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Forced Internal Displacement in the JEP Framework: A New Possibility for Guaranteeing Rights to Truth and Justice

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Abstract

In Colombia, the State has recognized the phenomenon of forced displacement for more than 20 years. This recognition has been made in order to grant special protection to the victims and to undertake actions aimed at prevention, attention and overcoming the situation of victimization. Until today, in spite of advances in public policy and the broad scope of the constitutional jurisprudence, forced displacement is still one of the sources of the greatest victimization in the country.

In recent years, the phenomenon has taken a back seat in academic discussions and on the political agenda. However, amid discussions about the victimizing events that must be assessed by the Comprehensive System of Truth, Justice, Reparation and Non-Repetition, the need to turn our eyes to the events that led more than eight million Colombians to be displaced is beginning to resurface. In this context, the first announcements have appeared about the opening of a macro-case of forced displacement to be heard by the Justicia Especial para la Paz *(JEP - Special Justice for Peace).*

In this scenario, it is necessary to address which elements allow understanding the phenomenon, under the assumptions of the JEP, and which support the opening of a macro-case that guarantees investigation of the facts and prosecution of those responsible for this victimization. This paper aims to present some guidelines on the dynamics of forced displacement for the discussion on the prioritization of the case in this jurisdiction. It also aims to provide inputs to bring to the public sphere, understood in its broadest sense, the discussions on the persistence of the phenomenon in order to make it visible, and therefore shed light on the necessary actions to prevent and overcome it.

Keywords

Forced displacement; transitional justice; right to justice and truth; victim participation

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LANID Special Issue: "Critical Approaches to Internal Displacement"

The Latin America Network on Internal Displacement (LANID) brings together academics, activists, artists, and practitioners with the aim of reflecting critically on internal displacement. This LANID Special Issue aims to extend knowledge and promote debate on this phenomenon. Although each Paper has been written from a different perspective, they all share the key feature that they delve into the multidimensional nature, diverse causes and complex dynamics of this kind of forced migration, as well as into the search for new ways to achieve durable solutions that allow those affected by internal displacement to overcome their vulnerability.

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1. Introduction

The "Final Agreement for the Termination of the Conflict and the Construction of a Stable and Lasting Peace" [1] (FA) ("Final Agreement for the Termination of the Conflict and the Construction of a Stable and Lasting Peace," 2016), is a milestone for victims in Colombia. This Agreement transforms the transitional justice landscape in the country, among other reasons, by putting "redress for victims" at the center of the *Sistema Integral de Verdad, Justicia, Reparación y No Repetición* (SIVJRNR - Comprehensive System of Truth, Justice, Reparation and Non-Repetition) ("Final Agreement for the Termination of the Conflict and the Construction of a Stable and Lasting Peace" 2016, 124).

The SIVJRNR and, specifically the *Justicia Especial para la Paz* (JEP - Special Justice for Peace), establishes the voice of the victims as one of the sources for implementing the guarantee of the rights to truth, justice and reparation in the country (Parra-Vera 2020). This has been a significant change, as it is the first time that victims can submit reports directly to the administration of justice (Parra-Vera 2020, 235).

In contrast, in recent years, forced displacement has taken a back seat on political and academic agendas. Nevertheless, the phenomenon has not disappeared from national life. Its increase has been established since the signing of the FA. According to the JEP, the number of internally displaced persons (IDPs) has tripled in 2021, compared to 2020 (Unidad de Investigación y Acusación 2021).

Hence, the implementation of the SIVJRNR opens a window for forced displacement and internally displaced persons (IDPs) to be taken into account, so that policies and actions related to the care of IDPs, the prevention of forced displacement and the search for durable solutions can advance in their objectives. Likewise, so that, for the first time, progress can be made in guaranteeing the rights of IDPs to justice, truth and non-repetition.

In this context, this paper aims to take a fresh look at forced displacement, starting with a discussion of the elements that should be taken into account in the JEP for the opening of a macro-case on the phenomenon. To this end, it deals with three issues: first, a look at forced displacement in relation to transitional justice in the country; second, it seeks to approach the way in which the JEP has approached the facts within its jurisdiction; third, some lines are given on the criteria for case selection in relation to forced displacement. Finally, some conclusions are drawn regarding the difficulties that would arise from not opening a specific case to investigate and judge forced displacement during the mandate of the JEP.

[1] Signed on November 24, 2016, between the FARC-EP and the National Government of Colombia. Contains the pacts on 6 aspects: 1) Towards a New Colombian Countryside: Comprehensive Rural Reform; 2) Political Participation: Democratic Opening to Build Peace; 3) End of the Conflict; 4) Solution to the problem of illicit drugs; 5) Agreement on the victims of the conflict; 6) Implementation, verification, and endorsement.

