

NON-HUMAN ACTORS AND THE CONSTRUCTION OF A "FAILED" VIOLENCE CLARIFICATION COMMISSION: THE CASE OF THE CHCV IN COLOMBIA

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RESUMEN

El artículo que se presenta a continuación expone el resultado de una investigación de archivo que muestra la importancia de vincular al análisis de las tecnologías de la transición política los actores no humanos. Esto se hace presentando un marco teórico y una reflexión metodológica que permite pensar en la relevancia de la teoría del actor red. De la misma forma se presenta una cartografía de las transiciones políticas y su correlato jurídico (la justicia transicional) en orden a exponer una tipología de actores no humanos. Por último, se trazan las relaciones entre la coyuntura colombiana de transición, corporizada en la CHCV (Comisión Histórica del Conflicto y sus Víctimas) y los actores no humanos.

Palabras clave: estudios sociales de la ciencia, transición política, justicia transicional, actores no humanos.

ACTORES NO HUMANOS Y LA CONSTRUCCIÓN DE UNA COMISIÓN DE ESCLARECIMIENTO DE LA VIOLENCIA "FRACASADA": EL CASO DE LA CHCV EN COLOMBIA

ABSTRACT

The article presented shows the result of an archive investigation that shows the importance of linking non-human actors to the analysis of the technologies of political transition. This is done by presenting a theoretical framework and a methodological reflection that allows us to think about the relevance of the network actor theory. In the same way, a cartography of political transitions and its legal correlation (transitional justice) is presented to expose a typology of non-human actors. Finally, the relationships between the Colombian transition situation, embodied in the CHCV (Historical Commission of the Conflict and its Victims) and the non-human actors are traced.

Keywords: social studies of science, political transition, transitional justice, non-human actors

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INTRODUCTION

Myths are the foundation of organized society as we know it. Beneath the notion of imagined community there must be a myth of some kind, a myth that is mass distributed (Chatterjee, 2002). In societies that emerge from the ashes of dictatorships or civil wars, there is also a re-creation of myths, myths for new societies, for a new country¹ (Christie, 2007). This article is an effort to understand the forces that operate in the construction of a new national narrative, a new national myth, when there is a political transition conjuncture.

In the year 2012 the negotiations to end the inner armed conflict between the Colombian government and FARC guerrilla group became public. Between the spectacle and the secrecy that surrounded the negotiations during its almost four years, there were five points of national interest that were negotiated: agricultural development policy, political participation, conflict end procedures, solution to illicit drugs problem and victims². All these points refer to the presumed roots of violence, its catalyst phenomena and its effects. Among those points the more complex one, for the pain that it could generate and its political implications was the referred to victims.

Starting from the notion that it can be perfectly understood why in a negotiation between armed actors the victims issue is painful, I will address its political implications. For both actors (the State, represented by the executive, and the FARC guerrilla, represented by its main leaders: *El secretariado*) the legitimacy of fifty years armed actions was at stake addressing the victims topic. This was even more problematic to the FARC guerrilla, which in terms of public opinion was, and currently is for an important number of Colombians (Redacción política, 2017), understood as the bad guy. Colombian government, on the other hand, needed to affirm its role of constitutional defender of its citizens, even when there are documented cases of State's violation of Human Rights. Summarizing, the following question is the main source of conflict between FARC and the Colombian government: *how should be a half century conflict remembered?* This is nothing new, this is the sign of political transition conjunctures (Castillejo, 2013).

Indeed, the debate around victims' agenda point deepened a very difficult crisis that was being created for other factors. On September 24 of 2013, Juan Manuel Santos, Colombian president, argued before the United Nations general assembly what follows "We have been talking for a year and we only have achieved one of the six agenda points. I am still optimistic, but Colombian people patience is not infinite"³ (Santos, 2013). The moment when Santos makes his speech before the United Nations was marked by two problems: first, an idea of slow conversations that were not going anywhere⁴; second, a political campaign that, officially, was a few months ahead and that, in practice, was being part of everyday life through the social and mass media. These two problems were, in part, created by the government because of its naive and far optimistic expectatives⁵. The government was thinking that the Final Agreement (*Acuerdo final*) would be ready after one year

¹ It is no coincidence that the motto of Juan Manuel Santos presidency is "all for a new country" (*Todos por un Nuevo país*).

² Later there is going to appear a sixth point: implementation.

³ My own translation.

⁴ The Negotiation Table (Mesa de Negociaciones) was officially installed on October 18 of 2012. The agreement on the first agenda point (agricultural development policy) was made on May 15 of 2013, seven months after the official installation of the Negotiation Table.

⁵ President Santos said on September of 2012 that the peace process with FARC would only be a matter of months, not years ("El acuerdo de paz será una cuestión de meses, no de años: Santos", 2012).

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of negotiations (León, 2013). In September of 2013 they only had one agreement finished and other (political participation) on the making.

