

Integral restitution of rights policy: Challenges of IDPs in Colombia

Política de restitución integral de derechos: Desafíos de los desplazados internos en Colombia

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Abstract

One of the worst consequences of armed conflict is the displacement of people from conflict areas in search of safety. These events generate serious effects on the mental health of the population and deteriorate the social fabric. The main objective of this article is to understand the mental health problems suffered by those displaced by the conflict in Colombia from the perspective of the integral restitution of victims. The main conclusion is that mental health care for displaced persons is an integral process that involves not only clinical factors, but also social, economic and cultural factors that, together, create the conditions for them to overcome the trauma suffered during the process of forced displacement.

Keywords:

Mental Health; IDPs In Colombia; Integral Restitution of Rights Policy; Challenges; Internal conflict

Resumen

Una de las peores consecuencias de los conflictos armados es el desplazamiento de personas de las zonas de conflicto en busca de seguridad. Estos acontecimientos generan graves efectos en la salud mental de la población y deterioran el tejido social. El objetivo principal de este artículo es comprender los problemas de salud mental que sufren los desplazados por el conflicto en Colombia desde la perspectiva de la restitución integral de las víctimas. La principal conclusión es que la atención de la salud mental de los desplazados es un proceso integral que involucra no sólo factores clínicos, sino también factores sociales, económicos y culturales que, en conjunto, crean las condiciones para que superen el trauma sufrido durante el proceso de desplazamiento forzado.

Palabras claves:

Salud mental; IDPs In Colombia; Política de restitución integral de derechos; Desafíos; Conflicto interno

Introduction

The Colombian internal conflict has caused one of the greatest humanitarian tragedies in the history of the country, with more than 6 million people forced to leave their homes by some of the illegal armed actors, Colombia occupies the dishonorable position as the second-largest number of Internally displaced persons (IDPs onwards) in the world, trailing only Syria.

This humanitarian crisis has reached these levels especially in the last 20 years, maintaining an upward trend since 1995, although the government has a program of comprehensive care for this population, and exist advanced studies measuring the socio-economic impact to generate public policies to deal with the necessities of the IDPs, little has been said about the impact on their mental health.

Families forced to leave their places of origin, usually have been subjected to witnessing death threats and disappearances of their loved ones or friends and countless violent events that have marked this painful experience, which affects the entire family and cause emotional harm with the greatest impact on the most vulnerable, usually children, women and the elderly who are left with further trauma.

Such trauma, not being treated properly, creates anxiety behaviors and post-traumatic stress that hinder the process of rehabilitation and increase the distrust and rejection of these people into society and the authorities, sometimes turning violent behavior in the cyclical returning spiral of violence and make it impossible or very difficult to carry out a true normalization and restoration of their rights.

This paper seeks to analyze the issue of displacement in Colombia, the existing legislation and show how integral reparation that involves not only the restoration of rights and property but also the psychosocial aspect of the displaced and the environment are important to overcome the trauma caused by forced displacement. For these objectives, it begins with a theoretical section that covers the study of the displacement of people as a phenomenon that

has been reaching historical levels in the last decade, then, outlines a framework for understanding the background and context of IDPs in Colombia, as well as the Colombian legal framework adopted to address forced displacement and this allows to raise some challenges to deal with the mental health of IDPs and finally provide some conclusions and discussions.

Theoretical Background

The forced displacement of people is a phenomenon that has been reaching historic levels in the last decade according to the report of the Office of the High Commissioner for Refugees UNHCR. 2014 is the year with the highest number of displaced people in history, with nearly 60 million people worldwide as a direct result of conflict, persecution and continuous violation of human rights in various parts of the world, especially Asia and Africa(UNHR, 2014).

About 38.2 (IDMC, 2016) million are internally displaced (IDPS onwards) internally displaced persons, who according to the United Nation's (UN) Guiding Principles on Internal Displacement, are defined as "persons or groups of persons who have been forced or obliged to flee or to leave their homes or places of habitual residence, in particular as a result of or in order to avoid the effects of armed conflict, situations of generalized violence, violations of human rights or natural or human-made disasters, and who have not crossed an internationally recognized State border (Guiding Principles on Internal Displacement 2019).

