indicate how the armed forces can focus their resources and infrastructure on the materialization of human security in comprehensive terms.

Similarly, military engineering capabilities can be crucial to synergize with the collective reparation processes that are being carried out, especially the development processes in regions that have suffered the most from the conflict in Colombia. In 2015, the *El Tiempo* newspaper highlighted the work done by the Military Engineers Unit, which has 200 years of existence, and has done work

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addressed to strengthen economic development programs can lead to the reactivation of the same conflict,⁴⁸ not only making it impossible to make reparation to the victims, but generating many more injustices. Columbia's Victims Act does not evade this responsibility and even incorporates material responsibilities towards economic development. For example, in Article 206 of this law, the Ministry of Agriculture is made responsible for presenting an initiative to regulate rural development, giving priority to victims so they can access credit, technical assistance, property tax adjustment, commercialization programs, etc., thus contributing to their reparation.

Reparation should be "priority spending" for the state, and must have the scope of a comprehensive plan, rather than being a conglomeration of efforts and actions aimed at different victims.

Socio-Cultural Reparation

During conflict, armed actors impose territorial control in various areas of the country, generating identity breaks, disrupting the social fabric, dismantling support networks and provoking displacement, all of which contribute to the damaging of relations with the natural and social environment. Moreover, the establishment of a culture and logic of violence with the arrival of armed actor transforms social relations and imposes new relationships and new social roles. Anton explains how the cultural and identity elements of the Greeks were transformed during the German occupation of World War II. Anton also shows how certain characteristic elements of the Greek humanist tradition were lost, in what the author calls the "de-Hellenization" of the values of Greece. What this author proposes regarding the Greek case, is that reparations should be made for the cultural elements that were transformed or lost, i.e. reparation must be made symbolically to rescue the memory of the Greek humanist practices before the war.

for communities severely affected by the armed conflict. In 2014 alone, they completed more than 44 projects in 23 municipalities.⁴⁷ With regard to the above, future research should investigate the contribution of the military institution and joint initiatives with other agencies in the collective reparation processes, which benefit greatly diverse communities.

It is imperative to remember that a post-conflict period that does not implement reparation policies ad-



A picture released by FARC showing guerrillas arriving to hand in their weapons in Las Carmelitas on January 30, 2017; the sides started a historic disarmament process to end Latin America's last major armed conflict.

AFP PHOTO

Although cultural and identity elements are not at the center of the debate in Colombia, we must remember that the actions and presence of armed actors generates injuries and changes in practices and social relations. Similarly, it is important to understand that social diversity and identity issues could be violated by armed actors regarding the inalienable rights of individuals, such as the free development of personality, sexual freedom, and gender.

Reparation and Justice

It is indisputable that the legal framework established for victims of armed conflict enables an institutional framework to be routed to a comprehensive reparation program for them. However, it is important to note that an effective and successful truth-telling, justice and reparation process is only possible if the society as a whole is committed to its responsibilities in relation to overcoming the armed conflict. It should be mentioned that peace is not something that can be decreed, but is something that is built from a society's social, economic and political base.

Reparation and the Functional Transformation of the Armed Forces

Colombia's Victims Act establishes the duty of the Armed Forces toward victims of the conflict, especially regarding the process of land restitution. With the creation of the Land Restitution Unit, contained in Articles 103 and 105 of Act 1448, the work of the Armed Forces is determined with respect to the post-conflict era, particularly on the Land issue. Paragraph No. 1 of Article 105

makes clear that the Armed Forces, in company with the Prosecution and Police Forces, must provide the support and necessary collaboration required for the effective discharge of the Land Restitution Unit.

In addition, in relation to gender norms in restitution processes, based on Article No. 116 of this Act, the Armed Forces may be made available to ensure the delivery of property that has been awarded to a woman shorn, in order to maintain security that allows the victim to use her property.

However, it is necessary to question whether the effective capabilities of the Armed Forces may be directed to the execution of certain processes of change that will take place in the post-conflict era, and that somehow contribute to strengthening the process of victims' reparation. The effects of conflict on the population take various forms; for example, it can be established that the economic growth of the country has deteriorated due to the armed conflict.⁴⁹ Accordingly, it is important to investigate the ways in which the unique capabilities of the Armed Forces can support Columbia's economic development in the post-conflict era, and the process of making reparation to the victims.