Parallel to the hard pressure that was being made over the negotiation by the political campaign and the high expectatives that government generated, there was another problem, the one that would bring the victims topic into the equation: the publication of the *Basta ya! Colombia* report. *Basta ya* was the result of a research that was done by the Historical Memory Group (*Grupo de Memoria Histórica* (GMH)), a government agency of experts, especially in Social Sciences, that vindicate their autonomy and independence. The report was “harmful” on the State and on the guerrilla. For example, the Defense Minister of the time critiqued the report content saying:

We cannot accept the intention to build historical memory based on the hypothesis of radical sectors. The country’s historical memory is clear: the country has suffered and aggression from criminal bands and terrorist’s organizations (...). Those cases cannot be considered and there cannot be theories that equate the glorious military forces and national police with the behave of criminal structures⁶ (Sin autor, 2013).

On the other hand, FARC guerrilla group wasn’t happy either with the work of GMH, arguing “FARC-EP call for the government to create the Revision and Clarification Commission of the True History of Inner Colombian Conflict, which complement the GMH report and other important initiatives that already exists”⁷ (La W, 2013). According to FARC, the State was the main human rights offender of Colombian armed conflict (Nación, 2013).

This political predicament arose the possibility conditions for the intervention of a third party, a *neutral-third*: other experts. On August 5 of 2014, Colombian government and FARC agreed on the launch of the Historic Commission of Conflict and its Victims (CHCV by its initials in Spanish). This commission, which is articulated with the first objective of the future and relatively probable truth commission in Colombia, contemplated the participation of 12 experts and two rapporteurs who had to deal with three controversial points when re-constructing the past: origins and causes of the conflict; facilitating factors of the conflict; and impacts on the population (Mesa de Conversaciones, 2014). This communiqué, and the subsequent joint communiqué of August 22, 2014, where the names of the commissioners and the commissioner were informed, configured the CHCV that presented its report on February 10, 2015.

This article presents the result of an archive research that had two objectives: first, to understand the relations between Colombian experts and the *Global Gospel of Forgiveness and Reconciliation*⁸; second, to present a typology of non-human actors that could serve to understand the particularities of the relation between political transition and social science experts. On this last point I am in tune with Latour’s proposal: enough of power, or at least enough of it while it cannot be described by its material form⁹. Let’s understand the scientific¹⁰ work, or expert work, through the associations that constitutes the life of actors that are related to it.

⁶ My own translation.

⁷ My own translation.

⁸ This concept will be defined in the conceptual framework.

⁹ I have had the great deception of seeing how power has become a shortcut in research. Sadly in many circles of the social sciences, especially the critical (the one that cannot afford simplism), saying that the cause of everything is power seems to be enough.

¹⁰ It is very possible that Colombian experts on conflict, especially the ones I studied, won’t feel comfortable being named as scientists. In that case I prefer to speak of “experts”. Later there is going to be more development of this category.

Avoiding the dying introduction, this article is divided into five parts: the conceptual framework, the methodology, the results (that are divided in two different sections) and the conclusions.

CONCEPTUAL FRAMEWORK

The expert

The scientific discourse of modernity is a successful dispositive that has permeated the collective consciousness of societies understood as modern and Western. It is difficult to find people formed in that four hundred year tradition who do not recognize the validity of stating, for example, that there is a clear division between the natural plane and social plane of existence (Latour, 2008). This basic belief consolidated the fields of knowledge between the sixteenth and nineteenth centuries (Wallerstein, 1996). The sciences were designed to approach the "natural" world from the inviolable principle of axiological neutrality. This is due to "the fact" that only from neutrality it is possible to authentically know the thing, the "natural world". In other words, the scientist must be able to abstract himself from his plane of social existence (full of axioms) in order to understand the natural existence.

The social sciences appear after natural science as the product of the need of the newly formed national States to administer the population (Wallerstein, 1996). Social sciences such as anthropology, sociology, economics and political science are responsible for each of the "different spheres" of the plane of social existence. What differentiates the disciplines from social science is both their object of study and the methods used to tackle it, consequently creating more and more divisions among knowledge, barely connected by fragile bridges that few would be willing to cross.

The axiological neutrality of science not only established the subjectivity of academics, it also besieged the idea of intellectual, understood as person of knowledge and transformative action. Razmig Keucheyan, professor at Université Paris-Sorbonne, has an interesting hypothesis when it comes to accounting for the process I have outlined. For him, the seventies in the twentieth century is a moment where a historical defeat of the intellectual (especially the critical intellectual) is consolidated (Keucheyan, 2013). His replacement is the figure of the expert, an actor especially gifted for inquiry and technical services based on the principle of objectivity and neutrality. I will dwell a little on this actor because its appearance is crucial for the study that I propose.

Who is an expert? According to the Royal Academy of the Spanish Language, expert is an adjective that means a person specialized or with great knowledge in a subject. It is interesting that the same academy puts as an example of the definition the case of a judge who calls to declare an expert in ballistics (Real Academia de la Lengua Española, n.d.). It could be said in accordance with the example that, in the context of a trial, although the expert does not give the last word, he can contribute a concept with sufficient weight to define it. Andrew Ross explains this by arguing that the authority of science is a vehicle of consensus in today's "technocratic democracies." Therefore, authority is widely exercised based on the appeal to the expert (Ross, 1999). The expert knowledge in contemporary society has the possibility to define the course of life itself, because it has the authority and legitimacy to do so.