The approach to these issues is based on some elements of the documentary analysis carried out during the second half of the year 2021 and the beginning of 2022, in the framework of the elaboration and development of the projects "Balance of forced displacement balances. Cases of Eastern Antioquia and Medellin 1985 – 2015"[2]

2. Context of forced displacement and the approach in transitional justice in Colombia

Since the last years of the twentieth century, the Colombian State has developed instruments for the care of victims, one of the first laws in which content for such care was enshrined was Law 387 of 1997 (Congress of the Republic of Colombia, 1997). However, in the only case of victimization in which there were significant advances in terms of public policy was that of forced displacement (Vidal-López 2007; Fuentes-Becerra and Atehortúa-Arredondo 2016). Based on these provisions, over the last three decades there have been a set of administrative acts[3], legal instruments[4] and judicial decisions[5], which have specific chapters and actions for internally displaced persons (IDPs) in terms of attention, compensation, and land restitution.

Progress has not been sufficient. Proof of this is that in 2004 the Constitutional Court declared forced displacement an unconstitutional state of affairs[6]. The Court based its decision on the fact that forced displacement implies a multiple, massive, generalized, and continuous violation of rights (T-025. Action for protection filed by Abel Antonio Jaramillo and others against the Social Solidarity Network, the Administrative Department of the Presidency of the Republic and others, 2004). This situation has continued since the recognition of the phenomenon by the State in 1997, until today.

[2] Projects funded by the Faculty of Law and Political Science of the University of Antioquia, whose research team has been led by Gloria Elena Naranjo-Giraldo and Clara Inés Atehortúa-Arredondo. As a result, the report "Patterns of political violence and spatiality of forced displacement. Cases Medellín and Eastern Antioquia 1985-2015".

[3] For example, Decree 1290 of 2008 that creates the individual reparation program through administrative channels (Presidency of the Republic of Colombia, 2008).

[4] Two of the main ones are Law 387 of 1997 "By which measures are adopted for the prevention of forced displacement; attention, protection, consolidation and socioeconomic stabilization of those internally displaced by violence in the Republic of Colombia" (Congress of the Republic of Colombia, 1997a) and Law 1448 of 2011 that provides measures for attention, assistance and comprehensive reparation for victims of the armed conflict (Congress of the Republic of Colombia, 2011)

[5] In most cases they have occurred in the midst of litigation brought by the victims in the face of non-compliance with state obligations (Sánchez-Mojica 2007). By way of example, Judgment T-450 can be cited. Protection action filed by Alirio Vargas Cupitre against the Unit for the Attention and Integral Reparation of Victims -UARIV- 2019.

[6] An unconstitutional state of affairs is understood to exist when: "the repeated and constant violation of fundamental rights is observed, affecting a multitude of people, and whose solution requires the intervention of different entities to address structural problems." (T-025. Protection action filed by Abel Antonio Jaramillo and others against the Social Solidarity Network, the Administrative Department of the Presidency of the Republic and others, 2004)

Likewise, in terms of the rights to truth, justice, reparation and non-repetition in favor of IDPs, no significant achievements have been observed, despite the fact that transitional justice has been a relevant aspect in the negotiation processes with illegal armed forces (Uprimny and Saffon 2008, 165). In the implementation of transitional justice in the country, three moments have been identified linked to the issuance of a normative corpus of its own (Rúa Delgado 2015).

Regarding the first moment it must be said that despite the mechanisms created for victims to access justice and truth, the attention to internal forced displacement in the implementation of the same has been low (Comptroller General of the Republic, 2017; Maitre-Muhl, 2013; Uprimny & Saffon, 2006). According to Uprimny y Saffon "public policy on transitional justice makes the issue of forced displacement invisible" (Uprimny and Saffon 2006, 1). This is because Law 975 of 2005 did not have sufficient elements to protect the victims and their rights in the long term. The situation of lack of protection, according to the authors, is more evident in the case of IDPs, due to the nature of the victimization and the way in which internal forced displacement and the dynamics of the conflict in the country were analyzed (Uprimny and Saffon 2006).

In the evaluation of the "justice and peace" instruments, conducted during the period 2006- 2016, the Comptroller General of the Republic found: confessions of armed members were about 21% less than the facts initially imputed. The assets postulated for reparation were about 49% less than the assets investigated. In terms of victim participation, it was found that only 16% of the victims registered with the Prosecutor's Office participated in the proceedings. Of these, only 6% were recognized in the judicial stage (Comptroller General of the Republic).

Specifically, in matters of forced displacement, obstacles were identified for the right to justice of IDPs to be guaranteed, among them are: delays in the process, many of them unjustified; threats and investigations against victims and their representatives (Maitre-Muhl 2013);

investigations and accusations did not reach all possible perpetrators, by excluding financiers and the role played by members of the army (Maitre-Muhl 2013; Parra-Vera 2020); and judicial compensations derived from this victimizing event were only 2.588 (Comptroller General of the Republic, 2017, 45).

