

opción

Revista de Antropología, Ciencias de la Comunicación y de la Información, Filosofía,
Linguística y Semiótica, Problemas del Desarrollo, la Ciencia y la Tecnología

Año 35, 2019, Especial N°

25

Revista de Ciencias Humanas y Sociales

ISSN 1012-1587/ ISSNe: 2477-9385

Depósito Legal pp 198402ZU45



Universidad del Zulia
Facultad Experimental de Ciencias
Departamento de Ciencias Humanas
Maracaibo - Venezuela

opción

Revista de Ciencias Humanas y Sociales

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ISSN 1012-1587/ ISSNe: 2477-9385

Depósito legal pp. 198402ZU45

Portada: De Cabimas a Maracaibo enamorado

Artista: Rodrigo Pirela

Medidas: 100 x 60 cm

Técnica: Mixta sobre tela

Año: 2010

Políticas públicas para los derechos y para la paz

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Resumen

Los lineamientos y directrices que determine un Estado y las acciones que desarrolle para lograr efectividad y resultados exitosos en

¹El presente texto expone resultados de investigación del proyecto titulado “Desafíos contemporáneos para la protección de Derechos Humanos en escenarios de posconflicto desde enfoques interdisciplinarios”, que forma parte de la línea de investigación Fundamentación e implementación de los Derechos Humanos, del grupo de investigación Persona, Instituciones y Exigencias de Justicia, reconocido y categorizado como Tipo A1 por COLCIENCIAS y registrado con el código COL0120899, vinculado al Centro de Investigaciones Socio jurídicas (CISJUC), adscrito y financiado por la Facultad de Derecho de la Universidad Católica de Colombia.

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Recibido: 03-07-2019 • Aceptado: 15-11-2019

un proceso de paz son fundamentales para demostrar la pertinencia del acuerdo y la legitimidad de la decisión tomada por el gobernante. Es precisamente sobre la validez, no sólo formal, sino especialmente material de los acuerdos sobre la cual es necesaria una reflexión, en concreto sobre las políticas públicas y las acciones integrales que debe ejecutar el Estado para prevenir nueva conflictividad, que con seguridad podría ser más perjudicial y dañina para la población.

Palabras clave: políticas públicas, justicia, paz, conflicto, prevención.

Public policies for rights and for peace

Abstract

The guidelines determined by a State and the actions it develops to achieve effectiveness and successful results in a peace process are fundamental to demonstrate the relevance of the agreement and the legitimacy of the decision taken by the ruler. It is precisely on the validity, not only formal, but especially material of the agreements on which a reflection is necessary, specifically on public policies and the integral actions that the State must take to prevent new conflict, which could surely be more harmful and harmful to the population.

Key Word: Public policies, justice, peace, conflict, prevention

1. INTRODUCTION

Despite the different contents¹ of the peace agreements signed between governments and armed actors outside the law, the threat caused by the conflict is still present in many countries. Therefore, it is necessary to define routes and establish an effective operation through

¹ Translation by the authors. In other themes, it's important to express that there must be precise rules that establishes exactly the way of responsibility in illicit, inadequate or offensive content (Woolcott y Flórez, 2014)

a new public policy², in such a way that the State³ fulfills its duty of not repeating what happened and alleviates in some proportion the after-effects of the violence. War comes into force again if the State's institutions do not design and execute a true plan that responds to the need for peace.⁴

When addressing issues related to public policies⁵, the importance of law within them and the search for peace, it will always be necessary to review, analyze and evaluate the different actions of institutions in their different manifestations, both public and private, that must comply with the purposes enshrined in their constitutional⁶ and legal order, in order to demonstrate the degree of commitment and

² “A public policy consists of an action program itself or from various governmental authorities in a social sphere or a given territory” (Becerra, 2014: 96)

³ “Desde el derecho, el Estado se ha entendido como un conjunto de poderes públicos, especialmente concretizados en el legislativo, el ejecutivo y el judicial” (Burgos, 2018: 106)

⁴ “The maintenance of peace, international security and the principle of abstention from the threat and use of force establishes new challenges in the fight against terrorism in the twenty-first century” (Chacón, Pinilla y Hoyos, 2018: 159). Translation by the authors. Original text: “El mantenimiento de la paz, la seguridad internacional y el principio de abstención de amenaza y uso de la fuerza plantean hoy nuevos retos en la lucha contra el terrorismo en el siglo XXI.” (Chacón, Pinilla y Hoyos, 2018: 159).

⁵ “Public policy - in its broadest conception - refers to the basic set of principles established, generally, by legislative action, and which direct the actions of a government, especially of the various strata that make up its executive/administrative branch, to deal with a set of established problems, both in the short and long term.” (Avendaño, Paz y Rueda, 2017). Translation by the authors. Original text: “La política pública -en su concepción más amplia- hace referencia al conjunto base de principios establecidos, generalmente, por acción legislativa, y que dirigen el accionar de un gobierno, especialmente de los diversos estamentos que componen su rama ejecutiva/administrativa, para tratar con un grupo de problemas establecidos, tanto en el corto como en el largo plazo.” (Avendaño, Paz y Rueda, 2017)

⁶ “Constitutional law, which has been partly built on social revolutions, has been characterized by a moral, liberal progressive and even positivist perspective.” Translation by the authors. Original “El derecho constitucional, que ha sido en parte construido sobre revoluciones sociales, se ha caracterizado por una perspectiva moral, liberal progresista e, incluso, positivista” (Llano y Silva, 2018: 64)

effectiveness of their actions to achieve peaceful coexistence, development and security⁷, understood from their integral conception.

The political, social and administrative sciences must provide elements and tools that allow a better understanding of the conditions and concrete possibilities for the implementation of policies in favour of and respectful of human rights⁸. (Roth, 2006: 10)

Several cases around the world initially report on the justifications for the measures adopted and the actions taken by the representatives of the governments⁹ in power to achieve peace and vindicate the rights of their citizens - who surely had the best intention, but did not always achieve the desired result - in which it is evident that, lacking concerted, serious, forceful and comprehensive public policies¹⁰ and effective justice¹¹, together with the observance of the

⁷ "It is important to highlight the importance of security as a public good, and peace as a right and a duty of obligatory compliance, as indicated in article 22 of the Political Constitution of Colombia." (Cubides, Caldera y Ramírez, 2018). Translation by the authors. Original text: "Cabe resaltar, la relevancia que tiene la seguridad al ser considerada como un bien público, y la paz como un derecho y un deber de cumplimiento obligatorio como es indicado en el artículo 22 de la Constitución Política de Colombia" (Cubides, Caldera y Ramírez, 2018).

⁸ Translation by the authors. Original text: Es preciso aportar desde las ciencias políticas, sociales y administrativas elementos y herramientas que permitan entender mejor las condiciones y posibilidades concretas de implementación de políticas a favor y respetuosa de los derechos humanos. (Roth, 2006: 10)

⁹ An essential characteristic feature of Latin American political thought, from the birth of modernity to the present day, has been the cultivation of ideas of a "practical humanism" character in the fase of diverse historical forms of alienation generated by the power of some institutions. (Guadarrama, 2018). Translation by the authors. Original text: Un rasgo característico esencial del pensamiento político latinoamericano, desde el nacimiento de la modernidad hasta la actualidad, ha sido el cultivo de ideas de carácter "humanismo práctico" frente a diversas formas históricas de enajenación generadas por el poder de algunas instituciones. (Guadarrama, 2018).

