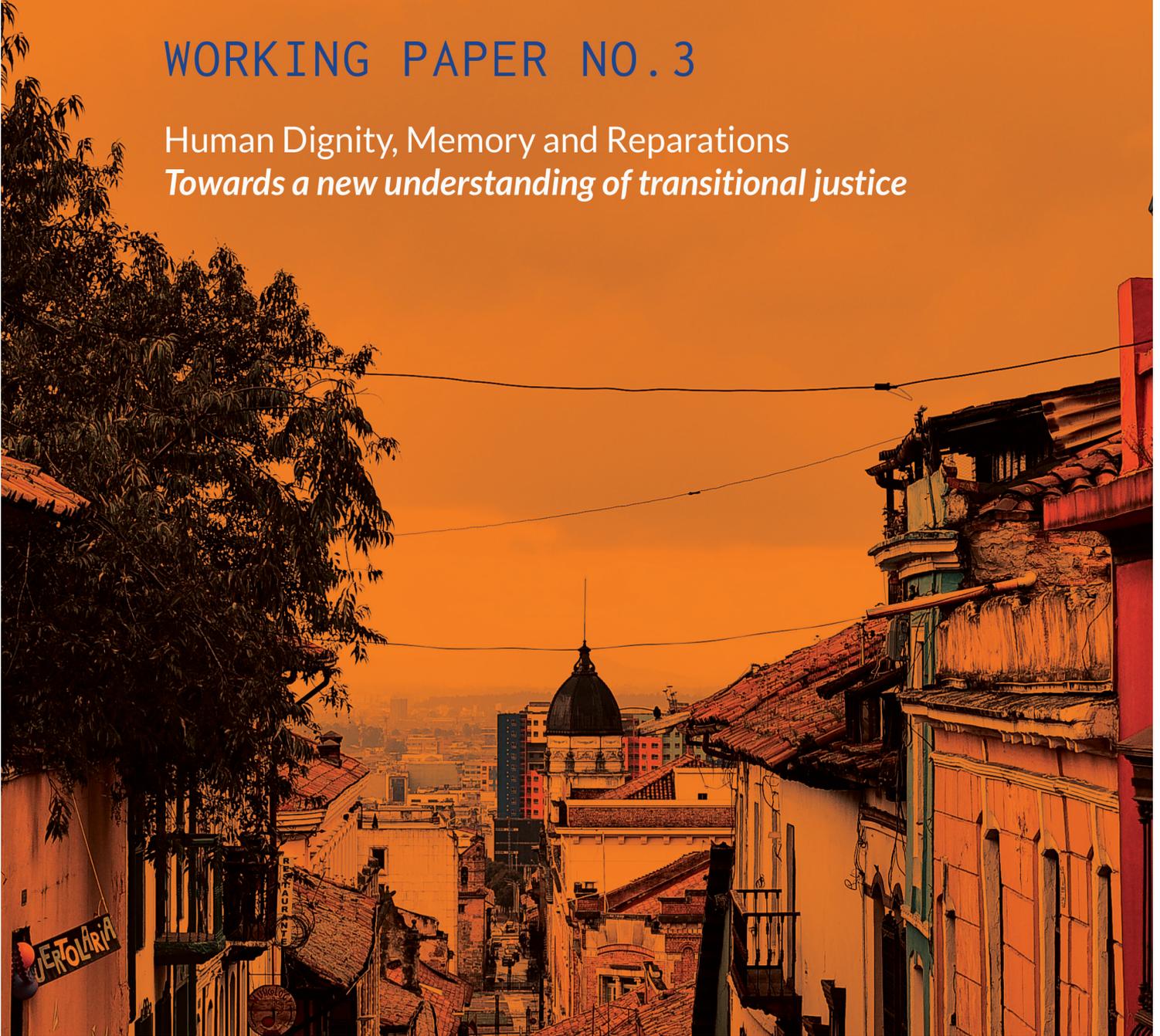


## WORKING PAPER NO.3

### Human Dignity, Memory and Reparations *Towards a new understanding of transitional justice*



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# Human Dignity, Memory and Reparations