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Santiago Villaveces, a Colombian academic that among other things has studied the tension between experts and intellectuals, criticizes what he understands as the consequence of the formation of “violentologists¹¹ experts” in Colombia. For him, the result of this formation is the origin of a generation of academics useful to the State’s agenda. This operates in detriment of a generation of critical and transforming intellectuals (Villaveces, 1998). Villaveces’ vision is reinforced with Jaramillo’s one in his evaluation of “The Committee of Experts” of 1987, entrusted by the Colombian State to explain the violence of the moment and recommend measures to eliminate it. According to Jaramillo, the Committee of Experts couldn’t do more than present “politically correct” recommendations that did little to attack the structural causes of violence (Jaramillo, 2014).

In short, an expert is a subject other than the intellectual, insofar as they are defined by their “knowledge on a subject” and not by their political commitment with a cause. It should be said that this vision is not shared by all, much less by those who have posed as experts. Gonzalo Sánchez, one of the key actors in the study of violence in Colombia, both for his production and his service to the State as an expert, argues that his work is academic and political at the same time (Jaramillo & Sánchez, 2011).

The political transitions

The notion of political transition appears with the so called “third wave of democratization”. The *political transition* is a concept that seeks to understand the political processes that were occurring especially in Europe and Latin America during the eighties and the nineties (Alcántara, 1992). Traditionally, the political transition is the institutional and “non-violent” transition from an authoritarian regime to a democratic regime. This point of view was principally defended by political science when the notion appeared (O’Donnell & Schmitter, 1986). There is other kind of transition, the one flows from a civil war to a “democratic normality”. The problem here is that the concept of political transition gets wider, because much of the civil wars takes place in the contexts of “democracies”, like was the case of El Salvador during the eighties, Peru on the nineties or even Colombia from 1963 to the present.

In political science there is no clarity if the pacification of a civil war through negotiation that takes place on a “democracy” is a political transition. It depends on the democracy concept that is used and its operationalization. But from the point of view of human rights and law literature there are reasons to think that the political transition exists in this cases, at least in some degree. The reason is that the same global dispositive operates on the transitions from dictatorships to democracies and from civil wars to democracies: the transitional justice and its technologies.

Transitional justice can be defined as a conception of justice associated with periods of political transition where crimes against humanity and violations of international humanitarian law are confronted (Hayner, 2008). The challenges that transitional justice faces are related to the measures taken to resolve a conflict or end a dictatorship without contributing to impunity (Ceballos,

¹¹ In Colombia the systematic study of violence has created almost a new discipline in social science: the *violentología* or violentology, a “discipline” with a very plural set of methodological tools aiming to explain our history and its relation to violence. In recent years the study of violence has open the doors to the study of memory and the study of peace building.

2009). From this definition of transitional justice and its challenges, it is necessary to clarify that a political transition is characterized by the abandonment of a non-democratic or not completely democratic state of things, to a fully democratic one. This can be seen in the immense literature that exists around the subject.

In contexts of political transition, States face important dilemmas in dealing with “past abuses” (Hayner, 2008). On one hand, they have the possibility of creating courts to punish the direct responsible actors for the violation of human rights, a measure that is not unpopular in any context (Theidon & Laplante, 2007). But the problem is that courts generally do not have the capacity to judge the large number of abuses that have taken place in transitional contexts, not even international ones (Hayner, 2008). Consequently, the door is open to a “turning to the truth”, as Hayner would put it, in order to successfully meet the challenges of transitional justice, to avoid impunity in all its forms. Truth commissions are part of a global device of transitional justice that has shaped the “turning to the truth”

There are four central characteristics of truth commissions, according to what Alejandro Castillejo has rightly called *The Global Gospel of Forgiveness and Reconciliation* (Castillejo, 2015): they focus on a review of a clearly delimitable past; investigate patterns of human rights violations, not isolated facts; has a specific duration established by its mandate; and it is official. These characteristics are due to the fulfillment of its objective, which is none other than to guarantee the truth, reparation and non-repetition of human rights violations. These commissions do not have legal missions beyond providing inputs for the courts to make autonomous decisions. To that extent there is an important difference between judicial truth and “historical truth”, “memory” or “historical memory” (Ceballos, 2009). Finally, it can be argued that the importance of these transitional technologies is huge. They represent new national projects and, of course, the consolidation of certain types of future social imaginations and social orders (Castillejo, 2015).

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The memory and the violence study commissions

How does a truth commission link with the study commissions on violence? Why is that connection important? First of all, we recall that all these institutional technologies make sense in the context of a political transition, or as Jaramillo puts it: “a critical conjuncture” (Jaramillo, 2011). Truth commissions, extrajudicial commissions and violence study commissions, although technically different, form central part of the construction of a “social imagination of the future”, typical of these conjunctures. They are connected within the framework of this definition, something that can sometimes be evidenced in the mandates of the different commissions. For example, the Commission for Clarification of Truth, Coexistence and Non-Repetition, the truth commission that is starting its duties in Colombia, articulates with organizations of civil society and the CHCV (Gobierno Nacional de Colombia & FARC-EP, 2015). This connection is relevant because it allows us to understand the importance of violence study commissions in Colombia. These commissions do not produce regular research, which in the worst case is useful for university indicators of academic productivity, these commissions are spaces of “social demarcation of the future”, powerful enough to stabilize central representations for the country’s political future.