¹⁰ From this perspective, "a public policy is the result of the activity of an authority vested with public power and governmental legitimacy in front of a problem or in a relevant sector

State's¹² duties in relation to human rights¹³, the different crises caused by conflict were not overcome.

Although it is true that in most cases where peace agreements¹⁴ have been signed, negotiators, delegates or representatives of public institutions, civil society, rebels or the international community incorporate in their agendas friendly issues such as the humanization of the conflict, the surrender of arms, respect and guarantee of human rights¹⁵, political, economic and social reforms, All of this can be a dead letter if this institutionality does not previously carry out a judicious analysis of the legality of what has been agreed, a real planning of activities and a serious budget study to fulfill the commitments.

of its competence" (Grisales and Giraldo, 2008: 79). Translation by the author. Original text: "una política pública es el resultado de la actividad de una autoridad investida de poder público y de legitimidad gubernamental frente a un problema o en un sector relevante de su competencia" (Grisales y Giraldo, 2008: 79)

¹¹ "The importance of the right to access to justice is evident, as is the prominent role that non-formal justice and community justice can play in supporting public institutions and, in general, the operation of the State in its duty to provide citizens with access to justice" (Castillo y Bautista, 2018). Translation by the authors. Original text: "Es evidente la importancia del derecho al acceso a la justicia y el destacado papel que puede cumplir la justicia no formal y la justicia comunitaria para apoyar a la institucionalidad pública y en general a la operatividad del Estado en su deber de brindar acceso a la justicia a los ciudadanos." (Castillo y Bautista, 2018).

¹² The rule of law is one of which behavior in accordance with the law predominates, as opposed to societies in which violence and criminality predominate. (Gómez, 2018: 34). Translation by the authors. Original text: El Estado de derecho es aquel en el que predomina el comportamiento conforme a la ley, en contraposición a las sociedades en las que predomina la violencia y la criminalidad. (Gómez, 2018: 34)

¹³ "Human Rights have then been represented through the realization of life project and therefore by being able to preserve what is important for them as a manifestation of liberty, freedom and life itself" (Navas - Camargo, Cubides y Caldera, 2018: 2119).

¹⁴ These include agreements in countries such as Nepal, Sierra Leone, South Africa, Salvador, Guatemala, the Philippines, Indonesia and Colombia.

¹⁵ Human Rights have become a legal and political vocabulary able to fend off the violence that causes human and social suffering, and the damage of nature and the planet by transnational corporations, and international financial and commercial institutions. (Barreto, 2018).

Conflict is a necessary evil that makes it possible for societies to reinvent themselves, because in times of uncertainty and pessimism they emit the necessary responses to avoid their destruction. This environment takes the human being out of his comfort zone and causes profound changes that require an evolution in various aspects of his daily life.¹⁶ (Bernal y Moya, 2018: 18)

In the attempts to achieve peace, different governments¹⁷ of several countries have, in some cases, either ceded jurisdiction and/or sovereignty, proposed and promoted amnesty and pardon laws with the insurgents or with the groups outside the law operating in their territories, the connection of crimes such as arms trafficking or drug trafficking with the political motive of the conflict has been debated, reduced sentences have been agreed upon and other legal privileges have been granted in exchange for the delivery of goods or personal surrenders to justice.

Somehow the above shows a longing of the rulers and an illusion of the governed who often sacrifice the provisions of legal systems and superimpose their ideal for peace and their longing for justice¹⁸, it means, leave aside the duty to apply the law in exchange

¹⁶ Translation by the authors. Original text: El conflicto es un mal necesario que hace posible que las sociedades se reinventen, pues en tiempos de incertidumbre y pesimismo emiten respuestas necesarias para evitar su destrucción. Ese entorno saca al sr humano de su zona de confort y origina cambios profundos que precisan una evolución en diversos aspectos de su cotidianidad. (Bernal y Moya, 2018: 18)

¹⁷ The “real” form of government is not based solely on constitutional formulations, from which there still seems to be a centre of political gravity centred on parliament (Ruiz-Rico y Silva, 2018). Translation by the authors. Original text: La forma de gobierno “real” no se sustenta solo en las formulaciones constitucionales, desde las que todavía parece existir un centro de gravedad política centrado en el Parlamento (Ruiz-Rico y Silva, 2018)

¹⁸ “Raising the social sense of justice has a clear connection with the question posed for a society such as Colombia’s, which should guide socio-judicial análisis, as to what role it

for peaceful coexistence and end the violence (Agudelo y Galán, 2015).

However, it can be seen that in several countries, despite the unfairness of the agreements, the results have not been as expected and, on the contrary, new causes appear for discord fueled by the fanaticism of the actors themselves and where armed groups and organized crime¹⁹ have new motives for continuing the social and armed conflict.²⁰

In some States²¹, certain groups acting illegally have been given the opportunity to speak about politics, have been granted recognition

plays in protecting the interests and rights of the majority of the population.” (Moya, 2018: 51) Translation by the authors. Original text: “Plantear el sentido social de la justicia, tiene una clara conexión con el interrogante que se plantea para una sociedad como la colombiana, que debe guiar los análisis sociojurídicos, en cuanto a qué papel cumple en la protección de los intereses y derechos de las mayorías de la población” (Moya, 2018: 51).

¹⁹ “It is not surprising to affirm that nowadays crime enjoys a high social relevance that can be appreciated in the collective fascination that the news about the commission of conducts of a criminal nature, specifically those of a violent nature, arouse in the citizenry” (Velandia, 2018: 147). Translation by the authors. Original text: “No sorprende afirmar que hoy en día el delito goza de una relevancia social alta que se aprecia en la fascinación colectiva que despiertan en la ciudadanía las noticias sobre la comisión de conductas de naturaleza criminal, específicamente aquellas de carácter violento” (Velandia, 2018: 147)

²⁰ “On the subject of internal armed conflicts, and more so in the case of Colombia, there should be a differentiation of jurisdictions according to the causality of the crimes” (Cubides, Sierra y Mejía, 2018: 12). Translation by the authors. Original text: En el tema de los conflictos armados internos, y más tratándose del caso colombiano, debe hacerse una diferenciación de jurisdicciones según la causalidad de los delitos. (Cubides, Sierra y Mejía, 2018: 12).

²¹ “The twenty-first century swept away the ideas of a strong concept of State, which in the past made it possible to ensure the architecture of the nation, the citizen, participation, authority and other devices of current regimes and social groups” Translation by the authors. Original text: “El siglo XXI arrasó con las ideas de un concepto fuerte de Estado, que otrora permitía asegurar la arquitectura de la nación, el ciudadano, la participación, la autoridad y demás dispositivos de los regímenes y conjuntos sociales actuales” (Carreño y Sánchez, 2018: 39; Sánchez Acevedo, 2019)

and status as a political organization (not belligerents²²), and even special jurisdictions have been created in which new laws vary or adjust the application of criminal law²³ in the territory, which grant immunities and privileges to those who are interlocutors in a possible concertation process, as well as commitments regarding the reintegration of their members into civil life.

