

International Humanitarian Law and COVID-19 in Colombia: the Construction of Peace in the Post-agreement and Post-pandemic Period *

[English Version]

Derecho Internacional Humanitario y COVID-19 en Colombia: la construcción de paz en el posacuerdo y la pospandemia

PoDireito Humanitário Internacional e COVID-19 na Colômbia: construção da paz na era pós-acordo e pós-pandêmica

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Abstract

Objective: to analyze the role of International Humanitarian Law in post-agreement and post-pandemic peace-building in Colombia. **Methodology:** of a documentary nature under the hermeneutic method, with a critical socio-legal approach guided by the qualitative research from the documentary review technique. **Results:** the relationships between International Humanitarian Law (IHL) and COVID-19 in the Colombian armed conflict are described, taking into account the diverse transition scenarios that society faces regarding the implementation of the

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Final Agreement (Mesa de conversaciones, 2018) in the so-called post-agreement and post-pandemic. **Conclusions:** IHL, beyond its legal-normative component, has great ethical and political potential to contribute to peace building in Colombia and thus strengthen the precarious exercise of citizenship deficient in contexts such as Latin America. The effects of the COVID-19 pandemic, despite its unpredictability, may constitute an opportunity to enhance the value and conditions of human life, and contribute to the construction of a more just and peaceful society based on the paradigm of imperfect peace.

Keywords: peace agreement; COVID-19; human rights; humanitarian law; post-agreement.

Resumen

Objetivo: analizar el rol del Derecho Internacional Humanitario en la construcción de paz en el posacuerdo y la pospandemia en Colombia. **Metodología:** es de carácter documental bajo el método hermenéutico, con un enfoque socio-jurídico crítico y orientada por la investigación cualitativa desde la técnica de la revisión documental. **Resultados:** se describen las relaciones entre el Derecho Internacional Humanitario (DIH) y la COVID-19 en el conflicto armado colombiano, teniendo en cuenta los escenarios diversos de transición que nuestra sociedad enfrenta en cuanto a la implementación del Acuerdo Final (Mesa de conversaciones, 2018) en el denominado posacuerdo y la pospandemia. **Conclusiones:** el DIH, más allá de su componente jurídico-normativo, tiene un gran potencial ético y político por aportar en la construcción de paz en Colombia y fortalecer así el precario ejercicio de la ciudadanía deficitaria en contextos como el latinoamericano. Los efectos de la pandemia por COVID-19, a pesar de su impredecibilidad, pueden constituirse en una oportunidad para potenciar el valor de la vida humana en condiciones dignas, y contribuir a la construcción de una sociedad más justa y pacífica desde el paradigma de la paz imperfecta.

Palabras-clave: acuerdo de paz; COVID-19; derechos humanos; derecho humanitario; posacuerdo.

Resumo

Objetivo: analisar o papel do Direito Humanitário Internacional na construção da paz pós-acordo e pós-pandémica na Colômbia. **Metodologia:** é de natureza documental sob o método hermenêutico, com uma abordagem crítica sócio-jurídica e orientada pela investigação qualitativa utilizando a técnica da revisão documental. **Resultados:** são descritas as relações entre o Direito Internacional Humanitário (DIH) e a COVID-19 no conflito armado colombiano, tendo em conta os diversos cenários de transição que a nossa sociedade enfrenta em termos da implementação do Acordo Final (2016) no chamado período pós-acordo e pós-pandémico. **Conclusões:** o DIH, para além da sua componente jurídico-normativa, tem um grande potencial ético e político para contribuir para a construção da paz na Colômbia e assim reforçar o precário exercício da cidadania, que é deficiente em contextos como a América Latina. Os efeitos da pandemia da COVID-19, apesar da sua imprevisibilidade, podem tornar-se uma oportunidade para aumentar o valor da vida humana em condições dignas, e contribuir para a construção de uma sociedade mais justa e pacífica baseada no paradigma da paz imperfeita.

Palavras-chave: acordo de paz; COVID-19; direitos humanos; direito humanitário; pós-acordo.