METHODOLOGY CHOICES AND ITS REASONS

When I started the research on the CHCV, a research that commenced one year after the release of its final report, I was amazed by the reactions of my colleagues. Almost all of them told me the same: "that commission was a failure". When I started to think in that idea I realized that I was thinking the same. Why is people, including me, thinking that the CHCV was a failure? As I am going to show later, why even some of the academics that were part of the commission thought the same? The first hypothesis that comes to my mind is that there is one way of doing good violence study commission and one way of doing it wrong. Following the conceptualization of memory that I just did, this means that there is a good way to domesticate memory and a wrong way. But if we accept this we need to ask the following question: how this set of ideas of good and wrong were constructed? Which were the key actors and the fundamental agencies to make people believe that the CHCV was a failure?

In order to answer these questions, I started from the certainty that constructivism is a paradigm useful in order to comprehend how CHCV was understood as a failure both for people that followed the negotiation process between Colombian State and FARC guerrilla, and for some of the experts who were part of the commission. But the constructivism that I addressed, very similar to the "Marxists tradition of Cultural Studies", is not obsessed with power, hidden structures or patriarchy. Is obsessed with the networks that built the power, the structures and the patriarchy. As Bruno Latour would put it, power is not the explanation of society, is what has to be explained (Latour, 2008).

According with Latour's constructivism, the first task of the social researcher is to understand how a social group is constructed, and that is what I did on the research I am presenting to you. But the social groups aren't constructed only by the human agencies, they are also created and mainly stabilized by the non-human agencies. Consequently, identifying the network of actors, both human and non-human, that constitute a contingent social group is the first step of a social research.

In order to present this network of human and non-human actors that constitute the group of political transition experts in Colombia, I did an archival research that took two kinds of sources. The first kind were academic. I made a revision on some of the most important transitional justice researches and truth commissions' final reports in order to understand the common trends of what Alejandro Castillejo calls the *Global Gospel of Forgiveness and Reconciliation*. This common trends enabled me to make a typology of non-human actors that needs to be addressed in any research on political transitions and transitional justice settings. The second kind of sources were news from important Colombian written mass media and videos and articles of different kind of organizations that interviewed the CHCV's commissioners. This kind of sources allowed me to present the human actors that were part of the group of political transition experts in a precise moment of the negotiation between the Colombian government and FARC guerrilla group: the definition of responsibilities with conflict victims. The press review allowed me to understand how this complex network of actors made possible to think that CHCV was a failure.

There is one thing I need to make clear here. It is irrelevant for this work to state CHCV was a success or a failure. Success and failures are constructed realities, the construction of those realities is what move the work that you are reading. In synthesis, these work isn't for judging, is for understand the relation between a given knowledge and a given power.

A TYPOLOGY OF NON-HUMAN ACTORS IN POLITICAL TRANSITIONS

Human and non-human actors within the framework of the global transitional justice system

What is a human actor and a non-human actor? According to the work of Bruno Latour it is not productive to maintain the sharp difference between the plane of the natural and the social. In doing so, the possibilities of academic and political intervention in the social sciences are reduced to that ideal world of human relations. I say ideal because any "human relation" is affected by the agency of non-human entities that must be defined to understand the formations that make up the groups of our interest. I must start from the recognition that this article section is the product of two moments, that of the first writing, conventional in the sense that it does not account for non-human entities, and the second writing, aware of the need to put in evidence the human and non-human actors.

When the trajectories of transitional justice are reviewed in the light of the truth commissions, the experts who inhabit them and put them into action, it is easy to think that we are dealing with eminently human issues. In the end, where are the microscopes, chemical compounds or computer programs that, when they fail, for example, completely change the course of an agency? However, as Bruno Latour argues, the failure to find human agency is possible only by a description not sufficiently rigorous, by a form of writing circumscribed to the modern principle of the radical division between the "social and natural planes of existence".

Let us think now for a second what a non-human actor implies. According to Latour, a non-human actor is anything that modifies a state of affairs (2008). Does a satellite modify a state of affairs? Yes, we can say without fear. To find meaning in this, let us think on the effect that a satellite information of our geographical environment has on our daily lives. Think on the effect that satellites have in the course of contemporary war. Of course, someone will argue that the satellite has no motivation, and, to that extent, does not act. But if we understand the satellite agency as an action delegated by an operator to the machine things change.

We would hardly argue that because a paramilitary was delegated by one of his leaders to massacre an entire town we are not facing an actor, even when that paramilitary soldier argues that he had no motivations, only an order. Evil can be banal, as Hannah Arendt said, but that does not mean it is not the product of an act. Just like an unmotivated and obedient paramilitary soldier intervenes in a state of affairs (town in pace to massacred town), a satellite without motivations intervenes in a state of affairs (lost person to located person).