In spite of the previous credits and benefits, in countries where these generous agreements have been carried out, the same groups and others that are emerging with similar purposes of illegality continue to act within the illegality, carrying out actions rejected by the social and legal order of the State²⁴ as kidnappings, homicides, extortions, among other crimes against the economic and environmental order, which causes of course a new armed confrontation between these and the Public and legitimate Force of the State.

The natural consequences of this new reality, as expected, are the forced displacement of the population, the increase in poverty

²² The belligerents considered as subjects of international law require that they comply with certain constitutive elements in order to be considered as such. Among them are a group of people with some ideology that seeks to change the constitutional and legal order of a State through arms, have territorial control, have a responsible command, apply the rules of war and be expressly recognized as such.

²³ There is no scientific theory to support claims of the existence of a class of people that are incorrigible (Velandia y Gómez, 2018). Translation by the authors. Original text: No hay ninguna teoría científica que respalde las afirmaciones de la existencia de una clase de personas que sean incorregibles (Velandia y Gómez, 2018). Also available in: (Silva García, Rinaldi & Pérez Salazar, 2018) and (Daza González, 2016).

²⁴ “With the impulse and expansion of democracy in recent decades, there was renewed interest in issues such as legitimacy and the role of the State in the context of the fourth industrial revolution. (Becerra, Velandia y León, 2018: 100). Translation by the authors. Original text: “Con el impulso y la expansión de la democracia en las últimas décadas, se produjo un renovado interés por asuntos como la legitimidad y el papel del Estado en el contexto de la cuarta revolución industrial.” (Becerra, Velandia y León, 2018: 100)

rates, the resurgence of criminality²⁵ and, of course, the increase in national and international denunciations of the threat and violation of the human rights²⁶ of the population.

The dilemma and concern for the citizen then arises, where the general expectation of the population will continue to revolve around the eventual treatment that the ruler gives to this new reality and to the problem originated in the lack of clear public policies²⁷ that can respond to the crisis and anguish caused by the armed conflict and its causality in the social conflict.²⁸

The different agreements and various attempts to put an end to social and armed conflicts in the world continue to be the subject of debate, to the extent that the notion of what is just is fragmented, that is, the referent that the individual has on the concept of legal security is dissolved and, consequently, the credibility with respect to public policy varies.

²⁵ “Criminal organizations are a real and strategic threat to the stability of democratic states and contemporary societies” (Bernal, 2018: 81). Translation by the authors. Original text: “Las organizaciones criminales son una amenaza real y estratégica para la estabilidad de los Estados democráticos y las sociedades contemporáneas” (Bernal, 2018:81)

²⁶ The field of human rights is one in which this change is patent because of its international legal recognition and worldwide political currency. (Barreto, 2014).

²⁷ Therefore, public policies "imply objectives, diagnosis, responsibilities, timelines, resource allocation, strategies and intervention, and accountability. (Cano and Vargas, 2017: 61). Translation by the authors. Original text: “implican objetivos, diagnóstico, responsabilidades, cronogramas, asignación de recursos, estrategias e intervención y rendición de cuentas.” (Cano y Vargas, 2017: 61)

²⁸ “El mundo contemporáneo se enmarca en una complejidad que se manifiesta en las ciencias sociales que repercuten en las relaciones de la sociedad, acercándose a lo que algunos autores han denominado la posverdad, que no es más que la construcción de la realidad social o de las categorías filosóficas y sociales a partir de la mentira o, incluso, de muchas verdades.” (Ostau de Lafont de León y Niño, 2017, 41).

In this sense, it is in no way appropriate that the populations of different parts of the world continue to strengthen those beliefs where there is a rapid transition from the terror of violence to the hope of something better, from the latter to skepticism, to return to the terror of violence and the terror of war²⁹ as a constant feature of humanity.

That world that we leave behind, with its villages torn apart one after the other, is certainly no sign of the work of the Civilized Sapiens Puros, not even of the Barbaros Puros alone. It is the work of a brutal confrontation. And if there is confrontation they are two peoples in conflict (...)³⁰. (Torres, 2011:148)

It is undeniable that in states where there is armed conflict or even social crisis caused by violence, and that violence is of such magnitude that its control by law is not possible, governments and the civilian population must reformulate their public policies³¹, either by establishing strong laws³², or by seeking formulas for those who

²⁹ “Over 50 years of internal war brought with it an overwhelming flow of emigrating citizens out of Colombia” (Navas - Camargo y Montoya, 2018:121)

³⁰ Translation by the authors. Original text: Ese mundo que dejamos atrás, con sus pueblos despedazados unos tras otros, no es señal por cierto de la obra de los Civilizados Sapiens Puros, ni siquiera de los Barbaros Puros solamente. Es la obra de una confrontación brutal. Y si hay confrontación son dos pueblos en conflicto (...). (Torres, 2011:148)

³¹ The care policy is also based on the principles of autonomy, real and effective equality, recognition of differences, gender equity, gender justice, participation, progressivity and non regressivity, gradualness and concurrence. (Tirado, Laverde y Bedoya, 2019). Translation by the authors. Original text: La política de atención se basa igualmente en los principios de autonomía, igualdad real y efectiva, reconocimiento de las diferencias, equidad de género, justicia de género, participación, progresividad y no regresividad, gradualidad y concurrence (Tirado, Laverde y Bedoya, 2019).

³² As in the case of Singapore, an Asian country with approximately 5.5 million inhabitants that drastically increased prison sentences, especially for corruption-related offences.

belong to groups outside the law to take refuge in justice, but also have the real possibility of reincorporating themselves into civility.

What is important and urgent is that these decisions and the corresponding actions are the product of an agreement, a planning and execution of actions that prevent new violence, that claim the concept of justice and that human rights are materialized (Martínez Lazcano y Cubides Cárdenas, 2016).

This includes the possibility for victims to know the truth if it is possible to obtain it through investigation, justice for those responsible, full reparation³³ for damages³⁴ caused and non-repetition³⁵ for the occurrence of crimes or abuse of power³⁶.

It is necessary to rethink the concept of the Social State of Law with structural reforms from the logic insinuated by the existing superior normativity, from the existence and pertinence of the

³³ On other side, the institution has, among other functions, a preventive function of damages that transcends the specific interests involved in the case to impact society (Woolcott y Cabrera, 2018). Translation by the authors. Original text: Existe un interés de la víctima en que se repare integralmente el daño sufrido, por otro lado, la institución tiene entre otras funciones, una función preventiva de los daños que trasciende los intereses concretos involucrados en el caso para impactar en la sociedad (Woolcott y Cabrera, 2018).

³⁴ The harm caused establishes that the offender, in acting against the victim, also acts against the community and against the law and consequently acquires and obligation and responsibility towards the victim, the community and the State. (Ávila, Caldera, Woolcott y Martin, 2019). Translation by the authors. Original text: El daño causado establece que el ofensor, al actuar contra la víctima, actúa también contra la comunidad y contra la ley y adquiere en consecuencia una obligación y una responsabilidad para con la víctima, la comunidad y el Estado. (Ávila, Caldera, Woolcott y Martin, 2019).

³⁵ This is directly related to reconciliation, for which "(...) reconciliation becomes a historical and social duty, so it must be seen as a horizon of common work, as a public policy". (Well, 2017: 14). Translation by the authors. Original text: "(...) la reconciliación se convierte en un deber histórico y social, por lo que debe ser visto como un horizonte de trabajo común, como una política pública." (Bueno, 2017: 14)

³⁶ As defined and developed in the Declaration on Fundamental Principles of Justice for Victims of Crime and Abuse of Power of 29 November 1985.

institutionality and especially from the operability of those who act as public servants or State officials, combining these triad of factors can be the main criterion to optimize public performance.