Introduction

The Final Agreement (Mesa de conversaciones, 2018) between the former FARC-EP guerrillas (today the Commons political party) and the Colombian State, after almost six decades of armed confrontation, propitiated a fertile ground for social science research regarding the possibilities and scenarios for peace building in Colombia. However, the pandemic generated by COVID-19 and the arrival of the virus in the country in March 2020 paralyzed several academic and research processes in relation to the subject. stopped and displaced social and community processes of leaders and civil society organizations that, from their territories or their fields of action, were wagering on peace in the midst of the armed violence that was worsening in the country. Despite the signing of a peace agreement between the State and a long-standing armed actor in the conflict, other Organized Armed Groups (OAG¹) continue in armed confrontations against the military forces and the police² in the framework of IHL. Additionally, there exists the aggravating circumstance that those who carry out the hostilities continue attacking the civilian population, which is protected against the effects of war, by both national and international law.

Moreover, by the end of March 2022, Colombia had recorded more than six million confirmed cases of COVID-19 and deaths exceeding 139,000 from March 2020 (Ministry of Health, 2020). The pandemic was another factor in the increase in violence associated with the armed conflict as will be explained following.

Therefore, the guiding question of this article is: what is the role of International Humanitarian Law in the construction of peace in post-accord and post-pandemic Colombia?

IHL is the body of international legal norms that regulate international armed conflicts (IAC) and non-international armed conflicts (NIAC). They also establish the means and methods of combat permitted and prohibited for those waging war and promote respect and protection for persons not directly participating in hostilities, such as the civilian population or those actors in the armed conflict removed from combat by injury, illness, capture, or surrender.

1. The term Organized Armed Group, OAG, will be used in the terms proposed by the IHL in force in Colombia, to refer to those actors that continue to participate in the Colombian armed conflict.

2. As a general rule in international law, police forces are civilian in nature and should not be involved in armed conflicts since their function is aimed at ensuring peaceful coexistence among citizens, however, the role of the National Police in Colombia has mutated in some territories toward warlike confrontation with other OAGs, so that in Colombia the police force can be considered as an actor in the conflict.

In Colombia the multifaceted and multi-actor armed conflict³ persists. But during the pandemic, the socioeconomic inequalities associated with COVID-19, were revealed accentuating direct, structural and symbolic violence according to Galtung's proposal (2016). Violence that, as the author states, can easily reproduce or mutate, especially in a society such as Colombia's, which is burdened by countless macro and micro conflicts. These sub-conflicts range from armed conflicts to territorial, socioeconomic, and socio-political conflicts. In the face of this, violence has prevailed as an equivocal formula for resolving said disputes.

This article is divided into four parts. The first section establishes the interaction between IHL as *lex specialis* – which regulates armed conflicts to protect their victims – and International Human Rights Law, which is the general legal framework for the protection of human dignity in times of peace or war. The second section focuses on language and its relationship with the implementation of the Final Agreement during the pandemic, as the Latin prefix *pos*, has become embedded in Colombian daily life with the concepts of post-conflict, post-agreement and post-pandemic. The third section interweaves the relationships explored in a horizon of peace, in which IHL, despite being by antonomasia the regulatory framework of war, can enhance its normative content based on ethical and political considerations on life and human dignity as a tool for peace building in Colombia. Finally, some final considerations of the research process are presented.

Methodology

Qualitative research, according to María Eumelia Galeano (2011), addresses subjective and intersubjective realities. It focuses on the actors, seeks to understand from different perspectives and subjects, and is based on everyday life to understand this reality.

Thus, the methodology used has a documentary character under the hermeneutic method, with a critical socio-legal approach, oriented by the qualitative research from the documentary review technique. Primary

3. IHL is still in force in Colombia, as the State ratified the Four Geneva Conventions of 1949 through Law 5 of 1960, whose Common Article 3 enshrines the basic rules applicable to non-international armed conflicts such as Colombia's (International Committee of the Red Cross, 2012a), in the same sense, Law 171 of 1994 approved the Additional Protocol II (1977) to the Four Geneva Conventions that regulates conflicts of the same nature (International Committee of the Red Cross, 2012b).

and secondary sources were consulted, based on scientific articles, NGO reports, such as Amnesty International on a global scale and the Institute for Development and Peace (INDEPAZ) at the national level. Finally, official information from the Colombian State and international organizations such as the United Nations and the International Committee of the Red Cross was consulted.

This methodological route was useful to establish how IHL, beyond the legal norms that comprise it, has an ethical and political potential to contribute to the construction of peace in Colombia in the post-agreement and post-pandemic scenarios.