Humanitarian Demining as a Reparation Initiative by the Armed Forces

Despite the different roles that the Armed Forces can play to strengthen society in the post-conflict era, in certain municipalities of the departments of Antioquia and Meta, initiatives formulated under the Victims legislation or under the Havana agreements are hampered by threats of landmines, a problem that can lie dormant for an extended period of time.⁵⁰

As noted by the International Crisis Group, in the long run, demining is a necessary condition to improve life in rural areas,⁵¹ and the Armed Forces have the resources to contribute significantly to the eradication of this problem. In this regard, Columbia's Armed Forces have no less than 10,000 persons training and certifying in the eradication of mines,⁵² a task that indirectly supports the process of reparation for victims in the municipalities suffering the most from this scourge.

Symbolic Reparation

As evidenced in the South African case, symbolic reparation is a key to keeping the memory of the past alive as a guarantee of non-repetition, as a form of acceptance of the acts committed, as a representation of pain and forgiveness, and as a form of reparation. However, this element alone is not sufficient to generate a positive perception as a social process of reparation. It must be remembered that reparation is a social process that must compensate the victims of the conflict comprehensively, taking into account the characteristics of munificence, irrevocability, exhaustiveness, integrity, complexity, scope and coverage.

Contributions to Reparation by the Armed Forces

The State of Military “Victims”

The consideration of Armed Forces members as themselves victims of armed conflict has sparked heated debate and has received much attention in the public sphere.⁵³ On one hand, several voices, such as that of Major Carlos Ospina, have argued that members of the Armed Forces should be considered victims when violations of International Humanitarian Law (IHL) occurred.⁵⁴ On the other hand, the FARC carried out acts which constitute severe deprivation of liberty against members of the Armed Forces, which constitute serious violations of human rights and IHL.⁵⁵ Although this position seems to reconsider the statement of Pablo Catatumbo in 2014, according to which the negotiating table is studying the subject (“In Cuba we study including the military as victims: FARC” 2014), a reading of Colombian law allows us to observe that in the context of conflict, the Armed Forces are actually referred to as victims.

Although in Act 1448 of 2011 military victims almost go unnoticed, “an action of the Public Ministry” allowed members of the Armed Forces and Police to be recognized as victims. Under Article 1 of Act 1448 of 2011, victims have the right “to truth, justice and reparation with guarantees of non-repetition.” Indeed, under article 3, paragraph 1, members of the Armed Forces who suffered from violations of international humanitarian law or violations of international human rights standards from January 1, 1985 and on may access administrative, social and economic judicial measures established for the benefit of victims.

To understand the positioning of the Armed Forces in the reparation process framed under the Victims Act, it is important to note that for several years, through different laws, the Colombian government has framed and regulated recognition of the work of the Armed Forces, a fact that has informed the incorporation of military victims within the Act 1448 of 2011.⁵⁶

Within the legal background composed by Law 14 of 1990 and Law 913 of 2004, *honor and heroism* are central, not only within institutional logic, but also regarding the relationship between the Armed Forces and the civilian population and the establishment of the State. These concepts are fundamental in the recognition of the work of the Armed Forces against the groups outside



The prioritization of the effects of conflict on the mental health of military victims can serve as a guideline for the State to address more comprehensive reparations, as provided for in the Victims Act

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guideline for the State to address more comprehensive reparations, as provided for in the Victims Act. If there is a consensus that the consolidation of democracy after conflict goes hand in hand with the subordination of the armed forces to civilian rule, the Colombian State then incurs significant responsibilities towards the reparation of military veterans subordinated to the power of civil society.⁵⁹

Jimenez notes that although one of the most prevalent disorders in the Colombian military veteran population is post-traumatic stress disorder, there are very few studies on the subject.⁶⁰ In addition, when the ideas of honor and heroism are retaken as central in the way members of the Armed Forces perceived their actions against the State and civil society, reparations for their mental health correspond directly to the process of transformation that can be generated in a post-conflict scenario for the Armed Forces.