In order to achieve social and economic development, security³⁷ and the maintenance of democracy³⁸, among other purposes of the State, those who represent it must ensure that the political discourse, together with the actions that give it legitimacy, is supported by public policies agreed upon and adjusted to realities, basically by a just right and a reliable justice, in addition to the firm conviction that whoever acts on its behalf, does so with ethics and a sense of the public.

It is frequent the affirmation that the right responds to an innate will of the idea of justice, but the main contradiction that it must solve, is to harmonize the opposite and different interests of the social classes not specifying the use of force³⁹. (Woolcott, Motta y Ramírez 2018: 126)

It is important that the purpose of the public policies proposed by the person or persons entrusted with this task, take into account the

³⁷ “This model has ignored other components of conflict, such as economic structure, state violence, social exclusion or the role of transnational corporations” (Carvajal, 2018: 98). Translation by the authors. Original text: “La seguridad se ha convertido en el eje de la discusión de lo político y lo social, este modelo ha desconocido otros componentes de conflicto como, por ejemplo, la estructura económica, la violencia de Estado, la exclusión social o el papel de las transnacionales” (Carvajal, 2018: 98)

³⁸ Democracy, together with the recognition of human rights and the democratic constitutional state, make up a trilogy of categories that contribute to the realization of human dignity and human flourishing. (De los Santos Olivo, Ávila y Caldera, 2018). Translation by the author. Original text: La democracia, junto con el reconocimiento de los DDHH y el Estado democrático constitucional, conforman una trilogía de categorías que contribuyen a la realización de la dignidad humana y al florecimiento humano. (De los Santos Olivo, Ávila y Caldera, 2018).

³⁹ Translation by the author. Original text: Es frecuente la afirmación que el derecho responde a una innata voluntad de la idea de justicia, pero la principal contradicción que él debe resolver, es armonizar los intereses opuestos y diferentes de las clases sociales no precisando el uso de la fuerza (Woolcott, Motta y Ramírez 2018: 126)

needs of the population, including those of preventing and dealing with conflict, so that the State can show citizens and the international community the integral fulfillment of their duties with their co-associates, such as the respect, guarantee, protection, promotion and adaptation of their internal legal system in favor of the validity of human rights.

Public policies are the tools developed by the State to promote and guarantee compliance with and respect for these rights, which are considered to be fundamental public goods constituting a democratic society. Therefore, the formulation and implementation of public policies should be designed according to their usefulness in bringing society closer to these objectives⁴⁰. (Roth, 2006: 60)

Decisions that lead to the formulation and implementation of public policies, whether economic, social, cultural, security⁴¹ or of any kind, must be made taking into account the conditions of the environment, social realities and the norms of domestic and international law⁴² that ensure the exercise of human rights and freedoms.

⁴⁰ Translation by the author. Original text: Las políticas públicas constituyen las herramientas desarrolladas por el Estado para favorecer y garantizar el cumplimiento y el respeto a esos derechos considerados como bienes públicos fundamentales constitutivos de una sociedad democrática. Por tanto, la formulación y la implementación de las políticas públicas deberían estar diseñadas en función de su utilidad para acercar a la sociedad a estos objetivos. (Roth, 2006: 60)

⁴¹ Public security is not an isolated policy, it can be inserted as a global policy framed in a generalized security discourse (Ariza, 2018). Translation by the authors. Original text: La seguridad pública no es una política aislada, esta se puede insertar como una política global enmarcada en un discurso generalizado de la seguridad (Ariza, 2018)

⁴² For Hart, international law is a law in continuous evolution, which starts from a primitive concept of it, and which needs a continuous recognition both of its basic rules and of its contentious tribunals. Translation by the authors. (Acosta y León, 2018). Original text: En Hart, el Derecho internacional es un Derecho en continua evolución, que parte de un

It is necessary that the countries that are making a transition to peace stop boasting of developed States and carry out a real work of planning and reformulation of their public policies, there is an urgent need to review the relevance of existing law and the structure and functioning of justice.

Likewise, it is pertinent that even each State should, to the extent possible, study the possibility of requesting assistance from the different sources of international cooperation, both bilateral and multilateral, based and justified on the validity of human rights and basically on the protection of those populations of special protection⁴³.

In addition to the constitutional⁴⁴ and legal reforms needed to improve situations and contexts of conflict, together with the responsible commitment of institutions to make possible what is established in the law, it is also necessary to have all the necessary resources to meet the new objectives of the State, in addition to those involving a change of political culture in matters such as solidarity, justice, the peaceful resolution of conflicts, participation and especially

concepto primitivo del mismo, y que necesita un continuo reconocimiento tanto de sus reglas básicas, como de sus tribunales contenciosos. (Acosta y León, 2018).

⁴³ Within the framework of the United Nations, several international conventions have been signed and approved that seek to protect this type of groups that for different reasons may deserve special treatment, such as children, women and girls because of domestic violence, racial or ethnic groups because of any form of discrimination, among others.

⁴⁴ Constitutional justice in Latin America has been subject to reforms since the 1990s, which have strengthened constitutional institutions (Vivas, 2018). Translation by the authors. Original text: La justice constitutionnelle en Amérique latine a fait l'objet à partir des années 1990 de reformes qui ont incorporé et renforcé les institutions constitutionnelles (Vivas, 2018).

that which implies compliance with the maximum possible vital for its population.

2. PLANNING FOR PUBLIC POLICIES

Adequate planning does not necessarily ensure the achievement of the purpose, but it does contribute substantially to the achievement of objectives. The above could be applied to those processes in which the institutionality of a State and even more with the qualifier of "Social Law" can fulfill all those purposes related to the maintenance of its public order, seeking coexistence and the respect of freedoms and guarantee of rights to its citizens.

At present, the conception of the development and the scope that can be given to the fulfillment and observance of the duties regarding freedoms and rights on the part of the State, cannot be seen as minimums that can be demanded from the associates, nor as minimums that can be lent in their favor, but rather their exercise is increasingly approaching the maximums possible.

By prestable minimum we will understand that minimum set of positive actions of the State as a result of a right of benefit at the head of the citizens, which is deduced, in an exercise of reasonable argumentation, from a fundamental essentiality derived from the Constitution⁴⁵. (Cuervo, 2007: 50)

⁴⁵ Translation by the author. Original text: Por mínimo prestable entenderemos ese conjunto mínimo de acciones positivas del Estado como resultado de un derecho de prestación en cabeza de los ciudadanos, que se deduce, en un ejercicio de argumentación razonable, de una esencialidad fundamental derivada de la Constitución. (Cuervo, 2007: 50)

The foregoing affirmation would be supported by the provisions of the United Nations in several of its observations and reports⁴⁶, in addition to what has been established and generously debated in relation to the principle of progressivity enshrined in Article 26 of the American Convention on Human Rights signed in 1969, which for the present time States must already have clear and consolidated standards for development, together with the premise that rights and freedoms are not gifts of the State, these are duties that the public and even sometimes the private have in their commitment to provide welfare to their associates for the progress of their own legal-political unity.