Results

The Relationship Between International Humanitarian Law and Human Rights in Colombia

As of January 31, 2022, the humanitarian toll of six decades of armed confrontation in Colombia leaves an overwhelming figure of 9,237,051 victims (Victims Unit, 2022)⁴. Almost a fifth of the Colombian population has been victimized and the universe of victims in the country exceeds the total population of states such as Israel or Switzerland, more than double that of Panama or almost triple that of Uruguay.

Due to the tragic history of Colombia's armed conflict, the issue of Human Rights, has had special relevance during the last decades, both to denounce systematic violations, and to claim the rights of victims to truth, justice, repair, and non-repetition or to become a topic of particular interest for research and social leadership from various disciplines and approaches.

The founding moment of human rights, in its legal dimension, was born with the Universal Declaration of Human Rights of 1948 of the United Nations, an instrument that continues to be the cornerstone of this normative set in terms of the protection of the human being. The legal statute that integrates human rights is called International Human Rights Law, IHRL.

For its part, IHL is a legal statute older than IHRL, since its first instrument dates from 1864 with the issuance of the First Geneva Convention,⁴ which

4. Geneva Convention I for the Amelioration of the Condition of the Wounded and Sick in Armed Forces in the Field.

regulates International Armed Conflicts, with subsequent developments in the Second Convention (1906) on wars on the high seas, Convention III (1929) on prisoners of war and Convention IV (1949) on protection of the civilian population, as well as Additional Protocols I and II of 1977 on international and non-international armed conflicts, respectively.

Despite the aforementioned, interest, knowledge, and dissemination of IHL in Colombia is considerably lower than that of human rights because the former is a very technical area, with a specialized language and with a significantly smaller number of experts at the national level, despite its vital importance in the Colombian context, in which the protection of the civilian population against the adverse effects of war should be privileged. The foregoing indicates from the outset a deficit in basic political-legal training in the face of vital issues such as IHL and human rights, especially in Colombian society so accustomed to coexisting amongst death and violence.

The Thesis of Convergence Between IHL and IHRL in Colombia: Complexities in the Post-agreement

To understand the relationship between IHL and IHRL, it is worth highlighting the accentuated relationship between both normative bodies in the framework of the Colombian post-agreement. According to Kalmanovitz (2018), IHL and IHRL converge and are articulated with the common purpose of protecting human dignity, although from different spheres, since IHRL is in force at all times and places, regardless of the circumstances through which the territory of a certain state crosses (that is, in situations of peace or war). While IHL is a *lex specialis* reserved for international or non-international armed conflicts, and therefore can only be applied in territories where there are CAI or NIAC (International Committee of the Red Cross [ICRC], 2015) such as occurs in Colombia.

The convergence thesis then understands that IHL and IHRL protect human dignity concurrently and simultaneously (Kalmanovitz, 2018) without distinction of any kind. They are two sides of a coin, since they have in common that they are articulated around the defense of life and the dignity of the human being as a political and ethical imperative, although mediated by current legal norms. The following table shows the interaction between IHL and IHRL. Both legal statutes are in force in Colombia.

Table 1. *Interaction between IHL and IHRL in Colombia*

Realm	International Humanitarian Law, IHL	International Human Rights Law, IHRL
Main Purpose	Protect the dignity and integrity of the civilian population in armed conflicts, including those who cease to participate in hostilities.	Protect the dignity and integrity of all people, without distinction of race, sex, nationality, political affiliation, religion or any other differentiating criteria.
Responsible for Compliance	Members of the armed forces (military and police), and members of the Organized Armed Groups (ELN, AGC, FARC dissidents) who participate in the hostilities.	The Colombian state as a subject of international law, since it is the one that legally commits to respect human rights and incorporate the content of these instruments into its internal legislation.
Scope of Application	In International Armed Conflicts (IAC) and in Non-International Armed Conflicts (NIAC) as in Colombia. If there is no armed conflict on the territory of a State, IHL cannot be applied.	They are permanently valid in times of peace or war, when there is concurrence between IHRL and IHL, the application of the most favorable norms for those who do not participate in the armed conflict will be privileged.
Main Instruments in Force in Colombia	Geneva Conventions I, II, III, and IV of 1949 (IAC). Article 3 Common to the four Geneva Conventions of 1949 (NIAC). *Additional Protocol I of 1977 (IAC) and Additional Protocol II of 1977 (NIACI). *Ottawa Convention on anti-personnel mines and their destruction (1997). *161 rules of IHL with customary character.	Universal Human Rights System: Universal Declaration of Human Rights (1948), International Covenant on Civil and Political Rights (1966) and Covenant on Economic, Social and Cultural Rights (1966). Interamerican Human Rights System: American Convention on Human Rights (1969), Inter-American Convention against Torture (1985), among others.