Then, what are the non-human actors in the framework of political transitions and transitional justice? I can say they are those tools that, in this case by delegation, intervene in the transition from a political system different from a democracy (or a democracy in conflict) to a democratic political system (or democracy in peace). The tools are a combination of instruments of protection

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and promotion of human rights that are synthesized in two categories: international principles of transitional justice and "successful cases" of political transition.

I am going to anticipate to some possible questions: how is possible that an international principle, a product of human activity, is a non-human actor? Who would think that a case, which is an abstraction, is a non-human actor? Rules and cases are like a spanner, a material cultural product that has a series of functions and a series of ways to be appropriate. The wrench was thought to remove and adjust nuts, although it can be used to break heads in certain contexts. The same happens with the law, cases, and a certain corpus: they are dead work, objectified work that in the consumption process can be subjectivized (appropriated). According to Marx, the work process is an objectification of subjectivity, the opposite of the consumption process, which is a subjectivization of objectivity (Marx, 1989). The subjectivization of objectivity is exemplified by the case of the spanner and its uses. The objectification of subjectivity is instead the process in which the will of a human being gives shape to an object in order to supply a need. Legislative work, which ends in the creation of norms, is living work in the debates of the congressmen. It is dead work when it is recorded in the official gazette. When the work is dead, we are in front of a thing.

The Charter of the United Nations, the Geneva Conventions, the Declaration of Basic Principles of Justice for Victims of Crimes or Abuse of Power, the Principles for the Effective Prevention and Investigation of Arbitrary or Summary Extrajudicial Executions, and the reports and books produced by the work of the Colombian commissions on the study of violence are dead work. However, are they actors? Objects can only be actors to the extent that they are figured as such. The idea of this article is to include such actors, to show their relevance in the course of the actions that are done in the multiple technologies of transitional justice and political transitions.

International trajectories of transitional justice: the construction of "successful cases"

According with Ruti Teitel, there have been three phases of transitional justice, but I will only speak of two of them, the ones that are articulated with the problem this research is dealing with. The first phase is the "transitional justice of the postwar period" (Teitel, 2003). This appears after the end of the First World War, and has to do with the definition that the winning powers made of "just war" and, consequently, with the definition of the punishment of Germany for its aggressions. After the Second World War the first phase ends with two characteristics: first, international law imposes itself on national sovereignty; Second, punishments must be individual, not collective (Teitel, 2003). The courts of Nuremberg as an institutional device of this phase, evidence a persecution of "war criminals", instead of the "offending State", thus breaking its relationship with the post-war justice. On the other hand, these courts show that international law (or the right of the winning side) is stronger than the sovereign right of nation-states. This first phase will be short because, according to Teitel, the geopolitical bipolar conditions of the cold war prevented a hegemonic international right in the world that could be applied to prosecute the maximum guilty of crimes against humanity.

In the second phase of transitional justice there is a central transformation for what concerns to this research. According to Teitel, the progressive weakening of the Soviet Union and its subsequent fall causes a "new wave" of political transitions to democracy. In this wave of transitions, which begin in Latin America and later move to eastern Europe, Africa and Asia, new characteristics

of transitional justice appear: first, it moves from a model of transitional justice with universal pretensions to one with local pretensions; second, it goes from a model of retributive justice to a model of restorative justice; and third, while in the first phase of transitional justice there was a clear willingness to punish some "guilty parties", in the second phase there is a willingness to rebuild the nation, to "start over" (Teitel, 2003). The new beginning is sought especially through three principles: truth, forgiveness and reconciliation.

How do non-human actors appear in the context of transitional justice that I have presented? I would like to argue that they appear from the construction of "successful cases" of transitional justice. This construction of successful cases has become *The Global Gospel of Forgiveness and Reconciliation*, which is not only part of academic reflections, it also is materialized in principles approved and disseminated by the United Nations.

In the literature on truth commissions and transitional justice, the successful case par excellence is the Truth and Reconciliation Commission of South Africa. Alejandro Castillejo argues that "the country has been indexed by academic niches, such as international theorizing circuits on" transitional justice "as an epitome, as a replicable example of a" successful "and" peaceful "transition towards "Democratic mandate"¹² (Castillejo, 2013, p.46). This can be evidenced in organizations such as the influential Transitional Justice Network (an international network of study, advice and academic exchanges on transitional justice), and in the academic literature on transitional justice. However, the South Africa success is the product of the construction of a series of principles that were developed in international organizations around the problem of impunity, which began to be "detected" in political transition processes that took place before South Africa started its process. According to Hayner, there were a total of fourteen truth commissions before the "success story" of South Africa appeared, and after it, other "success stories" such as Guatemala and Peru. The National Commission on the Disappearance of Persons (CONADEP), which took place in Argentina, was one of the experiences that preceded the South African truth commission.

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This commission, decreed by the Alfonsín government, responded mainly to the need to clarify the fate of thousands of disappeared after the destruction of official documents by the military leadership that left power. It also sought to break the legal immunity that was guaranteed to the military (Hayner, 2011). This element is the cornerstone of the whole discourse against impunity that ends up creating "successful cases". As mentioned by Ceballos, in the 1990s the international debate on human rights and international humanitarian law focused on the issue of impunity due to the multiple non-democratic regimes that transited democracy with self-amnesties (2009). As will be seen, the great rupture of the South African case with previous cases of political transition, is its renounce to start the process with self-amnesties.