The decision to migrate from one place to another in the case of forced displacement, according to some studies, is directly related to the perception of safety of the individual (Engel & Ibañez, 2007). However, in cases like Colombia, where forced displacement has been used not only as a tactic of war to exercise control over a population, but as an economic strategy of any group to seize fertile land, makes the explanation about why they migrate, even more complex.

Forced displacement has been growing exponentially since the 90s year after year, the first records of 1982 showed 11 million people in 11 countries, in 1995 were more than 20 million in forty countries (Cohen & Mading, 2002) continuing to increase the drama suffered by millions of people around the world to the current figures.

The difference between the IDPs and refugees is that the former remain within the borders of the country and despite being victims of the same circumstances and adversity, they are not protected by the 1951 Convention's Relating to the Status of Refugees (Cohen, 2004) becoming more vulnerable.

Forced to leave their homes, especially as a result of armed conflict, people suffer not only the pain that entails uprooting, but the systematic violation of human rights by the warring factions, by the same state's agents and discrimination by the society to which they belong. They are forced to live in conditions of deprivation and inadequate satisfaction of basic needs and vulnerability of their human rights.

The aggravation of this whole scenario is that the vast majority of IDPs are the most vulnerable, including women, elderly and children, increasing the drama of this population.

From the above, it was necessary to have a legal framework for assistance and protection of IDPs. However, there is no binding international instrument for the states because the responsibility for protection lies primarily with the state of which they are citizens, especially sovereignty issues; the international community plays a complementary role.

In an effort to balance the issues of state sovereignty and humanitarian assistance needs in for this population, in 1998 the UN General Assembly and the UN Commission on Human Rights formulated the Guiding Principles on Internal Displacement (Guiding Principles on Internal Displacement 2019) which are not binding, nor create new legislation.

The Guiding Principles on Internal Displacement articulate many rights for the dis-

placed population and the obligations of states in their protection which are covered by various human rights treaties and international laws, as well as seek to clarify many issues and legal gaps that these international instruments have.

These principles have been socializing and have received wide acceptance and support from international organizations, states and humanitarian organizations to the point that they have been included in laws or internal policies of several states.

Some regional organizations that promote and protect human rights, such as the Inter-American Commission on Human Rights of the Organization of American States (OAS), apply the principles on internal displacement as a guide and basis for consultation in matters of human rights by its member states.

Other regional initiatives for action in protection of IDPs, occurred in 2009, when the African Union of nations adopted the Kampala Convention on IDPs (2009) a regional instrument which is binding for those States in one of the regions of the world more affected for the Forced Displacement. This convention creates a regulation that obliges member states to take all necessary steps to properly care for the displaced population as well as work in reducing the phenomenon of displacement, and establish a legal framework for humanitarian aid and assistance of the international community.

However, despite what is written, in practice there is still a large gap, in which millions of people continue to suffer abuses for their IDP status, for this reason, and under pressure from the international community, in 2005, was assigned to the Office of the high Commissioner of the United Nations for Refugees (UNHCR), the responsibility to lead the efforts of humanitarian protection and assistance of IDPs, conducted by states, international organizations, NGOs and other UN agencies and many other international actors (UNHCR, 2007)

The intention in the implementation of all these instruments is not only providing the coverage of basic needs of the displaced, but also provide protection and assistance in all

of human rights and this includes, of course, access and enjoyment of the highest standards of physical and mental health (United Nations, 2004)

In this regard, several statements have been made or conceived in regional or international treaties such as the Geneva Convention which states that the state is obligated to provide “the highest attainable standard of physical and mental health by giving medical attention to the wounded and sick”, and therefore has the obligation to address the rights of victims. The American Convention on Human Rights also provides in Article 5; Right to personal integrity, numeral 1 “Everyone has the right to have his physical, mental and moral integrity respected”.

The Guiding Principles establish that “every human being has the right to dignity and physical, mental and moral integrity”, as well they consider that once the person has been displaced, they continue been subject of rights and keeps its political, civil, economic, social, civil and cultural rights.

However, if humanitarian assistance to the displaced population and the restoration of their rights there is still much to be done and efforts are short facing reality and needs, much more remains to be done on the subject of special care that must be provided to ensure their mental health through proper and correct handling of the trauma suffered as a direct result of displacement or the extreme circumstances that provoked it.