In the second moment, in 2011, Law 1448 "Whereby measures of attention, assistance and comprehensive reparation to the victims of the internal armed conflict are issued and other provisions are enacted"(Congress of the Republic of Colombia, 2011). In its provisions, this law strengthens the precepts, competencies and governmental structure for attention and reparation. One issue that stands out in this instrument is the design of a process for the restitution of land, as a measure of reparation to the victims (Congress of the Republic of Colombia, 2011 Chap II and cc), a situation that directly touches on forced displacement as one of the losses suffered by IDPs.

In the third moment, transitional justice "is aimed at restoring the rights of victims, achieving national reconciliation, strengthening the rule of law and consolidating the democratic state" (C-007. Automatic review of Law 1820 of 2016 "Whereby provisions on amnesty, pardon and special treatments and other provisions are issued", 2018). A characteristic of the system is its comprehensiveness given by the "coexistence of autonomous extrajudicial and judicial mechanisms based on the rights of the victims." (Truth Commission (CEV), Special Jurisdiction for Peace (JEP), & Unit for the Search for Persons Reported Missing in the Context and Due to the Armed Conflict (UBPD), 2019, 6).

The principle of centrality of the victims and the restorative justice model make this moment a new possibility for the realization of the victims justice right. For this reason, it is relevant that during the discussions on the victimizing facts that should be assessed by the SIVJRNR, the eyes are turned to internal forced displacement. This is evidenced by the petitions and advocacy being carried out by various social actors for the JEP to open a new macro-case on forced displacement to be added to the seven current cases[7] in this Jurisdiction.

3. New possibilities for IDPs within the scope of the JEP

The JEP is the body of the SIVJRNR whose mandate is to "Investigate, clarify, judge and punish serious human rights violations, war crimes and crimes against humanity committed in the

[7] 1) Hostage-taking and other serious deprivations of liberty committed by the Farc EP; 2) Prioritizes the territorial situation of Ricaurte, Tumaco and Barbacoas (Nariño); 3) Killings and forced disappearances presented as combat casualties by State agents; 4) Territorial situation of the Urabá region; 5) Prioritizes the territorial situation in the region of northern Cauca and southern Valle del Cauca; 6) Victimization of members of the Patriotic Union; 7) Recruitment and use of children in the armed conflict.

framework of the armed conflict and is aware of events that occurred until December 1, 2016" (Truth Commission (CEV) et al., 2019, p. 1).

Its design has been described as novel, as it moves away from the figures and scenarios created before this system that had been fragmented, disjointed and that, in general, have been criticized for the absence of effective participation of the victims. Also because it takes into account that the restorative justice approach processes the conducts it must know according to criminal incentives granted to those who appear before the JEP linked to their contribution to the rights of the victims (Castellanos-Guarín 2019, 1). In addition, because it opens the possibility for them to participate from the first moment of the jurisdiction, through the presentation of reports. The information provided from the voice of the victims allows the JEP to have access to their narratives (Parra-Vera 2020). All these elements are also an expression of the principle of victim centrality that guides the FA and the normative instruments that develop it.

In relation to forced displacement, the FA emphasizes the importance of reading the impact of forced displacement as one of the victimizing facts of the armed conflict of greater dimension. This situation is underlined in the preamble and is reflected in several of its points ("Final Agreement for the Termination of the Conflict and the Construction of a Stable and Lasting Peace," 2016). It is important to note that the actions that give rise to the internal displacement of population are excluded from the benefits, amnesty, and pardon and from the special treatments of the administration of justice headed by the JEP. This exclusion is made in accordance with the Rome Statute, the Inter-American Convention on Human Rights, and the block of constitutionality (C-080. Automatic control of constitutionality of the Statutory Bill number 08 of 2017 Senate, 016 of 2017 House, "Statutory of the Administration of Justice in the Special Jurisdiction for Peace", 2018).

It should be noted that the FA and the legal instruments that have developed it demand from the State the duty to investigate, clarify, prosecute, and punish the victimizing conducts. This duty is specified in carrying out the investigation of the facts with "due diligence" by the JEP (Congress of the Republic of Colombia., 2019 Art. 29). However, this jurisdiction only has the obligation to select those conducts carried out in a systematic manner (C-080. Automatic control of constitutionality of the Statutory Bill number 08 of 2017 Senate, 016 of 2017 House, "Statutory of the Administration of Justice in the Special Jurisdiction for Peace", 2018).

In relation to displacement there is still no prioritization decision. So far, the first steps for this have been taken: the opening of a line of investigation and the willingness of members of this corporation to advance in the construction of contexts on a possible macro-case (Special Jurisdiction for Peace (JEP), 2021). With this, the actions within the institution to advance in the prioritization of forced internal displacement by the jurisdiction are formalized.