In this sense, the idea of planning in a Social Rule of Law is crystallized as an intentional intervention that makes a group of people to achieve an objective. The planning of activities for the search for results and objectives must always be supported by the knowledge of the realities of the country, with the purpose of being able to affect them positively, in which actors and stakeholders identify needs and spaces for action and thus reach agreements on the course to follow.

The sixth periodic report of Colombia, in which the United Nations Committee on Economic, Social and Cultural Rights establishes that among the main reasons for concern are the challenges

⁴⁶ These include what was expressed by the United Nations Economic and Social Council about fostering rapprochement among people to promote the adoption of sustainable development measures and the importance of achieving the transition from the Millennium Development Goals to the Sustainable Development Goals; what was established in the new United Nations Development Programme where it suggests the priority of local and people-centred development, sustainability linked to equity, social justice, quality of life and the green economy incorporated in the 2011 human development report.

involved in ensuring the effective implementation of each of the points contained in the peace agreement through the allocation of the necessary technical⁴⁷ and financial human resources, as well as the functioning of the Follow-up, Promotion and Verification Commission.

Now, on the same process but related to the materialization of citizens' rights, the quarterly report presented to the United Nations Security Council on December 31, 2018, the Verification Mission in Colombia suggests greater presence of the State in conflict zones and concrete responses to the clamor of citizens for security and priority attention to sectors such as education⁴⁸, health, and land, as an assumption so that the dream of peace can crystallize.

The previous pronouncements demonstrate that planning for the design of public policies is the starting point to materialize the will of the ruler and the governed, but that it must also be the will for the fulfillment of the duties and obligations of the State with respect to the rights of the people.

⁴⁷ Information and Communication Technologies, and Internet, have become a vital contribution instrument in all the productive, cultural, social and economic instances or activities of today's communities. (Pitre, Moscote, Curiel, Archila y Amaya, 2017). Translation by the author. Original text: Las tecnologías de la información y las Comunicaciones, se han constituido junto al internet en un instrumento de vital contribución en todas las instancias o actividades productivas, culturales, sociales y económicas de las comunidades de hoy. (Pitre, Moscote, Curiel, Archila y Amaya, 2017). "Communication frames the languages with which social dynamics are mediated, with their tensions and permanente conflicts of ideas, values and emotions" (Silva y Pérez, 2019: 126). Translation by the authors. Original text: "La comunicación encuadra los lenguajes con los que son mediadas las dinámicas sociales, con sus tensiones y conflictos permanentes de ideas, valores y emociones" (Silva y Pérez, 2019: 126).

⁴⁸ The importance of educating about peace and democracy should also be stressed (Sánchez, 2010: 142).

The organizational structure of the State must orient actions from the public and from the private so that the ends of that same State can be achieved. In this way it can be affirmed that the guiding thread for the policy to be legitimate and sustainable is that a true and real political will remains, together with a coherent and concerted plan of action in accordance with the realities and possibilities of the State.

In the process of planning for the maintenance of democracy⁴⁹, to achieve development or to have security for the population, basic aspects must be taken into account, ranging from the initial situational and contextual diagnosis, through the definition of priorities, the issuance of new norms -if necessary-, institutional strengthening, the allocation of resources and the follow-up or monitoring of the execution of activities.

A comprehensive plan that leads to an effective and legitimate public policy must be participatory, must seek possible and relevant results, must have options for adjustments during its implementation, in addition to being innovative, with institutional commitment and with an excellent level of communication in execution and decision making.

Among other steps for the design of a public policy that seeks to build or rebuild relationships in everyday life is recommended:

⁴⁹ Democracy can be considered as a fundamental human right, from a double perspective: procedural and substantial. (Caldera, 2018). Translation by the authors. Original text: La democracia puede ser considerada como un derecho humano fundamental, desde una doble perspectiva: procedimental y sustancial. (Caldera, 2018).

- Diagnose the current situation of the area or region that is intended to affect positively, this work includes identifying risks, existing conflicts and their intensity, as well as knowing the eventual agreements reached between the parties.

- Investigate the history, geography, economy, culture of the region, including gastronomy, in order to detect or perceive the realities that can be lived today.

- To recognize the power structures in the territory, as well as to know and analyze the condition, the situation and the purposes of the community.

- Make a schedule of activities and results as sensible as possible so as not to create false expectations regarding compliance times. This should have allocation of responsibilities - people and institutions.

- Have from the beginning a serious financial study and budgetary availability for the execution of the activities.

- To design indicators of achievement of objectives and to define the sources of verification of each activity, result and objective.

- Execute the agreed activities, that is, carry out the intervention trying not to do harm to those involved and to the actors who are beneficiaries of the policy.

- Monitor the process, evaluate and reformulate the policy if necessary.

3. PUBLIC POLICIES FOR HUMAN RIGHTS

Diverse opinions and concepts about what politics is and what its purpose is have been exposed through time, however, the fundamental element that could integrate its purpose is that it is directed and must be applied to achieve superior ends related to development and security in an integral manner, peaceful coexistence and especially the validity of public liberties and human rights⁵⁰.

However, all the above would remain in speeches if not thought of guidelines to guide behavior⁵¹ for those who should apply (public officials), they must guide and regulate their public reason and their behavior to benefit a significant number of co-associates who relate

⁵⁰ "It is essential to point out that respect for human rights contributes to the core protection of persons who have a universal legal framework". (Cubides and Cita, 2013: 21). Translation by the authors. Original text: "(...) es fundamental señalar que el respeto de los DH contribuye el núcleo de protección de las personas que tienen un marco jurídico universal". (Cubides y Cita, 2013: 21)

⁵¹ The distinction between guilt and error is based on the existence or not a choice of conduct made by a subject (Woolcott, 2019). Translation by the authors. Original text: La distinción entre la culpa y el error se funda en la existencia o no de la elección de una conducta que realiza un sujeto (Woolcott, 2015)

socially, emotionally, economically or culturally in specific spaces within the State or in a specific community within it.

Moreover, such reason is public in three senses: as the reason of free and equal citizens, it is the reason of the public; its subject is the public good relating to questions of fundamental political justice, that is, essential constitutional questions and questions of basic justice; and its nature and contents are public since they are expressed in a public argument through a family of reasonable political conceptions of justice, reasonably designed to satisfy the criterion of reciprocity⁵². (Rawls, 2001: 158)

Public policies, understood as a series of reasons, guidelines, legitimate regulations and concerted actions that seek to establish conditions for satisfying the needs of a community, must basically be oriented towards the fulfilment of the objectives of a State vis-à-vis its citizens, who in turn exercise control over the observance and exercise of their freedoms and human rights.

It is precisely in this sense that the modern Constitutions⁵³, in their purpose of being guarantors and trying to expand and improve the possibility of citizens to exercise their liberties and rights, expressly

⁵² Translation by the author. Original text: Más aún, dicha razón es pública en tres sentidos: como razón de los ciudadanos libres e iguales, es la razón del público; su tema es el bien público referente a cuestiones de justicia política fundamental, es decir cuestiones constitucionales esenciales y cuestiones de justicia básica; y su naturaleza y contenidos son públicos puesto que se expresan en una argumentación pública mediante una familia de concepciones políticas razonables de la justicia, razonablemente pensadas para satisfacer el criterio de reciprocidad. (Rawls, 2001: 158)

⁵³ One of the major innovations of the 1991 Political Charter was the participation granted to local authorities in the implementation of development plans and programmes. (Blanco, 2015: 213). Translation by the author. Original text: “Una de las grandes innovaciones de la Carta Política de 1991 fue la participación otorgada a las colectividades locales en la realización de los planes y programas de desarrollo” (Blanco, 2015: 213) and (Blanco, 2019).

establish a catalogue of them, which together with those incorporated in international treaties in force for each country become the *raison d'être* and action of the institutionality, where at the same time that citizen has the possibility of resorting to national and international protection⁵⁴ mechanisms in the event that these are not observed and protected.