## *Towards a new understanding of transitional justice*

### *Abstract*

The idea that humanity has equal and intrinsic value is at the core of the modern conception of human dignity. In societies in transition from conflict or authoritarianism, the human dignity of victims has been violated and denied through the abuse of their human rights and the lack of recognition of their worth through systematic and diverse forms of humiliation. Transitional justice mechanisms are considered tools for the restoration of victims' human dignity, however this concept has been unproblematized and taken for granted without a clear understanding of what human dignity and its restoration mean in the everyday life of ordinary people. This working paper intends to help to overcome these blind spots in the literature of transitional justice by reaching into the debates on human dignity in philosophy, legal research (particularly in constitutional law and human rights law); in restorative justice; and in social science. Further, it presents the Colombian reparations, truth commissions, and historical memory commission as a rich environment in which the tensions between local and universal conceptions of human dignity are identified, questioned, and analysed. From a sociological perspective, the paper proposes a categorization of the different ways in which the category of human dignity and dignification are used in the context of transitional justice.

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### *Acknowledgements*

This work was supported by the Fund for Scientific Research-FNRS.

I am thankful to Johanna Mannergren Selimovic and Valérie Rosoux for their insightful comments to this paper.

Cover photograph: Luisa Machacon

## Introduction

One of the main challenges for societies in transition is for victims to recover from processes of dehumanization, the recognition of their status as fully human, or in other words, the restoration of their human dignity after grave violation of their human rights. The protection and restoration of human dignity is considered to be paramount in the policies of reconciliation, transition and peace (Rosoux and Anstey 2017). Transitional justice deals with the legacy of past atrocities and some of its most important mechanisms such as truth commissions, memorials, and reparations have among their goals the restoration of victims' human dignity. This paper proposes an analytical framework to study the role of human dignity in transitional justice. It focuses on the Colombian truth commission, historical memory commission and reparations' claim to restore victims' human dignity, and how they use different conceptions of human dignity in their discourse and practice.<sup>1</sup>

Transitional justice includes official and non-official policies and mechanisms that aim to bring justice, reintegrate victims and perpetrators to civil society, build trust, and foster reconciliation among conflicting parties. Schneider and Esparza (2015: 15) consider transitional to be 'both a *discursive* pattern and a set of social embodied *practices* (truth commissions, reparations, amnesties, lustration, memory initiatives, and prosecutions)'. Transitional justice is an interdisciplinary field born from the comparative analysis of multiple societies that experienced conflict, authoritarianism and transition; including Latin American dictatorships, the South African apartheid, Eastern European post-communist transitions, among others (Arthur 2009; McEvoy and Mallinder 2017). As a field, transitional justice is concerned with the elaboration, examination, criticism and analysis of laws, discourses and practices in societies in transition that aim to bringing reconciliation and building peaceful and democratic societies in the aftermath of violence and/or repression. In this paper, transitional justice is studied as a field; this means both the official mechanisms, the discourses by transitional justice bureaucrats as well as the practices of transitional justice from below led by ordinary people.

Despite the different socio-cultural contexts where transitional justice has been implemented, Bell (2009: 30) argues that there are two constant premises in transitional justice: 'blanket amnesties covering serious international crimes are not permissible, and some level of (unspecified) amnesty is permissible and even required'. These two pillars represent the tension between demanding accountability for past human rights violations while setting structural conditions for the prevention of renewed human rights violations. However, the development of the field of transitional justice has demonstrated that the possibilities are richer than the binary impunity vs. justice seems to impose; 'there are actually a broad spectrum of choices available to respond to such situations, including formal and informal non-judicial and quasi-

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<sup>1</sup> This research is part of the FNRS postdoctoral grant entitled 'How Transitional Justice helps to restore victims' human dignity: The case of Colombian Truth Commission, Memory and Reparations'. October 2018 – October 2021.

judicial mechanisms such as truth commissions, victim reparation programs, and institutional reform measures' (Freeman 2009: 6).

The diverse tools of transitional justice share some common goals, such as the construction of civic trust, recognition, democracy and reconciliation. According to Pablo de Greiff (2012: 69):

the various transitional justice measures are meant to show the currency of very basic norms. But, because the norms are so basic and because they were so massively and systematically violated, showing that they now hold sway requires a comprehensive effort.