Although forced displacement has been the focus of several public policies, especially those related to transitional justice, there are still many barriers to overcome in terms of guaranteeing the right to justice. One of the facts that shows this is the permanent call from different social sectors for the JEP to open a macro case on forced displacement (NU News Agency, 2020a, 2020b; Colombia+20, 2020a, 2020b).

Although at the end of 2020 the president of the JEP announced the intention to open this case (Infobae 2020), there is still no decision on the matter. The next three macro-cases to be opened are linked to actors rather than specific facts[8]. The communiqué announcing the opening of these cases states that two of them will investigate, among others, forced displacement (Special Jurisdiction for Peace (JEP), 2022). It is noteworthy that in the facts that the JEP will address in the case that focuses on ethnic peoples and territories, the phenomenon is not explicitly mentioned as one of those to be investigated, given that it is among the factors that have most affected ethnic peoples and their territories.

The press release 012 of February 2022, through which the JEP informs of the opening of these cases, states that it has been listening to "thousands of victims". However, this has not satisfied the clamor of those who continue to press for the opening of a specific case on the issue (Sanchez-Romero 2022).

This situation raises several questions regarding the participation of the IDPs. Among them, the first is the possibility that transitional justice will fulfill its objectives. This is to the extent that the fulfillment of these objectives is subject to the IDPs being heard, taken into account and their voice being heard throughout the transitional process.

For this reason, among others, other transitional processes have paid special attention to the participation of IDPs in transitional justice. This is the case of the processes initiated in Guatemala, Timor-Leste, Sierra Leone, and Liberia. In these contexts, special attention has been paid to forced displacement, its victims and the active involvement of IDPs in the different stages and instances (Duthie 2011, 245). There, the effective participation of IDPs has contributed to transitional justice being aimed at learning about the particular experiences and, on that basis, addressing the needs and demands for justice of these victims (Duthie 2011, 247).

The second supports one of the criticisms that have been made of the exercises that seek to guarantee the right of IDPs to access to justice in Colombia mentioned in this section: the way in which forced displacement has been included in the design of transitional justice (Uprimny and Saffon 2006). Effective participation of IDPs would increase the chances of overcoming the

[8] At the outset, these cases have been called (i) "National concentration of crimes committed by the extinct Farc-EP"; (ii) "Crimes committed by members of the security forces, other agents of the State or in association with paramilitary groups and civilian third parties"; and, (iii) "Concentration of crimes committed against Ethnic Peoples and Territories" (Special Jurisdiction for Peace (SPJ), 2022)

shortcomings of previous experiences. This is evidenced by what has happened in countries where this type of justice administration has been implemented, such as Uganda. There, it has been established that the involvement of IDPs contributes to clarifying particular victimizations, those that have been directed against the welfare of the community and those that have been directed against specific population groups, such as those suffered by women and children (Duthie 2011, 248).

This raises the question: Why so much interest in opening a macro-case for forced displacement? A first answer is: because it is the mechanism that has been provided for the victimizing facts to be known by the transitional justice system. Not doing so increases the risk of perpetuating what happened with the previous justice systems, including the ordinary justice system, which leads to disregarding the rights of the majority of the country's victims and silencing what they and the understanding of forced displacement itself contribute to understanding the armed conflict in the country. In addition, it increases the possibility that the shortcomings that have been found in the implementation of transitional justice in other contexts will also be present in the country.

On the contrary, giving special relevance to investigating the dynamics of forced displacement would shed light on the way in which it intersects with other repertoires of violence; the way in which economic and political interests have triggered this phenomenon and other victimizing events in order to obtain or maintain territorial control. It would even make it possible to make visible other actors who have played a role in the causes of forced exodus beyond those who have traditionally been identified as directly responsible amid the armed conflict.

The Constitutional Court has pointed out that a macro-case is not restricted to establishing a sum of facts. The identification of the same obeys to recognize common elements based on a contextual analysis (Castellanos-Guarín 2019, 24,28). In accordance with the above assumptions and the mission of the JEP -"to maximize with due diligence the administration of restorative justice for the victims"-, the Statutory Law on the Administration of Justice of the Special Jurisdiction for Peace defined five criteria for the selection: (i) seriousness of the facts; (ii) representativeness; (iii) differential characteristics of the victims; (iv) characteristics of the perpetrators and, (v) evidentiary availability (Congress of the Republic of Colombia., 2019 Art. 19).

The JEP, following the criteria and postulates of the Colombian Constitutional Court, the IACHR, the ICC and the advances of Law 975 of 2005, has resorted to the methodology of macrocriminality patterns as a methodology for addressing cases. According to the document "Criteria and methodology for prioritization of cases and situations" (2018), resorting to such methodology avoids "a mistaken understanding of the facts as isolated [without identifying them] necessarily with phenomena (...) such as mass crimes, continuing crimes or procedural connections" (Special Jurisdiction for Peace (JEP), 2018, p. 3).

