



The Regional Approach In The Reports Of Truth Commissions: A Commitment To Peace From The Territories

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APA Citation:

Meza, S.M.P.M., Estévez, E.M., Cárdenas, F.J.L., (2022). The regional approach in the reports of truth commissions: A commitment to peace from the territories, *Journal of Language and Linguistic Studies*, 18(4), 758-768.

Submission Date: 25/09/2022

Acceptance Date: 24/11/2022

Abstract

In the framework of the peace agreements, one of the mechanisms through which it seeks to guarantee victims' right to truth, reparation and reconciliation is the Truth Commission. These components, derived from the peace agreements, have an extrajudicial mandate and seek to recognize the human rights violations that occurred in the framework of the armed conflicts, prioritizing the testimonies of the victims beyond the official narratives about what happened. From a comparative perspective, this article seeks to analyze the work developed by the truth commissions in South Africa, Peru, El Salvador and Guatemala and the report of the Truth Commission in Colombia based on the regional approach they generated in the construction of their final report.

Keywords: Truth commission, transitional justice, territorial approach, truth, reconciliation.

Resumen

En el marco de los acuerdos de paz, uno de los mecanismos a través de los cuales se busca garantizar el derecho de las víctimas a la verdad, la reparación y la reconciliación, han sido las Comisiones de la Verdad. Estos componentes que se derivan de los acuerdos de paz, poseen un mandato extrajudicial y buscan como objetivo el reconocimiento de las afectaciones a los derechos humanos que se dieron en el marco de los conflictos armados, privilegiando los testimonios de las víctimas más allá de las narrativas oficiales sobre lo ocurrido. Este artículo busca a partir de una perspectiva comparada, analizar el trabajo desarrollado por las comisiones de la verdad en Sudáfrica, Perú, El Salvador y Guatemala y el informe de la Comisión de la Verdad en Colombia, a partir del enfoque regional que estas generaron en la construcción de su informe final.

Palabras clave: Comisión de la verdad, justicia tradicional, enfoque territorial, verdad, reconciliación

Introduction

One of the most representative components that have been generated in the framework of negotiated solutions to non-international conflicts has been the truth commissions. These have been constituted as mechanisms of transitional legal frameworks that seek to guarantee the fundamental right of victims to know the truth about what happened and, in turn, to obtain, with this truth, a form of symbolic reparation for the harm they suffered.

These processes, which are framed in a restorative justice practice, “are important tools (...) when a society wants to move from a past of injustice, discrimination and intolerance, to a future founded on the recognition of human rights, democracy and equality” (Bloomfield, 2005, p.37).

The most significant experiences with this type of organization have been in Latin America, in countries such as Argentina, Peru, Guatemala, El Salvador and now Colombia, and in Africa, through the truth commission of Sierra Leone, which was created at the end of the armed conflict that took place in this country between 1991 and 2002, and in South Africa, whose origin was framed in the repeal of the apartheid regime.

In Colombia, in the framework of the peace agreement between the National Government and the FARC-EP guerrilla, the creation of the Commission for the Clarification of Truth, Coexistence and Non-Repetition, -from now on, CoT was established “as a temporary and extrajudicial mechanism of the Integral System of Truth, Justice, Reparation and Non-Repetition - SIVJRNR, to know the truth of what happened in the framework of the armed conflict” (Comisión de la Verdad, 2018).

The final document resulting from the work of the CoT is made up of a series of volumes that stand out for the differential approach taken into account for the reconstruction of the violent events that occurred in the context of the conflict and, in particular, for the territorial component that allows a differentiated understanding of the dynamics of violence in each of the most affected territories.

Thus, this article seeks to demonstrate the territorial approach that has been linked to the peace agreements carried out in countries such as Guatemala, El Salvador, Sierra Leone and Peru in order to establish a point of comparison with the regional perspective that was taken into account in the structure and work developed by the CoT in Colombia, as a non-judicial body that is part of the Integral System of Truth, Justice, Reparation and Non-Repetition, of the peace agreement signed between the Colombian National Government and the FARC-EP guerrilla, who with its work, sought to respond to the demands of those who have been affected by the internal armed conflict that the country has experienced in recent decades.