Methodology

Based on a systematic review of the literature in which scientific journals and articles located on digital platforms such as Scopus and WoS were considered. Initially, we proposed as a method of inclusion, according to a systematic and scientiometric search, the scientific impact of the article, book or publication in the academy through the reputation of the authors and the number of citations of each publication. Subsequently, each of the articles chosen for the review is analyzed and from there an ana-

lytical presentation is constructed that allows the systematic presentation of the subject matter to be dealt with. Finally, some conclusions are established and discussions are proposed for future research work.

Findings

Background and Context of The IDPS In Colombia.

Forced displacement in Colombia is directly related with the no International Armed Conflict (NIAC) affecting the country for almost 60 years, in which have been involved many actors and interests ranging from leftist guerrillas, right-wing paramilitaries and the Military and Colombian Police (Feldmann & Hinojosa, 2009)

Each of the irregular armed groups has contributed one way or another to the phenomenon of forced displacement, where millions of people have had to leave their lands and abandon their belongings to protect his life, placing Colombia with the second largest Internally displaced population in the world with nearly 6 million people, representing almost 12% of its population (NRC, 2014) preceded only by Syria.

Many displaced are trapped in areas of confrontation and many others are resettled into the urban centers, especially in the periphery of cities increasing the misery because Colombia does not have IDPs camps.

The main causes of displacement are linked to acts of dispute control of territories between different groups of fighters, individual and collective threats, child recruitment, sexual violence, indiscriminate use of landmines, illegal expropriation of fertile land, extortion and drug trafficking among many others (Ibañez, 2009)

The highest levels of displacement have occurred during periods where the conflict has escalated and reached the highest levels of confrontation, especially during the last two decades; one of the highest levels occurred during the nineties, and was related to the growth and

expansion of self-defense groups nationwide, known also as paramilitaries.

The paramilitaries began to appear in Colombia in the eighties sponsored by large landowners and agricultural entrepreneurs among others, (Dugas, 2012) as a way to confront and counter the abuses and to which they were subjected by the guerrilla groups (Tate, 2011). In 1995 they reached its highest level expansion and go from being isolated groups throughout the country to the integrated command structure and constituted themselves as *Autodefensas Unidas de Colombia* (AUC) getting to have more than 30,000 men under arms nationwide.

Their political discourse was always to be a counterinsurgency group, which used the same war methods and tactics of guerrilla groups causing a war merciless throughout the national territory, confrontation that did not respect nor obeyed the minimum standards of respect or humanity or application of the International Humanitarian Law (IHL), generating the worst human rights violations that have been known and where the civilian population was the most affected (Von der Groeben, 2011)

Their outrages and abuses, were also accompanied by a policy of land grabs and massacres, where many families were forced to leave their homes and take refuge in cities, by direct threats against their lives to be accused of being helpers of the guerrillas.

The paramilitary groups were officially dismantled by a peace process that went ahead with the national government between 2002 and 2006, but also military confrontation from the state was increased against guerrilla groups, through the democratic security policy of the government of Alvaro Uribe Velez (2002-2010).

This period witnessed increased levels of forced displacement on the one hand due to the intensification of the war between the state and the guerrillas took place in the most remote areas of the country, in which historically had been present these groups and where they exercised territorial control, which put in a vulnerable position communities inhabiting these

areas.

On the other hand, the demobilization of the paramilitaries did not bring a decrease in human rights violations by these groups, after the DDR (Disarmament, and Reintegration Demobilization) process, the government was unable to guarantee control of areas in which these groups were demobilized which led to the emergence of new criminal structures called criminal gangs linked to drug trafficking (Hristov, 2010) but in practice carried the same criminal activities of paramilitary groups, again victimizing civilians.

Today, the phenomenon of forced displacement continues, despite efforts by the government to dealing with the situation. Many challenges remain when it comes to protect this population, ensure the restoration of their rights and provide adequate and comprehensive humanitarian assistance from the state and the international community, to achieve adequate reparation and coverage of their pressing needs, standing out the component of aid and psychosocial support, and adequate access to physical and mental health.