4. Patterns of political violence and spatiality: a framework for reading forced displacement in transitional justice

In line with the methodology for establishing macrocriminality patterns used by the JEP, the following will argue, based on the framework of patterns of political violence and spatiality[9] why displacement should be selected as a macro-case in light of the criteria established in the JEP's Statutory Law on the Administration of Justice.

According to Gutiérrez Sanín & Wood (2020), by pattern we mean a "characteristic style, model or form" and a "combination of qualities, acts, tendencies, etc., that make up a consistent or characteristic arrangement" (Gutiérrez-Sanín and Wood 2019, 25). The patterns of political violence approach allows for the reincorporation of the concepts of ideology and politics in the analysis of organized violence. Among the advantages of using this perspective is that it brings precision to the documentation and analysis of political violence (Gutiérrez-Sanín and Wood 2019). For the authors, the pattern of violence of an armed organization consists of the repertoire of violence regularly executed by the organization its objective, frequency and technique (Gutiérrez-Sanín and Wood 2019, 25).

The analysis in this text recognizes forced displacement as part of the actions that various armed groups have carried out on an ongoing basis. That is, forced displacement has become a repertoire of violence in the country. Hence, reading the phenomenon from this approach contributes to the recognition of this fact and, in this way, provides elements for the judicialization of the phenomenon and others that have been linked to it.

This reading is not abstract since it is done with a specific coordinate: the spatial one. This means that it refers to specific territories, assuming that they are diverse and heterogeneous and that, because of this, forced displacement also has differentiated dynamics. Therefore, the analysis covers the territorial sphere in which the events occurred, but it does not stop there. Territory is a complex concept that transcends the dimension of the land in which it takes place. It is a set of relationships, parameters and orientations that involve a great interrelation and articulation between the members of society and its cultural and natural environment.

4.1 Spatiality: a necessary coordinate

The dynamics of forced internal displacement, in itself, requires readings that imply taking the territorial dimension into account. Among the particularities of the phenomenon that have been

[9] This framework is made from a re-reading of the text by Gutiérrez-Sanín and Wood "How we should understand the concept of "pattern of political violence": repertoire, objective, frequency and technique" (2019) for the elaboration of the report "Patterns of political violence and spatiality associated with forced displacement 1985-2015. Cases Medellín and Eastern Antioquia," delivered to the JEP by the Faculty of Law and Political Science and the Institute of Political Studies of the University of Antioquia."

identified since the first studies on the subject is that: "the misfortunes of the war and its regional particularity may be factors that influence the predominantly internal character of displacement" (National Secretariat of Social Pastoral. Section of Human Mobility, 2001, 19).

About the territory, the administration of justice of the JEP has proposed the approach to the phenomenon from the spatial perspective takes into account "the complexity of the facts, following logical lines of understanding thereof" (C-080. Automatic control of constitutionality of the Statutory Bill number 08 of 2017 Senate, 016 of 2017 House, "Statutory of the Administration of Justice in the Special Jurisdiction for Peace", 2018). For example, the manifestations of the armed conflict and the way in which the emergence, maintenance and interaction of factors in the forced expulsion of population, trajectories, violations and damages to IDPs vary depending on whether they occur in urban or rural areas (Angarita-Cañas et al., 2008; Asolavidi et al., 2020; Atehortúa-Arredondo, 2009; Consultancy for Human Rights and Displacement. CODHES, 2013).

The spatial approach allows us to understand the way in which the armed conflict changed the territories in the country: the way in which it reformulated the spatial distributions made by the populations and the State itself, through the annulment of political-administrative divisions and actions for their management and development. In order to read these changes and their relationship with forced displacement, it is proposed to take into account at least the following elements: first, the geostrategic importance of the territory.

This first category provides information on the interests of different actors, including armed actors, but cannot be limited to them. It also provides information on the actors that have had economic and political interests in each territory and the alliances or disputes with other actors, specifically the armed groups, to ensure their predominance in the territory and the way in which this has led to forced displacement. Among the characteristics that can be seen in relation to territorial importance are land use, the existence of strategic corridors and whether there are macro-projects, either built or under design.

Second, changes in land use. This is one of the factors that has been recognized as a rural development issue that has an impact on the dynamics of forced displacement (Atehortúa-Arredondo 2017, 61). Law 1448 of 2011 declared the existence of a relationship between dispossession and forced abandonment of property with the concentration of property (Congress of the Republic of Colombia, 2011 Art. 76, 77, 78). Hence, visualizing in the territories the changes in these uses and the way in which land ownership or accumulation has been concentrated, through crop changes, for example, from peasant subsistence crops to expansive monocultures -legal and illegal- such as oil palm or coca (Goebertus 2008; Reyes-Posada 2016) also marks the geographies of forced displacement by the armed conflict.