Eleven years after the Argentine commission, the experience that became the paradigm of truth commissions appears: The Truth and Reconciliation Commission of South Africa. It managed to appear on behalf of a parliamentary decision after two years of constitutional debates and a series of international conferences on transitional justice policies in South Africa, which were seasoned by public hearings and pressures from civil society (Hayner, 2011). The context that preceded the

¹² My own translation.

legislative decision to create a commission is important. It represents the consolidation of a series of concerns in the circuit of human rights.

In 1992, when the negotiations between the South African government and the ANC (African-National Congress) took place, an article was published summarizing the state of the discussion that I have addressed. It proposes, for the first time, the need of a South African truth commission (Hayner, 2011). The author was Kader Asmal¹³. He stated at least three reasons for a truth commission in South Africa: first, South Africa had to avoid forgetting what happened during apartheid, because past experiences in countries like Chile, Argentina or Czechoslovakia exposed the error that such a thing meant. According to Asmal, the policies of self-amnesty and oblivion of dictatorial regimes such as those of Argentina and Chile, and authoritarian such as Czechoslovakia, generated impunity and the impossibility of the democratic project. This was to the extent that without truth and justice the conditions of possibility of horror and revenge would remained unchanged. In the same way, and this connects with the Colombian case, Asmal suggested that without unearthing the roots of violence, it was impossible to eradicate its effects.

The second reason for a truth commission in south Africa was the conventions and principles of international law (non-human actors) that a democracy could not ignore. Asmal cites the UN Convention on the Non-Applicability of Statutory Limitations to War Crimes and Crimes against Humanity (1968) as an argument that prevents the policies of forgetting. The third reason was that both lessons from other cases and the principles of international regulations, called for the use of a justice system that avoids impunity and forgetting (Asmal, 1992). Such a system should be a truth commission that learned from the mistakes of previous experiences. This means that the justice system needed to adhere to international principles against the imprescriptibility of crimes against humanity.

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International principles against impunity

The south African case and other and other ulterior cases like de Peruvian and the Guatemalan ones helped experts to define what a “successful case” of truth commission is. First, there are a series of attributions or licenses for what from now on will be called the archiving process¹⁴, which will largely mark the relationship of “a nation” with the past. Testimonies, forensic searches, access to secret files are part of those attributions. Second, there is an epistemic privilege to the “factual” resource when it comes to archiving the past. It is from this resource, which is based on the victim / perpetrator coding, that the political present is modified, leaving the testimonies and the long-range historical narratives as an exceeding of the commission (Gonzalez, Naughton, & Reátegui, 2014). Third, the conceptual coding operations of the past are organically articulated to the discourse of human rights, which succeeds in taking a concrete form for transitional justice technologies in international principles against impunity.

¹³ South African political leader and lawyer.

¹⁴ The archiving process “refers to a series of conceptual and political operations by means of which the past is authorized, consigned, codified and named as such. This exercise is essentially analogous to the exercise of producing a map “(Castillejo, 2013, p.306). *This is my own my own translation.

I had already mentioned that even before the South African commission appeared, the problem of impunity was a topic of international debate. It is in the middle of that discussion that Kader Asmal gives his famous talk that ends up being the article that I mentioned before. In 1991, the Sub commission on Prevention of Discrimination and Protection of Minorities of the UN requested one of its members, Louis Joinet, to present a report on the violation of human rights and impunity. The Joinet report, presented in 1996, just when the South African commission began, was a central precedent for the consolidation of a series of international principles against impunity (Ceballos, 2009; Gallón & Reed, 2007).

According to the Joinet report, the origin of the fight against impunity had four stages: the first stage was the fight against political prisoners in the decade of 1970-1980, especially in Latin America. Joinet maintains that the search for an amnesty is the product of a legitimate struggle for freedom and democracy (1996). The second stage was the use of amnesty by outgoing dictatorships, which, because it was a "deviation" of the tool, generated the reaction of the victims. The third stage was the product of the fall of the Berlin Wall, which ends up generating a large number of transitions to democracy that will assume as a state policy the oblivion as opposed to the "interests" of the victims. The last stage that Joinet names is the "awareness" of the "international community" regarding impunity, something that is manifested in the decision of the Inter-American Court of Human Rights to classify as incompatible with the rights of people the fact that human rights violators are amnestied.

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Despite the fact that in Joinet's report both the rights to avoid impunity (truth, justice, reparation and non-repetition) and the "the duty of the state to remember" are found, the document that officially names the principles against impunity was written in 2005 (Gallón & Reed, 2007). *The Set of Updated Principles for the Protection and Promotion of Human Rights through Action to Combat Impunity* is, perhaps, one of the most important non-human actor in the framework of a transitional moment like the one Colombia is experiencing. Although "successful cases" are horizons of meaning, and to that extent affect the course of a certain collective context, the principles are something much more tangible for governments, technicians and experts. Thus, they have a greater incidence in the course of the agencies undertaken by Transitional technologies such as truth commissions.