However, the questions arise: What are the guidelines and directives of the public policies of the States - not of the governments in office - to which the actions in favor of those freedoms and those human rights of the population must conform? And secondly, what are the integral criteria of action that are carried out for the execution of that public policy in accordance with the National Plan of Action of human rights to which each State has been bound for more than 25 years where the International Community established commitments and consecrated them in the Declaration of Vienna and its Plan of Action of 1993?

It is important and urgent that the States that do not yet fulfill this duty or that are in default of doing so, think again about the meaning and what a public policy on human rights represents and invite citizens to speak a common language about how fundamental it is to make it a reality in all the spaces that a true democracy⁵⁵ allows.

⁵⁴ Information is a fundamental element in every consume relation, as well as consumer protection requirements (Woolcott y Fonseca, 2018). Translation by the authors. Original text: La información es un elemento fundamental en toda relación de consumo, así como exigencias de protección al consumidor (Woolcott y Fonseca, 2018)

⁵⁵ Democracy and constitution are a complement because democratic struggles are linked to the recognition of rights, and the constitution needs democratic legitimacy. (Agudelo y

Direct democracy would replace representative democracy, by resorting to referendum as the basic instrument for the expression of citizenship in its entirety, through the vote and at the appropriate moment when circumstances warrant it⁵⁶. (Garay, 1999: 51)

The challenge also has to do with integrating and distinguishing the needs of the population, to stimulate citizen participation⁵⁷ so that the community determines and follows up on the objective of that policy, and especially so that the ruler or authority of the public responds ethically with its duties to its citizens and to the international community.

Ethics cannot be a disguise of oppression. Ethics and law are the golden rules of interaction; it is as any democratic pedagogy a recognition of the other, of the different; ethics must presuppose freedom, it cannot be an oppressive way of pacifying the miserable, the poor, the subversive. Peace is built with a minimum of well-being⁵⁸. (Botero, 2004: 218)

Prieto, 2018). Translation by the authors. Original text: Democracia y constitución son un complemento ya que, las luchas democráticas van ligadas al reconocimiento de derechos, y la constitución necesita legitimidad democrática. (Agudelo y Prieto, 2018).

⁵⁶ Translation by the authors. Original text: La democracia directa reemplazaría la democracia representativa, mediante el recurso al referendo como instrumento básico para la expresión de la ciudadanía en su totalidad, a través del voto y al momento apropiado en que las circunstancias lo ameriten. (Garay, 1999: 51)

⁵⁷ Citizen participation is formally linked to the reform proposals for administrative modernization of the State, and this plays a role rescuing the democratic model. Translation by the authors (Córdova y Ávila, 2017). Original text: La participación ciudadana aparece ligada formalmente a las propuestas de reforma de modernización administrativa del Estado, y esta cumple un papel tendiente al rescate del modelo democrático. (Córdova y Ávila, 2017).

⁵⁸ Translation by the authors. Original text: La ética no puede ser un disfraz de la opresión. La ética y el derecho son las reglas de oro de la interacción; es como toda pedagogía democrática un reconocimiento del otro, del distinto; la ética debe suponer la libertad, no puede ser una forma opresiva de pacificar al miserable, al pobre, al subversivo. La paz se construye con un mínimo de bienestar. (Botero, 2004: 218)

Two decades into the twenty-first century and almost three decades after the adoption of the aforementioned Vienna Declaration and Plan of Action, the international community still reflects a worrying situation with regard to the public policies of States, either because they have omitted clear formulations in favour of the rights of individuals or because the provisions adopted have not made substantial progress in the area of human rights and freedoms.

Although in certain countries the threat and violation of rights have causes that are very difficult to prevent and, of course, to overcome, such as the scourge of corruption, drug trafficking, social and armed conflict, impunity and rising poverty rates, among others, the reformulation of public policies, the assignment of functions to their institutions and the revision of existing laws must be carried out urgently, so that they are consistent with the aspirations of their inhabitants.

At present and surely in several more years it will be valid to reflect on the true will of States to comply with the agreements and treaties that have been made by their different governments in the international context in matters of public liberties and human rights and it will be important to evaluate the effectiveness of the guidelines drawn up and the norms applied.

The above evaluation will be an imperative for the community of States, to the extent that many of these subjects of international

law⁵⁹ do not fully comply with the mandate incorporated in their political constitutions, in the laws that develop it, including those derived from the approval of international conventions.

It is reiterated that, although the issue of legality, which undoubtedly provides the legal support for all those guidelines or parameters that make up public policy, it is important to highlight one aspect that is fundamental for complying with the provisions of public policy, namely the necessary allocation of economic and budgetary resources.

For all the above reasons, it is necessary to continuously examine and debate the relevance and effectiveness of that public policy, which appears as a tool that can address and solve the problems derived either from the absence of governability, from the insecurity caused by armed and social conflict or from that impossibility to satisfy and make enforceable the subjective rights and needs of individuals and social groups, the latter as established by several judgments of the Colombian Constitutional Court⁶⁰ regarding the peace process⁶¹.

⁵⁹ International law arises as the need for peoples to maintain relations within a legal order. One of the elements that will acquire relevance within the very context of the birth of international law is the rights of society. (Ostau de Lafont de León y Niño, 2016). Translation by the author. Original text: El derecho internacional surge como la necesidad que los pueblos mantengan relaciones dentro de un ordenamiento jurídico. Uno de los elementos que va a adquirir relevancia dentro del propio contexto del nacimiento del derecho internacional, son los derechos de la sociedad. (Ostau de Lafont de León y Niño, 2016).

⁶⁰ The appearance of the Constitutional Court and the functions granted to it in the Magna Carta mean that, for example, jurisprudence simply ceases to be used in certain cases to be understood as a formal source (Palencia, Leon, Avila y Carvajal, 2019). Translation by the

The States have assumed obligations in the sense of putting their institutional capacity into operation and that it comes close to its objective, which is to provide optimal conditions for the exercise of rights, to achieve conflict resolution, to provide welfare to their co-associates and because not in that intangible which is to restore confidence and credibility to the citizenry.

In spite of the fact that it starts from the contents of the legal norm and that some actions of the public and private institutions continue to be distanced from the needs and individual and collective realities with respect to the ideal of justice and the desire for a peaceful coexistence, the purpose of a State and its ruler must be the search within its possibilities of well-being, security, respect for the freedoms and rights of the population within the realities it must face (García, 2007).

While it may be complex to identify situations or analyze contexts where State parameters or guidelines have not been effective, the official representing the public and the individual themselves must assume the duty to comply with the law insofar as it contributes to the

authors. Original text: La aparición de la Corte Constitucional y las funciones que en la Carta Magna se le otorgan, hacen que, por ejemplo, la jurisprudencia deje ser, simplemente, empleada en ciertos casos para ser entendida como fuente formal (Palencia, Leon, Avila y Carvajal, 2019).