In this way, analyzing the final report delivered by CV in Colombia, from its regional approach and in a comparative perspective with other experiences such as those of El Salvador, Guatemala, Peru and Sierra Leone, allows an understanding of the importance of including in this reconstruction of memory the voice of the victims located in the most distant territories in order to link their narratives as a closer way of achieving reparation and initiating a path towards reconciliation.

Peru and Sierra Leone Truth Commissions

The regional role has been taken into account in truth commissions in countries that have suffered contexts of non-international armed conflict similar to the Colombian one. An example of this occurred in Peru, where the Truth and Reconciliation Commission included a policy to reach the territories that were victims of violence to learn the testimonies of the population that suffered this scourge.

With the fall of the Fujimori regime, the government of Valentín Paniagua created the Truth Commission in order to clarify the process, facts and responsibilities of the terrorist violence and human rights violations that occurred from May 1980 to November 2000, attributable to both terrorist organizations and State agents, as well as to propose initiatives aimed at affirming peace and harmony among Peruvians (Yupanqui, 2005).

The characteristic of this Commission was the development of four types of public hearings promoted by voluntary decisions of the victims. As defined by Guillemot (2002), in his article entitled “Truth Commissions: From the international experience to the Peruvian Commission,” hearings were developed on emblematic facts where victims individually or in groups gave testimony on representative facts of violence; thematic hearings, where victims and experts gave testimony on patterns of violence concerning specific groups (women, students); hearings on institutional responsibility where members of public institutions or political organizations gave testimony on their actions; and finally, regional hearings where victims and local leaders reconstructed and narrated the evolution of the conflict in a given region (Virtual Library of Truth and Reconciliation, 2002).

This territorial approach given to the CVR created in Peru was mainly because, as documented in the final report in Chapter I entitled *The Periods of Violence*, during the conflict, the sectors that suffered most from its consequences were “the rural Andean, jungle, Quechua and Ashaninka, peasant, poor and uneducated populations of rural Peru” (Truth and Reconciliation Commission).

In this context, the Commission sought to decentralize its work in order to allow the victim population to give their testimony through the creation of regional offices that allowed easy access to these peripheral sectors to narrate the facts of violence and proceed with the investigation and documentation of cases for the construction of its final report.

The CoT also created two types of regional teams: fixed and mobile. The fixed ones, located in the same regional office, and the mobile ones, with the capacity to make field visits within the communities to record victims’ testimonies (Virtual Library of Truth and Reconciliation, 2002, p.20).

Another non-international armed conflict that decided to implement a truth commission at the end of the conflict was that of Sierra Leone. This was inaugurated in July 2002, and its report was completed in October 2004. “As a result of the peace accords, it was contemplated to create a truth commission whose function was to address impunity, break the cycle of violence, provide a forum for victims and perpetrators to tell their story and thus facilitate healing and reconciliation” (Millán, 2015, p. 44)

This Commission was the first to require a peace agreement that established an amnesty process and guaranteed pardon and freedom for combatants and collaborators. It also had the additional component of presenting its final report in two versions: one for adults and the other for children.

Sierra Leone was unique in the sense that, parallel to the Commission, the Special Court for war crimes functioned, which facilitated that “many witnesses, after giving initial testimony and expressing their desire to speak before the Commission, moved on to other towns and villages without leaving a trace or address” (Humper, 2006).

This experience was also a model commission that faced several problems: distrust on the part of the donor countries regarding the management of the resources allocated for the development of its work; accusations of manipulation by the government in the selection of the Commission’s members; the lack of trust in the government’s management of the resources allocated for the development of the Commission’s work; and the lack of trust on the part of the donor countries regarding the management of the resources allocated for the development of its work.

The work of the Commission was challenging from a territorial point of view “since some areas where the witnesses lived were between eight and one hundred kilometers away from the site where the hearings were held. Some areas (...) even lacked roads for vehicles to enter” (Humper, 2006, p. 46).

Despite the difficulties, the Commission presented its final report in October 2004, providing a record of the human rights violations committed during the conflict and facilitating a better understanding of the root causes of the conflict. As an innovative element, and with an implicit regional approach, within the framework of this Commission is the National Vision for Sierra Leone project, “which allowed citizens to participate by making policy recommendations based on their own experiences and in their voice” (International Center for Transitional Justice).