In addition, it allows us to elucidate how this is intertwined with other types of displacement such as those caused by climate change, natural disasters, and megaprojects. In this way, it helps to make visible the different ways in which the population has been forcibly expelled, by showing the relationships between them: how they precede each other, or which are concomitant, to mention just two cases. In turn, exposing changes in land use in contrast with geostrategic importance can give clues about the way in which such changes intersect with the interests of the actors in the territory, according to its geostrategic importance.

All of the above, leads us to a third element of analysis: the territorial modifications of forced displacement. This aims to discover the changes that both the conflict and the phenomenon implied in the geography of the country, to understand that there are new spatialities and to understand what could be called a "post-conflict" geography, beyond state jurisdictions. This offers elements to establish the possibilities of implementing durable solutions in the country: what is the feasibility of promoting return or relocation, in which places it can be carried out in such a way that it can be done with guarantees for permanent and voluntary settlement and the right of victims to non-repetition.

Along these lines, a fourth element is the identification of the trajectories of the fleeing population. It is not possible to speak of understanding the changes in the country's geography brought about by the armed conflict without knowing the routes of the IDPs: the places and reasons why people have had to settle in those places, the conditions in which they have done so, among other particularities, are part of the knowledge that must be available when prosecuting the facts, assigning responsibilities and establishing guarantees of non-repetition for the population.

In order to advance in the characterization of the territories in relation to the phenomenon of forced displacement, it is necessary to make distinctions. One of them concerns the difference between rural areas and urban spaces. The differences between what happened in the context of the conflict in each of these spaces can help to understand how certain repertoires of violence were used systematically (Parra-Vera 2020, 242).

Specifically, it would make it possible to establish how this victimization, which has its roots in the war in rural areas long before the state declaration recognizing the existence of victims of displacement, moved to urban areas (National Center for Historical Memory, 2010; Guarín-Cobos, 2009; Ospina & Murillo, 2011; Uribe-Kaffure, 2014): What were the variations in its use in the countryside and in the city; the differences or similarities that as a pattern of violence it has had in each of its zones; what is systematic or not in its modus operandi depending on the places where this victimization had presence, among others. All this under the assumption that the manifestations of the armed conflict and the way in which the emergence, maintenance and interaction of factors in the forced expulsion of population and the violations and damages to

IDPs vary depending on whether they occur in urban or rural areas (Angarita-Cañas et al., 2008; Asolavidi et al., 2020; Atehortúa-Arredondo, 2009; Consultancy for Human Rights and Displacement. CODHES, 2013).

This in turn contributes to the identification of the statutory legislator's selection criteria. The following is the way in which a reading of forced displacement from the perspective of patterns of political violence supports this victimization to be investigated by the JEP, obeying two of the criteria established by the statutory legislator for the selection of cases: representativeness and seriousness of the facts.

4.2 Forced displacement in light of patterns of political violence

As indicated above, there are antecedents to the prioritization of forced displacement in transitional justice. First, as has been said, it is one of the crimes that has been considered an international crime and a war crime (C-080. Automatic control of constitutionality of the Statutory Bill number 08 of 2017 Senate, 016 of 2017 House, "Statutory of the Administration of Justice in the Special Jurisdiction for Peace", 2018). Second, the Office of the Attorney General, prioritized forced displacement as a conduct that should be known by the Justice and Peace Jurisdiction attending to its seriousness, high social representativeness and the character of international crime (Chaves 2020). It should be noted that the criteria used as a basis for this selection do not differ from those established for the JEP.

4.2.1 Severity criteria

Regarding the seriousness of the facts, the Statutory Law on the administration of justice of the JEP, states that it is an objective component and includes the affectation of fundamental rights, the modality of the commission of the facts in reference to violence and systematicity (Congress of the Republic of Colombia., 2019 Art. 19. Num. 1).

In relation to this criterion, the seriousness of forced displacement has been declared and recognized by the State in various opportunities and areas. Of these, the declaration that has been constantly alluded to by various actors is the one made by the Constitutional Court in different rulings, especially in T-025 of 2004, which declares that forced displacement is a multiple, massive, continuous, and systematic violation of human rights (T-025. Action for protection filed by Abel Antonio Jaramillo and others against the Social Solidarity Network, the Administrative Department of the Presidency of the Republic and others, 2004).

The patterns of political violence make it possible to read the seriousness of the facts by asking about the number and type of victimization suffered by the IDPs. Now, in the light of forced displacement, these variables have their own characteristics: the first is revictimization.

IDPs suffer multiple rights violations in the context of their forced departure, including the homicide, disappearance or kidnapping of their relatives, the dispossession or forced abandonment of their property, the risk of recruitment of children and adolescents, and sexual violence against women. In addition, there are actions that intersect with forced displacement, such as threats and other forms of intimidation, selective homicides, massacres, and other acts of violence against the population.