The document that I have just mentioned contains an obligation for the States, three rights for whole humanity, and 38 principles that go through both the rights and the duty of the State. It also contains a series of definitions of key concepts within the framework of the global transitional justice system. Bearing in mind that for this investigation I am particularly interested in what has to do with experts and extrajudicial truth-clarification commissions, I will only mention two elements: the obligation of the State to fight against impunity, important because is the State the one that creates the commission of my interest and those that precede it; and both the general principles of the "right to know" and the principles specially designed for the exercise of Truth commissions and other extrajudicial apparatuses of clarification.

The first principle against impunity described in the document that I have quoted approach the obligation of States to adopt measures to fight against impunity. The first principle suggests:

Impunity constitutes a violation of States' obligations to investigate violations, taking appropriate measures with respect to their perpetrators, especially in the area of justice, so that persons suspected of

criminal responsibility are prosecuted, tried and sentenced to appropriate penalties, to guarantee the victims effective remedies and the reparation of the damages suffered to guarantee the inalienable right to know the truth and to take all the necessary measures to avoid the repetition of said violations (Gallón & Reed, 2007, p.38)¹⁵.

Based on the foregoing, it is understood that, within the framework of the Colombian present, the point of the victims and clarification of the truth is of such importance. Unlike all the points of negotiation between the Government and the FARC, the point of victims was the only one truly inescapable. In accordance with this principle, the State has the obligation to guarantee access to the “truth”.

The right to know frames four general principles that constitute a great extent of the fight against impunity: the inalienable right to the truth; the duty to remember; the right of victims to know; and the guarantees to make effective the right to know. When we talk about the inalienable right to the truth, we talk about the right that all people have to know the events that in the past produced human rights violations. Such knowledge is necessary insofar as it is a “fundamental safeguard” against the repetition of abuses (Gallón & Reed, 2007). The duty to remember refers to the duty of the State to create the necessary conditions (archives, museums) for not forgetting the past and the shortcut of denial narratives. Victims, before any other person, have the inalienable right to know what produced their victimization. In order to achieve what have been stated, the State must ensure judicial independence and effectiveness, where truth commissions are a valid and highly technical measure.

The technification of the truth commissions is what Castillejo, as I have shown before, calls the Global Gospel of Forgiveness and Reconciliation. Just as if we were talking about commandments, the principles approved in 2005 establish all the details of its operation. The principle of “Establishment and function of truth commissions” suggests that commissioners as a commission should be the result of “broad public consultations” where victims and survivors should play a central role in establishing truths that were previously being restricted. The principle of “Guarantees of independence, impartiality and competence” establishes three guidelines for truth commissions: They must be made up of independent human rights experts; its members must have all the legal certainty that is pertinent in order to avoid defamation and persecution for their work; and in the election of the members should be thought about equitable gender quotas and the presence of vulnerable groups.

The principle of “delimitation of the mandate of a commission” prohibits the judicial attributions of truth commissions and establishes the need for accompaniment to the commissioners in terms of the protection of their life. It also establishes the investigative priority that must be given with respect to serious violations of human rights, where what refers to “women and other vulnerable groups” is a priority. It also establishes that all the actors of the conflict (legal and illegal) should be addressed, and the mission of protecting the archives. There are other principles that deal with operational elements such as resources, publicity, advice and guarantees to the accused. This won't be addressed for space limitations.

¹⁵ My own translation

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After reviewing these principles it is difficult to argue that we are not facing a non-human actor par excellence. All this coded principles are dead work with the capacity to exercise changes in political transitions. This changes may be good or bad, but this is not the place to argue it.

THE CONSTRUCTION OF A “FAILED COMMISSION”

On the day of the installation of the commission, August 21 of 2014, several of the commissioners made mention of the position of Alejandro Ordoñez, General Attorney of the Nation, because two days before he did release an official statement in which he criticized the commission. According to Alejandro Ordoñez, the truth was being negotiated in Havana, something that violated the human rights of the victims (Ordoñez, 2014). On the other hand, he argued that the creation of the commission was the product of a guerrilla strategy to rewrite history in such a way that the guerrilla would be “dressed” as a political actor (Ordoñez, 2014).

I think it is particularly important to emphasize the axiom of impartiality and independence invoked by the former prosecutor making reference to international cases. After all, we have already seen how that non-human actor is synthesized in “successful cases” of truth commissions exercises a fundamental agency in the transitional contexts through the technologies that put them to work. Ordoñez made clear reference to axioms of these technologies. Although later in that letter Ordoñez acknowledges that the joint statement of August 4 (the statement that gave life to the CHCV) recognizes that there will be no legal effects, also say that it is unacceptable to try to establish responsibilities in the middle of a negotiation with an organization that remains outside the law and “in means of permanent terrorist attacks “(Ordoñez, 2014, p. 3).

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Out of this expectation held by one of the state agencies in the skin of a character like Alejandro Ordoñez, *Semana* magazine also presented some negative expectations, although from profoundly different political edges. On August 23, Rafael Guarín, a lawyer with several masters and specializations in “security and anti-terrorism”, reproduced to a large extent Ordoñez’s position. According to Guarín, the CHCV is the product of a guerrilla strategy to rewrite a “true history” for a “false history” that works for its political purposes. The idea that synthesizes the positions I have shown so far is clear: the truth is in danger, because the “experts” are the product of a guerrilla strategy to achieve political objectives through the generation of new historical narratives. This danger is present, according to Ordoñez and Guarín, because the CHCV wasn’t formed with the standards of international axiom of impartiality and independence. In other words, the commission was condemned even before it was operational. Non-human actors are key to understand this.