One of the most basic norms that is violated during conflict is the respect of human dignity. Atrocities, humiliation, and ill-treatment of victims are a source of denial of victims' human dignity. One of the reports of the Colombian Historical Memory Centre describes some of these atrocities suffered by the victimized women from Putumayo:

Women in El Tigre, municipality of Putumayo, told how they had to take the victims' 'open' bodies out of the river and 'to sew them up'. The stories told in the memory workshops and in conversations, show the horror they suffered, their friends or neighbors: people who were murdered when they tried to accompany the funerary rituals of family members and friends; sons and daughters who hear the outcry of their mothers when they were sexually abused; families and communities that had to run away amid gunshots and witness the scorching or pillage of their homes and to abandon their dead loved ones, the wounded ones, and the ancestors' (CMH, Centro de Memoria Historica 2013: 261).

After extreme instances of human rights violations such as those described above, the question of how to repair the damage suffered by these victims becomes crucial. Scholarship on reparations and truth commissions has explicitly claimed that transitional justice aims to restore victims' human dignity. Lundy argues that 'by acknowledging suffering and wrongdoing and allowing victims to tell their story it will help restore dignity and assist the healing process' (2011: 100). Repeatedly, assumptions such as the South Africa's Truth and Reconciliation Commission that expresses that public testimonies 'helped people to restore their human dignity' are generally accepted as common wisdom (Castillejo-Cuellar 2007). According to Malamud-Goti and Grossman (2006: 541) 'in the context of a transitional democracy, the specific goal of compensation to victims of human rights abuse is to restore their dignity and to reintegrate them to civil society as equal citizens'. Regarding reparations, the issue of 'dignity takings and dignity restoration' has been introduced by Bernadette Atuahene (2016: 796) in her study of land restitution programs for victims of involuntary property loss in South Africa. She defines dignity restoration as the mechanisms that address 'deprivations of both property and dignity by providing material compensation to dispossessed populations through processes that affirm their humanity and establish their agency'. However, different challenges arise when trying to use this same definition to address non-material loss, such as death, disappearance of bodies, or torture.

In Colombia, the Law of Victims and Land Restitution (2011) created a number of mechanisms to repair victims and support the restitution of their land property. Article 1 establishes that the goal of the law is:

to make the effective enjoyment of their Rights to truth, justice, reparation and non-recurrence for victims, so that their condition of victims is recognized and dignified through the materialization of their constitutional rights.<sup>2</sup>

Article 2, establishes that

... it offers tools [for victims] for them to claim their dignity and take on their citizenship.<sup>3</sup>

Article 4 establishes ‘Dignity’ as one of the general principles of the law,

Article 27 establishes that

the administrative reparation cases, the interpreter of the norms in this law has a duty to choose and apply the ruling or interpretation that is more in favor of the dignity and freedom of the human person, as well as the validity of the victims’ Human Rights.<sup>4</sup>

Furthermore, regarding this law, the Constitutional Court judged that:

(iii) the victims’ right to reparation is integral, to the extent that several measures should be adopted not only by the distributive justice but also by the restorative justice, in that it is about the dignification and restoration of the effective enjoyment of the victims’ fundamental rights.<sup>5</sup>

The word dignity or dignification is mentioned seventeen times only in this law, and it can be found in several other documents, policies and reports. For instance, the mandate of the Truth Commission (Truth, Coexistence and non-Recurrence Commission) establishes that:

In order to achieve the goals of the mandate, the Commission has as its main focus to **guarantee the dignification of victims** and to contribute to the satisfaction of their

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<sup>2</sup> ‘dentro de un marco de justicia transicional, que posibiliten hacer efectivo el goce de sus derechos a la verdad, la justicia y la reparación con garantía de no repetición, de modo que se reconozca su condición de víctimas y se dignifique a través de la materialización de sus derechos constitucionales’.

<sup>3</sup> ‘ofreciendo herramientas para que estas reivindiquen su dignidad y asuman su plena ciudadanía’.