There are other forms of victimization that are related to freedom of movement and that are related to displacement: confinement and emplacement. Confinement consists of restricting the mobility of a person or group of persons or restricting their access to goods and services essential to their survival. In the case of emplacement, people are threatened to prevent them from returning to their homes or going to specific locations.

In addition to the above victimizations, IDPs are exposed to new and constant displacements. Having been previously forced to leave by armed actors, they are targets of the same or other armed actors in the places where they go, they are "suspected" of having done or not having done something that caused someone to expel them from their homes. In other words, after displacement, IDPs are stigmatized by the fact of displacement and, in many cases, by the places they come from: even if the event that triggered the forced departure was not directly against them, the fact that they come from a certain region or municipality makes them be seen by the armed actors as people who conspired with the armed organizations present in the territories, regardless of whether it was those organizations that expelled them.

This is why explanations have been given about forced displacement such as, "it is enough to leave the region to save one's life without having to abandon the nation" (National Secretariat of Social Pastoral. Section of Human Mobility 2001, 19), should be reformulated with a warning: this does not avoid suffering other victimizations; even with it, the risk increases.

By way of example, redisplacement can be mentioned. This is one of the facts that has been uncovered with intra-urban forced displacement: most of the people who have been forced by armed actors to leave the neighborhoods where they live and must flee to other neighborhoods in the city, have arrived there because of displacement (Atehortua-Arredondo 2018). This has made the multiple experiences of forced exodus, a distinctive feature of forced displacement occurring within the city.

This scenario shows the seriousness of forced displacement, which supports its selection for a macro-case, but it is not circumscribed to it. The specific investigation and judicialization of the phenomenon would open up the possibilities of understanding the way in which the various repertoires have been used systematically in the territories, according to the dynamics of each of

the places where it has occurred. The latter is directly related to the second prioritization criterion given by the law: representativeness.

4.2.2 The representativeness of forced displacement

According to the provisions of the legal system that regulates the JEP, representativeness includes: "the capacity to illustrate the modus operandi and/or criminal practices or patterns of the facts" (Congress of the Republic of Colombia., 2019 Art. 19 num 2). In this regard, the patterns of political violence contribute to this criterion by examining the repertoires and technique of the armed actors and the frequency and number of violent events.

Regarding the number of events, as mentioned above, forced displacement is a highly representative fact. According to official figures, IDPs represent 90% of the country's victims (Unit for the Attention and Integral Reparation of Victims, 2022). However, this figure is only partially close to the figure for forced displacement. To advance in the understanding of these repertoires, another piece that must be considered is the type of forced displacement produced by the armed conflict.

In terms of attention to IDPs, the regulations have resorted to classifying displacement events according to the number of people displaced. In the case of mass forced displacement, this occurs when more than 50 people or 10 family groups leave together (Presidency of the Republic, 2000 Art. 12). Although there is no express definition in the regulations beyond the aforementioned, in the analysis of the phenomenon, at least three other types of displacement have been found: family displacement, when a family group is forced to leave. The drop by drop, when less than 50 people leave or these departures are not simultaneous in relation to the same event. And individual displacement, when it selectively affects a person or a group without constituting a massive displacement.

Recognizing the type of displacement is key to establishing the actions of the armed actors in relation to the results. Although forced displacement generates a situation of turmoil and uncertainty and one cannot speak of greater or lesser tragedies only by resorting to the number of IDPs expelled in the same event, mass displacements cause a resounding effect both in public opinion and in other spheres. Hence, for example, to study specific cases, we resort to this type of displacement, among other reasons because there is more information about them.

In the case of selective and individual displacements, their occurrence is less visible. Displacements of this type are hidden behind the thousands of cases that occur in daily national life. There is underreporting of this type of events, either because the population does not know that it has suffered victimization or because of the refusal of the entities to register the population,

arguing various reasons, some of them contrary to the constitutional order on the matter. Hence, in public opinion and other scenarios, this situation is not very visible.

Identifying the type of displacement refers to the number of victims and events from which such victimization is derived, which directly refers to establishing representativeness, but it is not the only dimension to which it contributes. Establishing the types of forced displacement that occurred in each space connects in turn with the forms of violence inflicted on the population. That is, it speaks to the repertoires deployed by armed organizations (Gutiérrez-Sanín and Wood 2019, 25) in given territories or against specific groups.

The reading of some studies on forced displacement in the country shows that this phenomenon responds to two types of manifestations: as a consequence of war and as a war strategy. When we speak of forced displacement as a consequence of war, we are talking about a response to the escalation, increase or variation of the war strategies of one or several armed actors in the territory. In other words, forced displacement responds to and encounters diverse repertoires of violence. In addition to those mentioned when talking about the seriousness of the facts, combats between armed actors, harassment, patrolling by armed actors, and pamphlets can be considered as violent actions from which forced displacement can derive.