Colombian Legal framework adopted to deal with the forced displacement

Colombia has one of the most developed and comprehensive legal frameworks in the world, to address the problem of forced displacement, and thanks to the work articulated of the various branches of power, where both the government and the Congress and the courts have played a key role (IDCM, 2016)

The displaced population has gained access to a number of benefits under the law and recent governments have been concerned to develop programs to help to mitigate the needs of this population, especially in welfare, however, other aspects are unattended, for example they lack the access to an adequate mental health system.

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velop programs to help to mitigate the needs of this population, especially in welfare, however, other aspects still persist needs, for example they lack the access to an adequate mental health system.

This discrepancy between well-established and designed regulations and persistent lack of coverage and protection of human rights of the displaced population is especially true because the responsiveness of the state falls short of the size of the crisis, and needs overwhelm the capacities of institutions.

The following are the most representative of the country legal frameworks, which were created to provide a timely response from the state and its institutions to the needs and restoration of rights of the displaced population. The Law 387 of 1997 whereby measures for the prevention of forced displacement; care, protection, consolidation and socio-economic stabilization of internally displaced by violence are adopted in the Republic of Colombia.

With this law, the government of Colombia created the first legal framework to give a legal definition to the forcibly displaced, which is not only important for the recognition given to him as a victim, but makes it subject to rights and obligates the state not only to create policies and programs to provide help and assistance, but to seek a definitive solution to their condition and take all measures to curb the phenomenon of displacement.

This law also creates a National System of Integral Attention to the displaced population, which seeks to coordinate the work of different state agencies at national and regional level, with the aim of establishing and developing policies that enable compliance with state obligations referred in the law.

Similarly, the law establishes the National plan for comprehensive care to people displaced by the violence, which links the work carried by governments agencies with all the efforts of the international community and agencies and humanitarian NGOs supporting the Colombians IDPs.

And for the first time, the law obliges the government to stablish a database with national coverage, which can diagnose and measure the problem of forced displacement through a single register of victims, where it will be recorded not only the personal information of individuals but also the circumstances that led to their displacement, with the aim of designing customized plans and programs.

This law does not mention or include any specific directives about the assistance on mental health to the IDPs: Law 975 of 2005 in Republic of Colombia, Making provisions for the reintegration of members of organized armed groups outside the law, who effectively contribute to the achievement of national peace, and other provisions for humanitarian agreements”.

Also known as “Law of Justice and Peace” was created as a legal framework to facilitate the DDR process of the paramilitaries, however, also considers the right to truth, justice and reparation for victims of the conflict, within are included the IDPs. Law 975 of 2005 in its Article 5 establishes what a victim is and for the first time consider as affectation that must be repaired, the psychological harm and emotional suffering of the individual. In its Article 8: Right to Repair, the law speaks of rehabilitation, which consists of performing activities aimed at the recovery of victims who suffer physical and psychological trauma as a result of the conflict.

However, despite viewed as an integral part of the restoration of rights of the forcibly displaced, injury and psychological trauma to which they have been subjected, in practice, the lack of means and specialists have become quite difficult to comply with this mandate.

The law focuses quite on the right of victims to demand justice and to request reparation for the material loses due to forced displacement. To ensure adequate protection and restoration of rights of victims, the law created the National Commission for Reparation and Restitution, with an eight-year mandate to propose a national plan for material and symbolic reparations to individuals and communities in

the Law 1448 of 2011, by which enacted measures for attention and comprehensive assistance to victims of armed conflict and repair dictate other provisions.

Also known as “Victims and Land Restitution Law, specially created to tackle one of the historical roots of the conflict and that has to do with access to land by peasants and the restoration of rights of the direct victims of the conflict since 1985, and particularly aimed at providing a durable solution problem of forced displacement.

For the first time, the state recognizes the existence of an internal armed conflict, restated the definition of victim contemplated in law 387 of 1997 and dedicate an entire chapter to the displaced population. It sets as humanitarian aid within the medical and psychological emergency care, as a duty to be provided by government.

However, and although does not deepen much on the mental health care of the displaced population, in general terms, it intended to improve their quality of life and seeks reestablish them their lost rights, including land ownership. Likewise, it incorporates “The UN Guiding Principles on Internal Displacement”.