The necessary convergence between IHL and IHRL became more evident after the signing of the Final Agreement (Mesa de conversaciones, 2018), because while other groups remained in arms such as the Popular Liberation Army (EPL), the National Liberation Army (ELN) and the Gaitanista Self-Defense

Forces of Colombia (AGC), sectors of the former guerrillas, opposed joining the peace process, such as the dissidents under the command of “Gentil Duarte,” and others such as the so-called “Second Marquetalia” deserted the process two years later.

The International Committee of the Red Cross has determined that the above armed actors are not simple gangs or criminal groups, but that they are effectively GAOs (2019), in terms of IHL, because they meet the requirements of Additional Protocol II of 1977 since: i) they exercise territorial control ii) they have the capacity to carry out sustained and concerted military operations iii) [b] they have a responsible leadership and an internal hierarchy and iv) they are able to apply humanitarian standards (Reino de los Países Bajos and Naciones Unidas Derechos Humanos, 2012).

Thus, although the implementation of the Final Agreement for the End of the Conflict and the Construction of a Stable and Lasting Peace (Mesa de conversaciones, 2018) reflects that there is a peacebuilding project underway, the reality of the conflict in the country that can be compared in figures (as will be seen below) shows that the Colombian State faces various challenges in humanitarian matters.

The International Committee of the Red Cross (2022), in March, published its humanitarian balance of the armed conflict in Colombia during 2021, with landmark findings in the characterization of the armed actors and the warlike confrontation that is being waged. The 2019 International Committee of the Red Cross report established that there were five armed conflicts in the country, while during 2021 the ICRC was able to verify the existence of six, as explained in the following table.

Table 2. *Armed conflicts in force in Colombia until 2021, in accordance with IHL*

No.	Armed actors		Armed actor with which faced
1	Colombian State (military forces)	vs	National Liberation Army (ELN)
2	Colombian State (military forces)	vs	Ex -FARC-EP not included in the Peace Agreement
3	Colombian State (military forces)	vs	Gaitanist Self-Defense Forces of Colombia (AGC)

No.	Armed actors		Armed actor with which faced
4	National Liberation Army (ELN)	vs	Gaitanist Self-Defense Forces of Colombia (AGC)
5	Ex -FARC-EP not included in the Peace Agreement	vs	The Second Marquetalia's
6	Ex -FARC-EP not included in the Peace Agreement	vs	Border Commands – Bolivarian Army (hosts former members of the extinct FARC-EP and the AUC on the border with Ecuador).

Note. author's elaboration based on International Committee of the Red Cross; (2019 and 2022)

Thus, in Colombia there are six armed conflicts of different nature and intensity, but aggravated by the pandemic. It is not only about war and how it develops; it is also about existence and resistance in conditions of human dignity and enjoying physical and mental health for the populations affected by the confrontation. The ICRC's humanitarian balance says that, in Colombia, during 2021, most of the effects derived from armed conflicts and other situations of violence reached the highest level recorded during the last five years.

Victimizing acts such as confinement and massive displacement of communities increased, as well as incidents with explosive devices that amounted to 486, with 50 fatalities. The total violations of IHL during 2021 were 884 (International Committee of the Red Cross, 2022, p. 3), which shows that violence in the post-agreement scenario is intensifying instead of decreasing, a paradox for efforts of peacebuilding derived from the Final Agreement.

The Citizenships of the Pos: the Post-conflict, the Post-agreement and the Post-pandemic in Colombia

In Colombia, the exercise of citizenship can be described as restricted, as it seems to be limited to the formula: “Free elections + Variety of candidates = Democracy.” This narrowing vision of democracy is simple, but consistent with the deficient political-legal formation of Colombian society.

O'Donnell warned that democracy under this premise is precarious, and that if it were taken seriously "its full meaning implies the extended existence of other citizenships: civil, social, and cultural. The democratic regime does not guarantee, as the experience of Latin America shows, the validity of these other aspects of citizenship" (2007, p. 26).