In the case of war strategy, forced displacement is a repertoire of violence in itself. Here the armed actor(s) expel the population from their homes with the objective of gaining or maintaining control of territory and population or obtaining resources. In these cases, the form of violence seeks concrete ends such as the emptying of territories chosen by the armed actors or changing people's behavior in a given social scenario. In terms of vacating the territory, it is usually linked to massive displacements, and in terms of changes in behavioral patterns, it is usually linked to individual and selective displacements.

It is worth noting that in the territories where forced displacement has occurred, different types of displacement occur in most cases. Depending on the context of violence or the aims of the armed actor, they may appear concomitantly or as antecedents to one another. Hence, one element for analysis is the frequency of events, which refers not only to the time in which they occurred, but also to identifying periods, regularity/irregularity of events, increase or decrease of events, lines of continuity or changes in the contexts of violence or type of displacement.

The observation of these axes contributes to the identification of the features of the modus operandi of the armed actors with respect to the phenomenon, according to their practices, interests, and forms of violence. The approach to repertoires, types of displacement, and frequency allows for the construction of a panorama for the understanding of the techniques of armed actors and their causal link with forced displacement.

In order to identify the techniques and how they have become the modus operandi of each armed group, the following must be examined: the actions prior to and concomitant with the forced displacement of the armed actors; and the actions prior to and concomitant with the forced displacement that disturbed public order[10].

Furthermore, it is necessary to take into account the precedents of official militarization. Even though the purpose of this type of state actions is, in principle, to maintain order in the territory and the security of the population, the way in which they are implemented or not favors forced displacement. It also provides information on the interaction between state armed actions, those of illegal armed groups and those of other types of actors.

In this sense, recognizing the representativeness of forced displacement and the opening of a macro-case would provide information on the number of people and events of forced displacement in specific places and periods, contributing to "greater reparation and restoration of the damage caused." In addition to the above, due to the link between forced displacement and other forms of violence, this macro-case would contribute to the understanding of other forms of violence and victimization and their intersection in the dynamics of the armed conflict in the affected territories.

5. Conclusion

Forced internal displacement has been one of the events that has left more victims in the country. Despite the existence of public policy instruments, there are still shortcomings in the protection of the rights of IDPs. This has been especially evident in terms of their rights to justice, truth, reparation, and non-repetition, where there is a major lag.

This situation has been clear regarding the instruments of transitional justice in the country, specifically in the design and implementation of instruments to advance the right to justice. Several aspects have been criticized in this regard; among them, the low participation of the victims and specifically of the IDPs, in the instances created; the lack of involvement of all the actors who have played roles in the armed conflict and in the forced internal displacement of the population.

With the signing of the FA and the creation of the SIVJRNR, the perspective changes. The centrality of victims, restorative justice as an approach and the possibility for victims to participate from the start of the system and, for the first time, in the jurisdiction, creates expectations about the satisfaction of the rights to truth and justice. Through reports and other

[10] The consideration of the latter is due to the enunciation of the situations that may give rise to forced internal displacement within the framework of forced displacement (Congress of the Republic of Colombia, 1997a Art. 1)

mechanisms, the versions of the witnesses can be compared, and the JEP has access to greater elements that allow access to and analysis of the information.

In the interest of gaining knowledge about the most serious acts of the armed conflict, the normative instruments developed by the FA have defined as a strategy the selection of macro-cases. To this end, a set of criteria have been proposed to identify the most serious and representative events that fall under the jurisdiction of the JEP. Considering these criteria, forced internal displacement emerges as one of those that should be heard by this jurisdiction. This is not only because of the magnitude of victimization in the country, but also because of its systematic nature and link to territorial and conflict dynamics.

This provision allows the facts that the JEP has identified as macro-processes to be highlighted or placed on the political and academic agendas. In the case of forced displacement, it would help to revive discussions on the actions that must be carried out to guarantee the rights of IDPs and overcome the phenomenon.

On the contrary, the delay or refusal to open the macro-case leads to a prolongation and deepening of the unconstitutional state of affairs that is forced displacement. First, in terms of the multiple violation of the rights of the victims since the right to justice will remain in jeopardy as it has been in the administration of ordinary justice and in the previous experiences of transitional justice in the country.

Second, because it ignores the voice of the IDPs who have demanded special attention to the phenomenon. According to the JEP, by May 2020, around 62% of the facts outlined in the reports referred to this phenomenon (Special Jurisdiction for Peace (JEP), 2020). After that period, at least four reports have been presented focusing on this fact in urban and rural settings (Asolavidi et al. 2020; Verdad abierta 2021; Sanchez-Romero 2022).

In addition to the above, the failure to open the macro-case implies, to mention a few: disregard for the FA, non-compliance with the mandate of the JEP and disregard for the legal order of the administration of justice of the JEP, specifically the statutory law that regulates it. This has serious consequences for the victims, for whom this is probably the last possibility to obtain guaranteed access to justice from the Colombian State.

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