Challenges to deal with Mental Health of The IDPs

While there is sufficient clinical evidence and scientific research suggesting that a large part of the IDPs are at risk of developing mental disorders (Siriwardhana & Stewart, 2013), it is also necessary to understand that there are many social, cultural and even economic factors involved, which makes the impact of displacement forced on each individual be unique and different (Also the circumstances of manner, time and place which originated the displacement and the time of duration of the individual in a vulnerable situation play an important role.

Therefore, the study and research on the impact of forced displacement on the mental health of individuals, must be a multidisci-

plinary issue that involves not only the clinical aspect but also the psychosocial, economic and cultural development of the individual. Thus, it is possible to have a view and a more comprehensive diagnostic of the effects of the internal armed conflict on IDPs. Nonetheless, in this sense, there is still a lot of work and research to develop.

It is documented that there are some stages throughout the process of displacement and which generally are classified as the before, during and after the fact happens (Thomas & Thomas, 2004) The situation experienced by the individual displaced in each of these phases affects their mental health.

The moment before of the displacement involve the health and socio-economic conditions in which the individual developed his routine, the moment of the displacement include the circumstances and the level of threat perceived or violence occurred that make him migrate, and is the phase where higher levels of trauma happens, and the moment after, involves a series of factors or situations faced by the individual until their resettlement (Murray et al., 2010) either in a different area to his normal place of residence or returning to their place of origin, under conditions that allow them to resume their daily lives without feeling threatened.

The duration of stay in each of these phases, also affects the mental health of the displaced, and in every individual the situation is unique, and can last a few months or can be extended for generations, especially in the last phase of resettlement. When this last phase is very long, it tends to generate clinical symptoms of anxiety, frustration and pathological disorders that affect their quality of life and adversely affect their recovery or adaptation in society.

For this reason, the design and implementation of government programs and policies are important to address the displacement. It is necessary to provide an integral attention seeking restitution of rights in the shortest possible time and with the right help and support of professionals. The displaced can accept that regain the conditions and quality of life that he had

before displacement can be difficult, but it is an obligation of the state to provide the means, conditions and the opportunity to rebuild their lives.

It is proved that the reconstruction of the social and family structure of the displaced, aid in the process of resilience and many problems of physical and mental health can be treated in this way, through a strategy of integration of individuals displaced as a useful person in society

The major challenges in Colombia at the time of handling the problem of forced displacement and the consequences on the mental health of this population, deal with many problems are structural, and in this respect the law and the policies and programs of government fall short.

Thus there are factors such as the huge inequality and socio-economic gap between rural and urban populations, so when an individual is forced to leave and moved from the countryside to the city, there is a hostile environment and a society that does not welcomes, but it re-victimizes by stigmatization and social segregation.

The social fabric has been systematically destroyed and severely affected by the conflict, especially for their long duration and the factors associated with it such as drug trafficking, violence and crime which have made lose core values such as respect, solidarity and tolerance, which makes the process of rehabilitation of the displaced population hardest

Likewise, the inability of the state and its institutions to provide adequate and timely justice, to exercise the monopoly of violence, to control the territory, to ensure the healthy coexistence, associated with a weak health and education systems, create the perfect conditions

for the presence of illegal armed groups that prey again and again to the population and systematically violate human rights, which makes not only that the displaced being a vulnerable group, but large portions of society are subjected to high levels stress that end up affecting their mental health.

The internal armed conflict persists and many illegal armed groups, despite mutated, continuing perpetrating violations of human rights of the civilian population.

Conclusions and Discussions

The mental health care of displaced persons, is a comprehensive process that involves not only clinical, but also social, economic and cultural factors that, together, create the conditions so that they can overcome the trauma suffered during the forced displacement process.

While the Colombian government has a comprehensive legislation to address the phenomenon of forced displacement, and provide comprehensive reparation to the victims, we must also recognize that the magnitude of the problem has overwhelmed the response capacity of the institutions, also there are structural problems preventing the restoration process and restoration of rights, additionally it is not possible to execute a comprehensive care program for physical and mental health, which lengthens the trauma of displaced people and creates feelings of collective frustration.

These unsurpassed frustrations and pains, end up creating negative behaviors that affect all of society and therefore it becomes more difficult to overcome and adequately address the high levels of violence and intolerance that are experienced, becoming a spiral constantly repeated human rights violations of the civilian population.

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