In the country, the exercise of that deficit citizenship during the armed conflict is linked to another concept, that of the victim, it is not the purpose of this article to compose a genealogy on the category of victim, in this regard the works of Murad (2020) and Puerta (2020) can be reviewed. However, what this article seeks to highlight is that the exercise of citizenship or the concept of citizen in Colombia is somewhat displaced by the figure of the victim of the armed conflict, whose category continues to be incorporated into the Colombian legal system. As Professor Arrieta-Burgos points out:

... in our country, the survivors of the armed conflict are non-citizens in act to the extent that they are potentially so. Having said this: the category of "victim" replaces citizenship as an institutionally precarious form that refers to a non-citizen of exception, ultra-exception, re-exception, over-objectified, infra-humanitarian, apoliticized and, despite this, full, as long as their vulnerability condition is declared ceased or is not taken into account. (2016, p. 59)

This exceptionality fits with the *sui generis* of the armed conflict, because despite the signing of a peace agreement with one of its actors, six other confrontations persist that limit the exercise of the subjects marked as victims, their citizenship hangs on and depends on being declared such to achieve an exercise of factual citizenship, as Arrieta-Burgos indicates:

... if it is stated, from the entry, that the institutional category of victim is excluded from citizenship, why does it make sense to continue asking about it? Basically, because citizenship is a promise of the same victimization, it is a promise that the survivors hopelessly await, a citizenship in suspense that feeds as a passable and infamous possibility toward an institutionally unrealizable reality according to the current model. (2016, p. 59)

In a similar sense, Professor María Soledad Gómez proposes an active citizenship that does not depend exclusively on the role of State administration for its strengthening "as the only source of citizenship under the individual-State relationship. In such a case, citizenship also depends on the construction of a space for interaction that guarantees belonging to a political community" (Gómez-Guzmán, 2021, p. 225).

With this context, around the transition from the victim of the armed conflict to the citizen (full subject of rights), as an unfulfilled promise of the Colombian State, it is worth reflecting on how that citizenship in constant transition is articulated with the current moment of the country in a convulsive political community, since international standards, both IHRL and IHL, seek to develop the broadest possible protection for human beings. The standards alone are openly insufficient, and the law is a field of struggle and dispute in terms of Bourdieu (2000) which is limited in achieving the respect and protection of its recipients if there is no strong political will to comply with these legal obligations and honor the ethical and political commitments that they carry.

The transition and post-agreement scenarios pose another series of challenges for state institutions, social organizations, NGOs, and civil society as a whole. The assassinations of those who said yes to peace has not stopped, while the fear held by the signatories of the Agreement increases and the government in power denies the systematicity of this vertiginous annihilation. Members of the former guerrilla group and their families are now subject to a daily test of survival in a landscape hostile to their peace efforts – lethal and non-lethal violence exacerbated by the pandemic. The former guerrilla Martín Cruz, known during the war as Rubín Morro stated that: "it seems that what we signed was death and not peace" (2020).

It should be added that IHL rules require general protection for the civilian population, reinforced in the case of those who have ceased to participate in hostilities, such as members of the former guerrilla group, since once they have laid down their weapons, they once again acquire their status as civilians protected against the adverse effects of war. But it is curious how the legal norms of IHL operate like a pendulum between the lives and deaths of the protected subjects and those who are likely to attack in accordance with the rules of the conduct of hostilities

When speaking about post-conflict in Colombia, reference is made to a fiction, since the Latin prefix *pos* means that something is after, or in colloquial terms, that something "already happened." This is not consistent with what as a society "continues to happen to us," and that tragically seems to "continue to happen to us," in terms of the adverse effects of war that are reflected in various forms of victimization.

The American Lederach says that "the [peace] agreements have been aimed at ending the killings [but] actually, the agreements mean that a whole new series of negotiations, often more arduous and difficult, have just begun" (2008, p. 86). In Colombia, this is evident, and appealing to the post-conflict concept is an oxymoron because not only do the other armed conflicts persist, as already

explored, but other sociopolitical and socioeconomic conflicts also persist, now aggravated after two years of the pandemic.