The Andres Pastrana government modernized the Armed Forces, following the violent actions of groups outside the law.⁶¹ Vargas notes that among the guidelines defined by the Defense Minister Luis Fernando Ramirez Acuña, the “positive downsizing of military personnel commitment to its mission intensified the exaltation of the values of honor, discipline and commitment with the service of the country, including careful monitoring, to keep the institution and its members shielded from corruption.”⁶² This guideline focused on the value of honor in the actions of the military forces responding to the precarious security situation endemic at the time. However, despite the reforms and modernization of the Armed Forces that led to the recovery of the Colombian

the law. As Mejia Azuero says, “for a member of a military and police institution, honor is everything,” a statement to be considered in order to understand the role of the Armed Forces within the reparation processes for conflict victims.

How to Compensate Military Victims?

Arguably, veterans of the Armed Forces have received less attention than other groups studied by researchers.⁵⁷ Although in recent years various initiatives of recognition and visibility for military victims have been carried out,⁵⁸ as a result of the inclusion of the Armed Forces within the Victims Act, Jimenez argues that the mental health of military veterans has received little attention and is a subject that should be a priority in the post-conflict era.

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Extending the reparation processes to military victims, through diagnosis and treatment of mental health, contributes to rehabilitation processes within the Armed Forces, which is a common way to enact reparation, and can produce a high impact. For example, the Truth and Reconciliation Commission that took place in Peru incorporated reparation measures to victims based on the establishment of a framework of rights where the state should respond accordingly.⁶⁴ In that sense, this case can serve to delineate how reparations to military victims can be effective and how they can join the current peace process and post-conflict future administrative processes.

Conclusions, Recommendations And Proposals

An important element that the Armed Forces should consider in the process of building true and lasting peace in Colombia is to be able to identify what factors will transform members' behavior, their logics and institutions. To conclude, below can be found some recommendations regarding the reparation process, and the role of the Armed Forces in this process.

- Reparation of the Armed Forces must be understood as part of a larger system of actors, institutions and programs, which in a coordinated and comprehensive manner should satisfy the pain of victims and help ensure an environment of stable and lasting peace.
- The Armed Forces can contribute to the reparation process by promoting the Committee for Historical Clarification. This committee may be the body responsible for generating historical works which objectively narrate the armed conflict and the acts committed in the context of conflict. This committee would be composed of different social actors who have suffered directly from the conflict and by academics and former members of armed groups.⁶⁵
- The reparation should consider a differential approach in which the particular characteristics of the victims, and their personal pain, are recognized.
- It must be remembered that all reparation processes must go hand in hand with processes of Transitional Justice, Truth Commissions and the construction of Historical Memory, and that none of these processes can replace the other.
- Reparation should be a process undertaken by Colombian society through the actors who were part of the conflict, and who undermined the integrity, honor and property of victims. Reparation cannot be taken as involving merely a small sector of society; rather, society as a whole must engage in reparation as an act of contrition. ■

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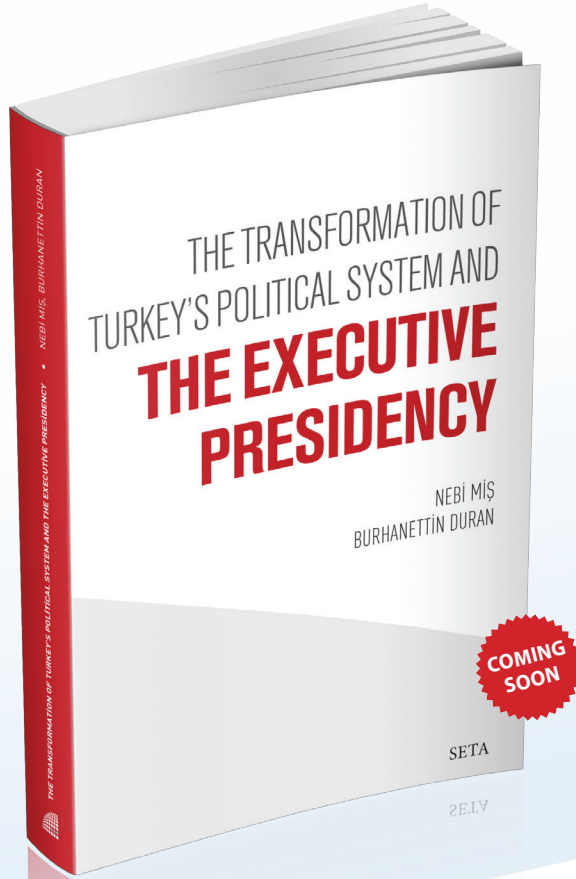
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