⁶¹ “In Colombia, several transitional justice processes have been carried out in the search to end the internal armed conflict that has been going on for more than sixty years and to obtain a lasting peace” (González, 2018: 132). Translation by the authors. Original text: “En Colombia se han llevado a cabo varios procesos de justicia transicional en la búsqueda por terminar con el conflicto armado interno de más de sesenta años y obtener una paz duradera” (González, 2018: 132)

fulfilment of the State's public policy, which means that both must be complementary and integral.

These positive and negative actions or omissions in the fulfillment of the duty will have an impact on the citizen's assessment of the effectiveness of the policy, of the legal norm and of the usefulness of claiming dignity for people in their different and unequal condition and context.

Unfortunately, many of the reflections made on public policies related to achieving national and/or international peace, in addition to those specifically related to the fulfillment of the State's duties with respect to citizens' rights, are raised today with greater frequency and intensity in the sense that they refer to the situation of uncertainty in which the inhabitants of a planet live, which despite having purposes and ideals of good, currently continues in the midst of armed war⁶² tensions, economic pressures, energy dependence, transnational criminality⁶³, legal insecurity, and so on.

⁶² The importance of the implications produced by the First World War is universally known (Scocozza, 2015: 164. Translation by the authors. Original text: La importancia de las implicaciones producidas por la Primera Guerra Mundial es universalmente conocida (Scocozza, 2015: 164)

⁶³ "A wide range of inquiries, conducted by the American criminologist Freda Adler, showed that, in practically all regions of the world, female crime rates were considerably lower than male crime rates" (Restrepo, 2018: 114). Translation by the authors. Original text: "Un amplio conjunto de indagaciones, conducidas por la criminóloga estadounidense Freda Adler, evidenció que, prácticamente en todas las regiones del mundo, los índices de criminalidad femenina eran considerablemente inferiores a los de la masculina" (Restrepo, 2018: 114)

Under this scenario, it is necessary to go back to the basics, that is, that the States that require it and their institutions evaluate their realities and design new instruments of public policy under the principles of integrality and interdependence of rights and on bases that recognize a society from difference, but with a desire for peace, coexistence, progress and projects that prevent the negative in the economic and social to avoid the threat or risk of affecting what could be understood as the welfare of the individual or group to which he belongs.

Proposing or debating public policies on issues associated with peace, justice, or that refer to freedoms or rights, will always be complicated due to the different readings that the actors or those involved may give to social, economic or cultural realities. However, the polarization existing in the different sectors of society⁶⁴, together with the diverging interests between the public and the private, can prevent what can truly be legitimate with respect to peace and coexistence.

Remember that always for the design of a public policy there must exist a common objective within that diversity, plurality and difference of the direct receivers of the policy, which is the social

⁶⁴ “The profoundly unequal Latin American societies, where social exclusion predominates and penal systems have been used in a highly discriminatory manner to favor elites, demand a critical analysis of criminalisation processes” (Silva, Vizcaíno y Ruiz, 2018: 22. Translation by the authors. Original text: “Las sociedades latinoamericanas profundamente desiguales, donde predomina la exclusión social y los sistemas penales han sido utilizados de forma altamente discriminatoria para favorecer a las élites, demandan de un análisis crítico de los procesos de criminalización” (Silva, Vizcaíno y Ruiz, 2018: 22)

development and the well-being of the human being within spaces of healthy integration, cooperation and solidarity.

A State plan or a public policy at any juncture, must always seek and seek to approach what could be the fulfillment through institutionality of the duties that it has contracted, including the guarantee, respect, protection and promotion of human rights and fundamental rights⁶⁵, together with the search for effectiveness and credibility in justice and the maintenance of national and international peace.

It's the civilian population that endures war. It is manipulated, extorted and vilified; it is their body and mind that suffer it. Children, young people, women and men in a productive stage and the elderly endure forced displacements, sexual aggressions, torture, forced disappearances, cruel, inhuman and degrading treatment, genocide and a whole series of acts against their dignity that reduce their value as human beings⁶⁶. (Bernal and Moya, 2018: 63)

The national public policy, the foreign policy projected by a country and even more, the international policy must be integral and

⁶⁵ “Fundamental rights are those elements which are indispensable to the person intrinsically related to human dignity which are indispensable for development and integrity of individuals demandable by States and international communities.” (Chacón, Rodríguez y Cubides, 2018). Translation by the authors. Original text: “Los derechos fundamentales son aquellos elementos indispensables para la persona intrínsecamente relacionados a la dignidad humana que son indispensables para el desarrollo e integridad de los individuos exigibles por parte de los Estados y las comunidades internacionales” (Chacón, Rodríguez y Cubides, 2018).

⁶⁶ Translation by the authors. Original text: La que soporta la guerra es la población civil. Es manipulada, extorsionada y vilipendiada; son su cuerpo y su mente los que la padecen. Niños, jóvenes, mujeres y hombres en etapa productiva y ancianos soportan desplazamientos forzados, agresiones sexuales, torturas desapariciones forzadas, tratos crueles inhumanos y degradantes, genocidios y toda una serie de actos contra su dignidad que reducen su valor como ser. (Bernal y Moya, 2018: 63)

integrative, with clear contents regarding the structuring axes on which it revolves, that is, an adequate definition of the institutional competences, precision and normative clarity and above all responsibility of the servants or officials of the States, with available resources and sustainable purpose in front of the topics considered priority in the respective agendas.

If these variables are not clear, nor is there a consistent scope of national or international public policy, it will never be possible to achieve the objectives or intended results. The purpose and direction suggested and incorporated in the policy is precisely what orients and legitimizes the functions that the State's institutionality will surely develop.

Likewise, the actions of the state⁶⁷ apparatus must always be supported by principles of law accepted by its own order, such as solidarity, autonomy, recognition of diversity, cooperation, integration and especially progressivity in terms of its duty to grant the maximum possible for the exercise of citizens' rights, especially to the aforementioned special protection groups.

However, the main criteria that can define the direction of public policies regarding human rights have to do with several factors, the situation or situation of crisis or progress that the country is

⁶⁷ En la misma medida en que un Estado es gobernado adecuadamente en su interior, tanto más fácilmente puede establecer relaciones pacíficas con los otros Estados, y, además, ventajosas para el bienestar de la colectividad en consideración de numerosos aspectos (Petrone y Picarella, 2017: 75)

experiencing, the social, economic or cultural context of the different human groups that live there, including of course the ideological tendencies that may influence decision making.

By way of example, one could take the right to education, which despite not being formally enshrined as a fundamental right, the fact that it is linked to other rights considered as such means that State actions are based on a policy of inclusion, recognition of differences, relevance for the exercise of work, fulfilment of duties, etc., e.g., the expansion of coverage, the strengthening of cultures⁶⁸ and knowledge of one's own in the case of training children living in rural areas or belonging to ethnic groups⁶⁹.

With respect to the duties of the State, specifically those that include the obligation to guarantee human rights, and which must be incorporated into all policies that seek to make peace lasting and sustainable, there is the obligation to "reasonably" prevent situations that could give rise to threats or violations, including new episodes of violence⁷⁰.