As a society in transition, the implementation of the Final Agreement to achieve a comprehensive peace remains a goal, but in practice, as Lederach points out, it is difficult for a peace agreement to end an armed conflict, since most peace agreements are not solutions, but proposals (2008, p. 85). Hence, the concept of *post-agreement* better describes the time of Colombian society after a peace agreement that leads its various proposals around issues such as agrarian issues, illicit crops, truth, justice, reparation and guarantees of non-repetition, but all of them are still proposals underway (some with more significant advances than others, as the consolidation of the Integral System for Peace⁵).

The term *post-pandemic* has gained strength in recent months to imagine a relatively uncertain scenario in economic, epidemiological, political, and social terms, both nationally and globally. However, there are elements to consider that societies such as Colombia will not be strengthened by the pandemic and the effects of authoritarianism, xenophobia, discrimination, racism, and socioeconomic exclusion will be marked.

One of the testimonies of this sector of Colombian population, particularly vulnerable to armed violence during the pandemic, was collected by Amnesty International. Estupiñán, a Colombian social leader from the Pacific region, describes the situation as follows:

We are locked up, we move from one house to another to hide, and we only go out for need. However, in the current context, to be at home 24 hours every day is a death sentence, since the hitmen know where to find us. We are now an even easier target for those who want to silence us. For many people, quarantine represents the first time in life that their mobility has been restricted. But for four years I have not been able to walk to the store in my neighborhood alone, because I feel that if I do I will be killed. Nor can I go to the countryside, or go out to have fun, because this is risking my life. (2020)

The testimony of the leader reflects how the isolation favored the armed action of OAGs, who target social and environmental leaders for defending human rights, ancestral territories, goods of common, use and for contributing to the construction of peace in the country on a small scale. The permanent confinement situation, described by Danelly in the Colombian Pacific, is common

5. The court is the Special Jurisdiction for Peace, SJP, while the non-jurisdictional bodies are the Commission for the Clarification of the Truth (CCT) and the Search Unit for Persons Reported Missing (SUPRM).

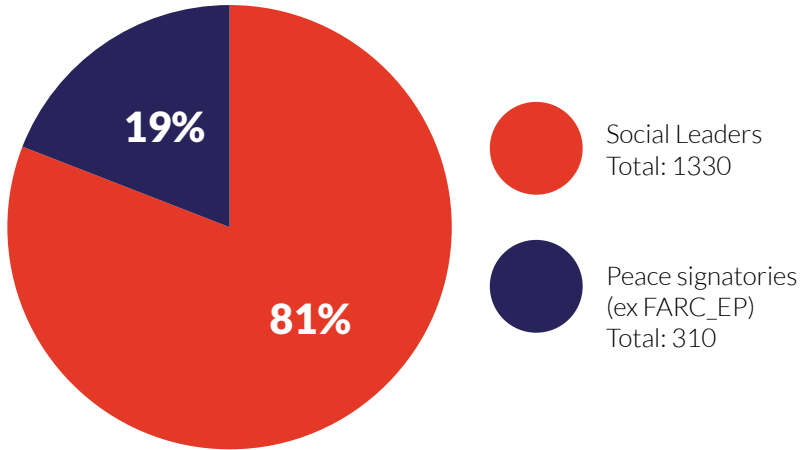
in other regions of the country. The pandemic revealed an already existing reality of restriction of freedom that many communities have experienced historically. Due to COVID-19, privileged sectors of Colombian population recognized this fact for the first time. The researcher Quiceno-Toro in her book *Vivir Sabroso* expresses in the particular case of Chocó that confinement already existed before the pandemic:

For many inhabitants, the fact of always being together in the village is a symptom of threats and fear. In addition, it is associated with the idea of being enclosed, that is, deprived of freedom to move and go for long periods to mountains, to other rivers or communities. (2016, p. 101)

In addition, lethal violence and confinement against leaders during the pandemic in the Americas was studied by the Inter-American Court of Human Rights (IACHR). The court stated that isolation contributed to exacerbating espionage and freedom of locomotion. In addition, 60% of homicides against social or environmental leaders, and human rights defenders in the world, occur in the Americas and to this lethal violence is added inequality and impunity of such crimes. Because human rights defenders are not only at risk for the exercise of their work, they are also part of most vulnerable population to COVID-19 due to precarious socioeconomic issues, also taking into account that "now the defense of Human Rights is done online." (Corte Interamericana de Derechos Humanos, 2020). These leadership activities pose several challenges taking into account the lack of access to information technologies in rural territories or on the periphery of cities, the limited socioeconomic conditions to access them, and the vulnerability to privacy and security in online environments.