Truth commissions in Central America: Guatemala and Salvador

The Truth Commission in El Salvador was implemented in the framework of the Peace Accords that put an end to the country’s civil war, which was related to massive human rights violations. Thus, it sought to respond to the need to know, confront and especially understand the crimes committed during 12 years of internal conflict. However, in practical terms, the Commission was limited in its participation and openness to society.

Despite this, the Commission sought to establish mechanisms that would allow it to get closer to the community. Among the strategies implemented was: the payment of advertisements in the main newspapers and radio and television promoting the “open door” policy that sought to encourage the population to tell their stories and denounce acts of violence. In addition, offices were opened in different cities to facilitate communication between the population and the truth commission; meetings were held with governmental actors, armed forces, and social and community organizations. The Commissioners traveled to different parts of the territory to learn firsthand the particularities of the conflict (Buergethal Thomas, 1994). Despite these significant attempts to implement the Commission from a regional perspective, this was not enough to strengthen the relationship with civil society.

An additional aggravating factor in the attempt to give the Commission a regional focus had to do with the fact that, in order to safeguard the principle of neutrality, this body was made up of three foreigners: Belisario Betancur, the Venezuelan Reinaldo Figueredo and the American Thomas Buergethal, who was appointed for this function by the Secretary General of the United Nations (Rivera Ricardo, 1994). In order to fulfill their functions, the three commissioners went to El Salvador twice a month since they could not

settle there permanently, which prevented permanent contact with the populations of the country's different regions.

An important aspect that hindered trust between the Commission and the victims was based on the fact that the latter feared for their lives if they testified since many of the acts of violence they had suffered were perpetrated by members of the military and police forces who were still active and who had every possibility of causing physical harm to those who testified against them. The Commission considered this fear valid and recognized that it did not have the mechanisms to guarantee total protection to the victims, except for the confidentiality of personal data and information provided. Thus, during the first months, the Commission could not gather more information since "few victims or family members came forward to tell their stories" (Buergenthal Thomas, 1994. p. 27).

The above implies that the Truth Commission's actions were carried out in a climate of fear, distrust and little credibility on the part of the civilian population towards the Commission. The fact that the commissioners could not be permanently in the territory further impeded overcoming these obstacles. In addition, following Buergenthal, if the objective of the Commission was to clarify the truth, the work team encountered severe barriers to this since many military officers did not tell the reality of what had happened for fear of losing their posts and their careers. In this way, the officers created a barrier to accessing the truth.

Full and detailed information on their responsibilities in the violation of human rights

This situation generated a strong marginalization of the Salvadoran civilian population in the process and caused operational difficulties since, at the end of the report, those in charge returned to their countries of origin and did not achieve a true articulation with the social and grassroots organizations that had the most information and contacts that were fundamental for the investigation (Ceballos, 2009).

The lack of consensus for its creation and the inability of the three commissioners to achieve a better approach with the population, victims and civil society, in general, were also questioned. The case of El Salvador leads to the conclusion that if a regional approach is not implemented where civil society does not feel represented and is not involved in the framework of the functioning of the truth commissions, it will not generate the expected results leading to truth and reconciliation. In this sense, the recognition and representativeness of the commissioners play a fundamental role in their relationship with the population and, of course, in the legitimacy of the Commission.

In the case of Guatemala, unlike the experience of El Salvador, the Truth Commission had a better practice of the territorial approach because it achieved positive results since it achieved a better articulation with sectors of the civilian population and a better understanding of the dimension of the Guatemalan conflict in each of the regions.

According to Ceballos (2004), throughout the negotiation process, there was broad citizen participation, which paved the way for the truth commission, since the consensus during the agreements as well as during the verification of compliance made it possible for the population to participate much more actively in the activities programmed by the members of the Commission.

Another element that allowed a good territorial development of the Commission was the report

“Guatemala Nunca Más” (Guatemala Never Again), developed by the Archdiocese of Guatemala together with different civil society organizations. This text was a fundamental input for the Commission’s work.