<sup>4</sup> En los casos de reparación administrativa, el intérprete de las normas consagradas en la presente ley se encuentra en el deber de escoger y aplicar la regulación o la interpretación que más favorezca a la dignidad y libertad de persona humana, así como a la vigencia de los Derechos Humanos de las víctimas.

<sup>5</sup> (iii) el derecho a la reparación de las víctimas es integral, en la medida en que se deben adoptar distintas medidas determinadas no solo por la justicia distributiva sino también por la justicia restaurativa, en cuanto se trata de la dignificación y restauración plena del goce efectivo de los derechos fundamentales de las víctimas

right to truth, guarantees of non-repetition using the differential, territorial and gender approach, as it is established in the Decree 588 2017.<sup>6</sup>

Similar uses of the concept of human dignity in transitional justice mechanisms can be found across the world, another relevant example is the Tunisian ‘Truth and Dignity Commission’ (Preysing 2016). This working paper argues that despite its ubiquity the role of human dignity in transitional justice has been taken for granted as common wisdom but further exploration is necessary. The goal of restoration of human dignity in transitional justice is often unproblematized, the category of human dignity is taken for granted as commonsensical and the different socio-economic and cultural contexts that help to define human dignity are ignored. Taking the meaning of human dignity for granted is not only a problem in transitional justice, even courts that invoke human dignity in constitutional law ‘have generally allowed its meaning to rest on intuition’ (Rao 2008: 208). This working paper intends to help to overcome these blind spots in the literature of transitional justice by reaching into the debates on human dignity in philosophy, legal research (particularly in constitutional law and human rights law); in restorative justice; and in social science. Further, it presents the Colombian reparations, truth commissions, and historical memory commission, as a rich environment in which the tensions between local and universal conceptions of human dignity can be found and analysed.

In the first part of this paper, I briefly explore some of the conceptual debates on human dignity and how the context of transitional societies presents unique challenges and opportunities for the definition and implementation of programs of restoration of human dignity. The second part justifies the necessity of exploring specific socio-cultural contexts in order to understand how human dignity is defined in a local context and how it relates to universal themes found in the debates about human rights and transitional justice.

Before moving to the discussion on the concept of human dignity, I present two common explanations for the centrality of the role of the concept of human dignity in transitional justice. I argue that these arguments do not sufficiently address the absence of systematic study on the role of human dignity in transitional justice:

- 1) There is a historical relationship between transitional justice and human rights. For example, transitional justice mechanisms aim to respond to massive human rights violations or to unveil the human rights violations that occurred in the past, through listening to victims’ testimonies and building some form of accountability for perpetrators. The concept of human dignity has a central role in the justification of human rights; it appears in the preambles of the Universal Declaration of Human Rights, which declares that the recognition of the inherent dignity of all human people

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<sup>6</sup> ‘13. Los procesos de transformación positiva de las organizaciones e instituciones a lo largo del conflicto. Para el logro de los objetivos y del mandato, la Comisión, tiene como eje central **asegurar la dignificación de las víctimas** y contribuir a la satisfacción de su derecho a la verdad y las garantías de no repetición, bajo los enfoques territorial, diferencial y de género, de conformidad con lo establecido en el Decreto 588 de 2017’. [emphasis added]

<https://comisiondelaverdad.co/la-comision/mandato-y-funciones>

is the basis for ‘freedom, justice, and peace in the world’. Therefore, the strong relationship between human rights and transitional justice justifies that the language from human rights is transferred to the language of transitional justice.

- 2) Another possible explanation is the presence of the language of human dignity in the constitutional law of the countries where transitional justice has been implemented; in those cases, the use of transitional justice mechanisms would be justified in the general constitutional framework that has the protection of citizens’ human dignity at its core as one of its principles. For example the Colombian constitution establishes that:

TITLE I ARTICLE 1: *Colombia is a social state under the rule of law, organized in the form of a unitary republic, decentralized, with autonomy of its territorial units, democratic, participatory, and pluralistic, **based on the respect of human dignity**, the work and solidarity of the individuals who belong to it, and the prevalence of the general interest.* [emphasis added]