⁶⁸ The concept of culture does not include in its content the entirety of man's social production, but not only that which must be cultivated, that is, that which brings some value to the spontaneous that is produced both in nature and in society (Guadarrama, 2019: 44). Translation by the authors. Original text: El concepto de cultura no comprende en su contenido todo el conjunto de la producción social del hombre, sino solo aquello que debe ser cultivado, es decir, lo que aporta algún valor a lo espontáneo que se produce tanto en la naturaleza como en la sociedad (Guadarrama, 2019: 44)

⁶⁹ "If, historically, it has been a country characterized by the constant tension between unfulfilled and promises and ambitions, by the mixture between ethnic and religious matrix, by the ideals of secularism and democracy" (Picarella, 2018).

⁷⁰ As established in the Sentence of the Inter-American Court of Human Rights in the case of Velásquez Rodríguez with Honduras.

As John Rawls affirms, the limits of the possible are not given by the real, because to a greater or lesser degree, political and social institutions and many other things can be changed (Rawls, 2001). In this sense, only a true analysis of needs and structural capacities can lead to the existence of cultural transformations that imply or lead the collectivity to implement strategies that prevent the occurrence of events that harm the individual and their communities.

The public policies of the State and the actions that imply their materialization must be real to be able to demonstrate their pertinence and their effectiveness, this means that for their design and execution they must take into account the environment where they are going to be applied, this is geographic conditions, historical referents, contexts of armed or social conflict, together with cultural, environmental, economic and social factors and conditions, with a proactive criterion in the prevention and non-repetition of violence.

States seeking to make a transition to peace and the International Organized Community of which those who are also interested in peaceful coexistence are a part should support each other and plan strategies to prevent further damage⁷¹. In such a way that in carrying them out they can avoid the occurrence of situations that affect or harm the person and the community.

⁷¹ “The current legal fields focus their efforts on the practical realization of the ideals of morality, justice and freedom present between the generator of harm and the one who suffers it (Woolcott y Monje, 2018, 129). Translation by the authors. Original text: “Los ámbitos jurídicos actuales centran sus esfuerzos en la realización práctica de los ideales de moralidad, justicia y libertad presentes entre el generador del perjuicio y el que lo sufre” (Woolcott y Monje, 2018, 129)

At present, there are many episodes that occur in countries where, due to the lack of preventive public policies, the rights of the inhabitants of a country or of a group of them are affected. This is due to the fact that on occasions governments do not know about their usefulness, do not have the resources to carry them out, or because of the situation, it is very difficult for them to prevent these effects from happening.

Prevention must be and be understood as a materialized and objective purpose of the individual, the family, the community, the State and the international community itself, in order to comply with the State's duties with respect to human rights enshrined both in its internal norms and in international instruments⁷².

To prevent means to act from the public and from the private to avoid violence, to try for the coexistence and to respect and to guarantee the rights of the others, it is to have conscience about the responsibility that entails to know the reality and to avoid that a new reality affects the ideal of justice and the purpose of individual and social well-being incorporated in the public policy or in the same law.

Prevention could be considered as any individual or collective activity or action, proposed by either the juridical-political order or

⁷² The responsibility of States to protect populations within their borders, the criminal responsibility of individuals for crimes against international law are principles based on multilateral instruments. (Pérez, 2018). Translation by the authors. Original text: La responsabilidad de los Estados de proteger a las poblaciones dentro de sus fronteras, la responsabilidad penal de las personas por delitos contra el derecho internacional son principios fundados en instrumentos multilaterales (Pérez, 2018)

not, which seeks to prevent acts or actions that may constitute threats, violations or abuses to the rights of persons. This propositive action or actions can also be generated by moral⁷³ commitment or by knowledge and experiences that the person or social groups have about the protection and exercise of their rights (Castillo, 2011).

The prevention of violations or threats to human rights as a public policy must represent humanity's ideal of achieving a dignified life within pluralism and diversity - what is dignified for some may not be dignified for others - however, it is a concept that must be incorporated into the actions of society and its daily life for its own survival

CONCLUSIONS

- To begin with, the establishment of new public policies based on the purpose of seeking the validity and exercise of human rights and freedoms, especially in those States that want to make the transition from war to peace, is totally valid and pertinent. Therefore, the recognition and respect for the existing difference within humankind, the recognition of the ethnic and even economic, social and cultural diversity of individuals and the duties of the State and its associates derived from non-

⁷³ In other themes, there are moral and patrimonial rights, and its called the dualist system of the author's right. (Flórez, Salazar y Acevedo, 2018). Translation by the authors.

discrimination⁷⁴ for any reason, must be the starting point for a public policy that seeks peaceful coexistence.

- Likewise, human rights and freedoms must be treated in their entirety, in this sense together with the rights denominated as civil and political, it is necessary to advance in an accelerated manner to the fulfillment of economic, social and cultural rights, to claim the value of land, the environment, natural resources and the rights of the community.
- It is therefore imperative to recognize the contexts, situations and conditions of the inhabitants, as well as to apply the principles related to the progressivity of rights and institutional responsibility.
- It is necessary that a public policy that seeks to maintain coexistence or achieve national or international peace establish clear provisions so that those who have the function of legislating⁷⁵, administering justice or even training and

⁷⁴ “The political and social climate of the 21st century has led to the emergence of clear xenophobic and extremist manifestations in the interest of safeguarding public safety” (Torres, Tirado y Trujillo, 2018: 180). Translation by the authors. Original text: “El clima político y social del siglo XXI ha dado lugar al surgimiento de claras manifestaciones xenofóbicas y extremistas en aras de salvaguardar la seguridad ciudadana” (Torres, Tirado y Trujillo, 2018: 180)

⁷⁵ “The Legislative Power, in its regulatory faculty, when it ceases to issue a law, regulation or reform them, in order to develop constitutional mandates, constitutes a behavior called legislative omission.” (Martínez, Cubides y Moreno, 2017: 2013). Translation by the author. Original text: “El Poder Legislativo en su facultad reglamentaria, cuando deja de emitir una ley, reglamento o realizar reforma a las mismas, para que desarrolle mandatos constitucionales, constituye un comportamiento denominado omisión legislativa.” (Martínez, Cubides y Moreno, 2017: 230)

educating citizens promote the prevention of situations that may violate human rights and freedoms.

- It is pertinent to reflect on a number of actions that can develop the institutional framework to minimize the risks that can promote the armed and social conflict in the States, among them, the attention of vulnerable groups, the protection of human rights defenders, education in International Humanitarian Law, promote peaceful coexistence, expand the coverage of non-formal justice.

- States should fully adhere to international guidelines on human rights incorporated in international treaties and instruments such as the Vienna Declaration and Plan of Action, the Millennium Goals or the Sustainable Development Goals. These are referents to improve the individual and social quality of life of the associates and to achieve well-being and integral development of the inhabitants. The organized international community must become a support so that countries that are going through crises derived from a high level of conflict can obtain cooperation and overcome their problems, as well as fulfill their human rights obligations.

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opción

Revista de Ciencias Humanas y Sociales
Año 35, Especial No. 25 (2019)

Esta revista fue editada en formato digital por el personal de la Oficina de Publicaciones Científicas de la Facultad Experimental de Ciencias, Universidad del Zulia.
Maracaibo - Venezuela

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