But the idea of a not effective work did not come only from outside the Commission, eventually it came from within. This idea was built on three “problems”: the “autism” of the reports, the disconnection between the report and the public debate, and gender inequality. The “autism of the commission’s reports” and the disconnection with the public debate are points expressed especially by some commissioners. Regarding the “autism of the reports”, Daniel Pécaut, one of the commissioners, is the one who proposes the judgement in a direct way, referring to the absence of discussion of the different products of the work of the commissioners (Rodeemos el Diálogo, 2015). On the other hand Jairo Estrada, other commissioner, states something similar. He will say that one of the great weaknesses of the commission is the absence of a space for discussion among the commissioners, although it does not hesitate to claim that there are different ways of understanding

the conflict and that they have an expression in that commission (Mosquera, 2015). Maria Emma Wills, the only woman among the commissioners, also argues that the commission is in debt for not having done the job of finding a convergence in what was proposed by different commissioners (Mosquera, 2015). At this point it is worth remembering that in principle this “autism” should not be a failure variable, since the communiqué created by the commission establishes the possibility for this type of report (Mesa de Negociaciones, 2014). It was the past commissions in Colombia and the world, both framed as “successful cases”, that function as an unavoidable frame of reference for the experts who see in this particularity of the CHCV a feature of failure.

The disconnection with the public debate is a feature of failure according to the expectations of some of the commissioners. According to Pizarro, one of the rapporteur, great utility of the commission and its maximum aspiration was to function as the Sábato Report, the final report of the CONADEP. Moncayo, the other rapporteur, also said the same when he assured that one of the recipients of the report was “the opinion”. However, both the length of the report (809 pages) and the fact that its debate had not left university scenarios, as Wills suggests (Mosquera, 2015), means that the target is not met. It is important to see that that Pizarro and Moncayo expectations, and later reason of failure, were only possible by the force of the “successful cases”.

Finally, another of the elements that marked “the failure” of the commission was the exclusion of women. Maria Emma Wills was one of the great critics of that fact. According to her, women do not get the place they deserve in the commission due to a “masculinist backwardness” in the academy (Embajada de Suecia & Wills, 2015). Wills maintains that the social training of women leads her to be especially sensitive to the problems of sexual violence, to the problems that emerge from the private, to the youth and the affection. It can be said that, from the point of view that I have stated so far, a relatively successful or successful commission would have gone through an equitable appointment of men and women as commissioners. But, as Wills puts it, maybe the problem is not that you need a voice from the woman, rather the problem is that there is not a look from the feminine (Wills & Bautista, 2014).

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CONCLUSION

The CHCV wasn't a failure, at least not in the common way of understanding failure. The CHCV was supposed to prepare 10 essays from different social science experts, known for their study on Colombian conflict in order to clarify three aspects of it: origins and causes of the conflict; facilitating factors of the conflict; and impacts on the population (Mesa de Conversaciones, 2014). Ten essays were delivered, treating with more or less care the three aspects of Colombian conflict that were asked to clarify.

There had to be one rapporteur made by the hands of two assigned experts different from the ones that made the essays. In this case the two experts couldn't or didn't wanted to agree, so the final report had two rapporteurs. This was presented by the experts as a way of constructing a pluralistic society. Two rapporteurs and ten unconnected essays were presented by the main visible heads of the commission as the product of “the pluralistic commission” (Paz, 2015).

The question is, why if the commission did all what was expected of it by the document that gave it life, it was understood as a failure? The answer I have shown is that non-human actors like

“successful cases” of truth commissions and the international principles against impunity exercise a force on the course of the actions that are undertaken in political transition settings. Let us not forget both things are dead work, and therefore things, non-human agents. The “successful cases” of truth commissions are a set of ideas that borrow different forms, among them the South Africa form. International principles against impunity are a codified set of ideas that structures the mobility of human agents. So, for answering the question more abstractly, the failure was the product of a social and a historical construction that can be traced through the dead work of humans.

As Lawrence Grossberg puts it, humanity is not entirely free but not entirely determined. There is a structured mobility where we can freely move and that also can explain our choices, our hopes, our “realism” (Grossberg, 2012). The fences that structures the mobility of humans are material and relational. The CHCV could have done things differently within the joint statement that gave it life, it was capable of doing something that my colleagues and I could admire, but it couldn’t be understood as a success in a dominant way. In a political transition setting there are a stable set of relations that constitute what is wrong and what is right, a kind of building that Castillejo names *Global Gospel of Forgiveness and Reconciliation*. The problem here is that a political transition setting shouldn’t be so constrained. It should be the space where “utopias” could be seen as possible. My hope is that a better understanding of the relational materiality that constitute the political transition network, with all actors include, may give us the chance to an authentic transformative moment. This article is a first step to that end.

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