According to the United Nations Verification Mission (United Nations [UN], 2022), ex-combatants killed from 2016 to the beginning of 2022 amounts to 310 confirmed by March data from the Observatorio de Derechos Humanos, Conflictividades y Paz (2022a). Data show that social leaders killed during the same period exceed 1,330. By extension, more than 1,600 homicides have occurred against ex-combatants, defenders of peace and the environment in just over the five years of implementation (Observatorio de Derechos Humanos, Conflictividades y Paz, 2021), as the following graph shows:

Figure 1. People killed during 2016 – 2022 related to the process of implementation of the Peace Agreement



Note. Author's elaboration based on Observatory of Human Rights, Conflicts and Peace(2022b); United Nations Organization (2022).

The strict documentation carried out by the Commons Party, a direct victim of this systematic extermination of its members, as well as by non-governmental organizations such as the Institute of Studies for Development and Peace (Indepaz), are useful for denunciation processes and visibility of levels of violence exacerbated in the post-agreement, and now with the addition of the post-pandemic scenario, as International Committee of the Red Cross remarks (2022). The reality in territories involves the increase in levels of violence, the highest since the signing of the Peace Agreement in 2016.

The conditions of confinement, generated from the pandemic, have led the OAGs to continue the warlike confrontation in several territories (the most remote from the centrality and institutionality in general) that threaten, intimidate, enact violence, displace and exterminate through selective assassinations, mainly, the signatories of peace and human rights defenders. It is also worth mentioning that there have been more than 200 massacres –mostly against the civilian population– during the two years of pandemic, between January 2020 and March 2022, and that so far in 2022 there have been 23 (Observatorio de Derechos Humanos, Conflictividades y Paz, 2022b). To paraphrase Butler, the exacerbated violence in Colombia shows us the finitude and little value of human life. It also points out its precariousness, because living in Colombia is linked to a fulfillment of social and economic conditions “to maintain life” (2017, p. 30).

In short, Colombians understand more about the post-agreement during the evolution of the pandemic in Colombia, because of the promises and unfulfilled legal obligations of the State, than because they are in a definitive transition from armed conflict to peace. However, it should be noted that "The pandemic has given us back the sight to recognize the reality of death, selfishness, and it has revealed to us the value of the other for each one." (Gómez-Serna *et al.*, 2021, p. 403). A society victimized for decades, being prepared for peaceful coexistence with the others, cannot tolerate a single life lost to direct, structural, or symbolic violence. The last section develops the relationship between the rules that regulate war and how they can contribute to the construction of peace.

Perspectives from IHL in a Horizon of Peace for Colombia

As already explored, IHL involves a set of legal norms aimed at regulating the conduct of hostilities between those who wage war. In Colombia, there is a tendency to study this field from the perspective of military necessity or victim protection (Kalmanovitz, 2018), but much remains to be explored in IHL from a perspective of peace.

IHL norms can become a tool for peace building in Colombia, since the obligations derived after the end of a NIAC have been less analyzed than those in force during the war, this is due to the fact that the most harmful humanitarian effects are evident while the armed confrontation lasts, but IHL poses important duties to the warring parties, both to the members of the OAG as well as to the military and police forces.

These obligations include the search for persons reported missing, the duty to grant the broadest possible amnesty and pardon, the obligation to carry out all criminal proceedings to investigate, prosecute and punish, or to carry out demining processes in the territories affected by anti-personnel mines (APM) and explosive remnants of war (ERW). Although they are legal norms, they have a profound ethical and political meaning that can be strengthened through respect for life and recognition of the populations affected by the conflict.

If these norms transcend their legal component and are applied effectively, they can contribute to the construction of peace in Colombia, because these provisions are oriented both to counteract the humanitarian consequences of the armed confrontation and to achieve the expectations of justice and the rights of the victims. The norms alone are insufficient, but they are the starting point for the consolidation of the guarantees they prescribe.

Law is a tool with serious limitations to transform realities and a greater number of legal norms do not guarantee transformations either. IHL has a

global validity that allows the development of a harmonious relationship at theoretical and practical levels within the post-agreement. In this, respect for these norms becomes a tool that not only limits the subsequent effects of war, but also contributes from a preventive approach to violence to the construction and consolidation of peace, particularly during the implementation of the Final Agreement.