For the Truth Commission, not only in terms of the valuable information provided but also through the archdiocese, which had already done significant work with the civilian population, it was possible to generate “a greater level of trust and collaboration” with community and grassroots organizations, victims, relatives, among others, which made it possible for this body to reach the areas most affected by the conflict to collect testimonies and hold public and other private hearings, taking into account the seriousness of the facts and the protection of the people.

In this sense, and with the intention that the Truth Commission would reach all regions of the country, the UN supported the financing of the Commission, which allowed “the support staff to increase to 100 with greater representation of the national sectors. In addition, the team of commissioners was of national and international composition; translators were hired for the different Mayan languages (which were the majority of the victims). This allowed the Commission to have greater access to the regions, the development of psychological attention to the victims through civil society organizations and the realization of rituals to recover the honor of the victims” (Ceballos, 2004, p. 75).

Finally, the recommendations constituted a significant contribution in regional and territorial terms since they emphasized the importance of reconciliation and “firm and lasting peace” by adopting measures that legally recognize the rights of the indigenous population and equality in a society that considers itself democratic. In addition to emphasizing the necessary subordination of military power to civilian power and the Army’s respect for the Constitution, the recommendations point out the importance of recognizing the Guatemalan nation as a multiethnic and multicultural nation (Op cit. P. 77).

The Truth Commission in Colombia: a commitment to territorial peace

Since the beginning of the peace talks between the national government and the FARC-EP guerrillas, there has been a concern to focus this process on the territories and their inhabitants, considering that the conflict has not been the same in all areas of the country and has undoubtedly affected the country’s rural population in a differentiated manner and to a greater extent. Based on this premise, the peace agreement in Colombia sought to generate a regional focus that would also allow for to understand of the dynamics, needs and particularities of the conflict in each territory to generate spaces for the recognition of the facts that occurred in the framework of the armed conflict, from the regions, in order to generate a final report characterized by plurality and the inclusion of the voices of the victims as a mechanism that facilitates national reconciliation.

This approach made it possible to mobilize around peace-building that sought the active participation of social organizations, public and private institutions, peasants, indigenous peoples, Afro-descendants, universities and businessmen. In other words, this regional approach generated an openness to civil society and a permanent, inclusive interaction between the State and the communities.

To respond to this demand for truth, in the framework of the peace agreement between the National Government and the FARC-EP, the CoT was created as one of the mechanisms of transitional justice and a body “of official, temporary, non-judicial investigation, responsible for inquiring into a constant of human rights abuses, including crimes against international law and for determining the truth of what happened in

certain contexts” (Millán, 2015).

The VC in Colombia was regulated by Decree 588 of 2017, through which the organizational rules, objectives and guiding criteria that this body would have for the clarification of truth, coexistence and non-repetition in the post-conflict framework were established. Article 7 of this Decree raised a territorial and regional look by establishing that:

It will be a national-level entity but will have a territorial approach to achieve a better understanding of the regional dynamics of the conflict and the diversity and particularities of the affected territories and promote the truth-building process and contribute to the guarantees of non-repetition in the different territories. The territorial approach will also consider the persons and populations forcibly displaced from their territories. In addition, the CoT may create working groups in the national territory following the provisions of its regulations (Presidency of the Republic, 2017).

Given the above, this territorial approach in the CoT sought to generate spaces to listen to the testimonies of the victims of the conflict from the regions, taking into account that the dynamics of violence in Colombia have been subject to the specific contexts of each territory. Therefore, the actions and ways of operating the armed groups have varied according to the particularities of each area. It also meant that the collection of testimonies was not limited only to the description of the abuses committed by the two parties to the conflict - Government - FARC-EP - but also aimed to access the territories and achieve a higher level of understanding of the dynamics, actors and temporality of the events, according to the scenarios in which they occurred.

This element sought to respond to the need for a construction of truth that would not be biased only by a centralist and urban view nor limited by the conformation of a model of truth that would only respond to governmental interests.

The mission of the CoT in Colombia, as established in the final peace agreement, was to fulfill three fundamental objectives: 1) to contribute to clarifying what happened in the framework of the armed conflict to “promote a shared understanding in society, especially of the lesser known aspects of the conflict”; 2) promote the recognition of victims as citizens whose rights were violated, as well as “voluntary recognition of individual and collective responsibilities by those who directly or indirectly participated in the conflict as a contribution to truth, justice, reparation and non-repetition” 3) promote coexistence in the territories and the “creation of a transformative environment that allows the peaceful resolution of conflicts and the construction of the broadest culture of respect and tolerance in democracy” (Peace Accord, 2016, p.131).

One of the guiding criteria of the VC is precisely the regional approach, as it seeks to approach all areas of the country in a differential manner and to understand the particularities and dynamics of each region, distinguishing actors, victims, perpetrators and how social relations vary around a territory strongly affected by violence.

The importance of this territorial approach as an element of peacebuilding from the CoT, is highlighted by Amnesty International, which states that:

Establishing regional offices may be necessary to ensure that all victims and witnesses have the opportunity to provide information, make statements and participate in the sessions. If regional offices are established, their number and location should consider the nature of human rights violations in different areas of the country and their territorial extent. Where travel to a fixed regional office is difficult or dangerous, mobile offices can be used to reach rural areas (Amnesty International, 2007).

This territorial idea in the framework of the VC in Colombia was taken into account when creating regional offices that enabled it to reach the country's most remote territories and thus be able to listen to the testimonies of victims in the regions. Likewise, when the Truth Commission proposed to open spaces for dialogue for the dignification of victims, it sought to contribute to the reconstruction of the social fabric in the most remote territories of the country based on its objective of including a regional approach that would allow the decentralization of the intervention in order to generate spaces for dialogue from the reconstruction of trust based on the inclusion of the most excluded social sectors that would facilitate the promotion of "processes of positive transformation of organizations and institutions throughout the conflict" (Peace Agreement, 2016, p.135).

It also sought to create spaces at the territorial, regional and national levels to listen to all the voices of the conflict, but especially as a priority to the individual and collective victims. This sense of dignity and recognition allowed all sectors of society to participate in a joint reflection on the factors that caused the conflict and its consequences in the reconfiguration of society.

The possibility for the CoT to reach the different regions and territories allowed the generation of a positive relationship with the victims, an element that, since the beginning of its work, has been imperative because if it did not happen, its final report could have been considered a failure (Feeman, 2006) and its credibility could be questioned.

On the other hand, it is important to mention that the Commission's legitimacy lies in its implementation, that is, the way it operates, interacts, relates to the territories, recognizes particular experiences and realities, and listens to the victims. These aspects, framed from a regional perspective, allowed the VC to enjoy credibility in the eyes of society and fulfill its objectives concerning the search for truth and reconciliation (Mersky and Correa, 2017).

Thus, these elements that were taken into account in the framework of the work developed by the VC were reflected in the generation of a territorial component for the final report, where it is possible to recognize the dynamics of violence and affectations that were generated in the framework of the armed conflict in the country from the reports that are divided into eleven macro-territories: Caribbean and Insular Region, Pacific Coast, Antioquia and Coffee Axis, South Andean, Middle Magdalena, Northeast, Central Andean, Orinoco and Amazon, Bogota and two non-geographic but differentiating territories in the framework of the analysis of the conflict: ethnic peoples and Colombians in exile.

Conclusions

In a scenario such as the Colombian one, the points raised in the final peace agreement are still on their way to being fulfilled, and the implementation of the agreement still poses challenges that have made it difficult to achieve the promise of a stable and lasting peace. However, one of the greatest achievements that can be highlighted in the framework of this peace agreement has to do with the work developed by the VC through its final report, which managed to compile, through different volumes, the voices and narratives of the

conflict from the regions.

When comparing the final report produced by the CoT in Colombia with international experiences such as those of Sierra Leone, Peru, Guatemala and El Salvador, which served as models for future transitional truth-seeking processes, it was possible to recognize the disruptive nature of the CoT report in Colombia, not only by producing a report divided into different thematic areas of groups affected by the conflict: children and adolescents but also by the fact that the report was not only a report on the conflict itself but also a report on the different groups affected by the conflict, such as children and adolescents.

It is also because it developed an in-depth work of compiling testimonies with a regional approach, which allows not only to have a complete view of what happened in the context of the armed conflict in the country but also facilitates the understanding of the dynamics of the war and its actors from a territorial and differentiated perspective, which privileges the stories of those who suffered the effects of war in territories far from the big cities and whose distance made it possible to make invisible what happened.

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