It is also fundamental to think about peacebuilding scenarios in the face of the eventual submission to justice of OAG members, which the 2018-2022 government intends to demobilize at the individual and not collective level based on Decree 601 of 2020 (Presidencia de la República de Colombia, 2020). This has important legal and political consequences by ignoring the collective nature of hostilities and may be unsuccessful in the attempt to weaken OAG such as FARC-EP dissidents, the ELN, or the AGC. However, on a small scale and in a symbolic sense, it can be a micro peace-building action for someone to lay down their arms and reintegrate into life in one's political community.

The post-agreement and post-pandemic scenarios share something in common. In both, the focus of the discussion must be on the subjects of these human and fundamental rights, since it is impossible to move toward overcoming the armed conflicts in force or the socioeconomic and structural consequences derived from the pandemic without prioritizing the human beings who suffer from these circumstances.

The pandemic made it clear that the international system was not prepared at either the political or regulatory level to deal with a public health crisis of such proportions. It follows from this argument, then, that IHL and IHRL have major gaps in terms of maximizing the protective environment of the human being through international treaties, since physical and mental health seemed to be relegated to the public policies of each state and not to the strategies of multilateral organizations and the efforts of international law.

In coherence with the philosophical, political and legal discourses on human dignity protected by IHL and IHRL, the concept of "living well" can be vindicated as a collective aspiration in Colombia: "It is not a goal or an end, but a process, a doing, a day-to-day existence. Living well is something that is realized, but that is exhausted, and, therefore, does not cease to be sought." (Quiceno-Toro, 2016, p. 36). The lives taken by the armed conflict or by the pandemic cannot become mere figures and it must be recognized that these losses cannot leave indifferent the members of a political community that aspires to vindicate the conditions of a dignified existence free of all violence, in order to move during the post-agreement toward possible scenarios of peaceful and democratic coexistence.

Conclusions

In Colombia, both IHL and human rights offer various possibilities to confront the crises to which Colombians are accustomed in relation to war: displacements, massacres, or forced disappearances. However, international treaties, paraphrasing Lederach (2008), should be seen as proposals rather than solutions, and in that sense their content can be used to consolidate peace building in Colombia. Because in the post-agreement scenario, and even more so in the post-pandemic scenario, there must be a symbiosis between law with emancipatory potential and its daily practice of materializing the dignity of human beings that can lead them to a full exercise of citizenship

Negative peace (as the mere absence of war) has eluded us for decades, but it is clear that this yearning for peace is not limited to the Final Agreement between the State and the former FARC, nor is it the collective demobilization or individual subjugation of OAG members. Peace is also expressed in those small daily manifestations of listening to the other, of generating empathy with those who have been victimized or of recognizing that at any moment the evolution of the armed conflict can turn anyone into another victim. This is why peace is a call to action rather than the result of a negotiation (Acosta-Navas, 2021).

The construction of peace in Colombia can appeal to the legal tools that the Final Agreement has revitalized. The convergence between the norms of IHL and IHRL are a fundamental piece to guarantee that victims obtain truth, justice, reparations, and the guarantee of non-repetition; but it also supposes an effort so that these victims overcome the condition that marks them forever or that revictimizes them in particular situations, so that the exercise of their citizenship is not limited to a mere label.

Aspirational citizenship consists of subjects with full rights who participate in the political community and who must transcend the precariousness that has characterized them in societies such as Latin America, to become an active, critical, reflective, and proactive citizenship that does not limit its democratic exercise to voting at the ballot box in each legislative or executive period. The pandemic generated by COVID-19 is an opportunity to demonstrate that negative peace as a simple silencing of the guns (in our case, only with one armed actor) is not enough, and that for this reason Colombians must aim at a project of positive peace-building. This is understood as project in which the population has its human and fundamental rights guaranteed. But peace must also be thought from: "[the] paradigm of imperfect peace, where peace still unfinished is built day by day, from below and horizontally" (Feo-Ardila and Espinel-Rubio, 2021. p. 68).

Only by understanding that peace is an unfinished project, can Colombian society be articulated around a collective objective as a political community, where the contributions to the construction of daily peace, from below and on a small scale, manage to transcend toward other wagers for the construction of national peace, an imperfect and unfinished peace that allows us to move toward an increasingly just, peaceful and democratic society.

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