Although these two explanations are valid to understand why human dignity is relevant for transitional justice, they are not sufficient. The concept of human dignity can have different interpretations as a norm, value and principle both in human rights and in constitutional law. This means that even if transitional justice is simply borrowing the language or the category of human dignity from human rights or from constitutional law, it still needs to be studied in which way it is incorporated in the policies and laws of transitional justice, operationalized in the reparations programs, or in the justification of truth commissions. Furthermore, to claim that it is possible to restore human dignity after grave instances of human rights violations and atrocity opens philosophical questions of its own that need to be addressed, for instance, can human dignity be lost? Can it be recovered? By whom? Should the state bring human dignity back to victims? or is through the engagement of victims that human dignity can be recovered? However, before addressing these questions, a discussion on the concept of human dignity is pertinent.

## Defining Human Dignity

Human dignity can be defined as the intrinsic worth or value that each person has simply by virtue of the fact of being part of humanity. However, dignity means different things to different people and this flexibility has led some authors to disdain the concept all together calling it an empty concept while others highlight its flexibility as a heuristic potential.<sup>7</sup> Catherine Dupré studies the concept of human dignity in European constitutionalism, and argues that human dignity is an ‘intrinsically heuristic concept’, and that this means that ‘a certain semantic malleability becomes a sign of the concept’s vitality rather than of its inherent weakness’ (Dupré 2015: 17). Not only human dignity means different things to different people, but it

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<sup>7</sup> For example, the debate on death with dignity show us that some people find dignity to be a synonym of autonomy and self-respect in the prevention of undignified circumstances while for others dignity is about respect to the core of the human person, even if this person cannot have agency on their own decisions, like the terminally ill. Here we find the dichotomy of dignity as physical autonomy vs. the need to preserve life (Rosen 2012: 108).

also means different things in different contexts. In this working paper, this research examines the definition of human dignity in the context of transitional justice; this is the context of a society that has experienced or in some cases continues to experience massive human rights violations. Consequently, there is a difference between discussing human dignity in the abstract and discussing human dignity in post-atrocity conditions. Similar to how the concept has acquired its ‘current constitutional substance and significance’ in constitutional law, the context of transitional justice highlights unexplored dimensions of the concept, particularly in relation to the question ‘how human dignity can be restored after massive human rights violation?’.

This paper follows a sociological perspective, and it agrees with Stevenson (2017: 38), who argues that:

Associated ideas of human dignity are important to understanding the widespread appeal of human rights as they are to their justification. Following Jeffrey Alexander (2010), we need to study how powerful moral ideas like human rights become imagined, performed, and represented in modern societies.

I argue that further examination of the use of the concept of human dignity in transitional justice is needed because it is a concept with universalistic and absolute connotations that is inserted in local contexts through transitional justice measures. This operation runs the risk of erasing complexity and the tensions between local and global definitions of human dignity, as well as different interpretations of human rights. These tensions need to be understood in order to reach a better theorization and implementation of transitional justice.

### Seven meanings of human dignity

According to Michael Rosen (2012: 40), there are four strands of the meaning of human dignity: dignity as status, dignity as intrinsic value, dignity as the prohibition of certain kinds of degrading and disrespectful treatment and dignity as *dignified* manner or bearing. In addition to these well-known meanings, I also include three meanings of dignity that are relevant for transitional contexts, these are: dignity as an emotional response, dignity as a relational concept, and dignity as an umbrella term that brings together justice claims from marginalized groups.

- 1) The notion of dignity as status entails that there are different dignities of different sectors of society such as the judge or the nobility. This status comprises a set of rights unique for that section of society. However, in modern society, the status that was once limited to the highest rank of society has been now universalized. Waldron (2012: 33) explains this argument as follows, ‘the modern notion of *human* dignity involves an upwards equalization of rank, so that we now try to accord to every human being something of the dignity, ranks, and expectation of respect that was formerly accorded to nobility’. This definition of human dignity is based on a notion of self-respect that

depends on social recognition, ‘But in this case, the status must be an equal one for everybody.’ (Habermas 2010: 472).

- 2) The second meaning refers to dignity as an ‘inner transcendental kernel’, something invaluable and unconditional that makes us special and different from other living organisms. There are several justifications for this exceptionality of humanity: a religious argument is based on the idea that we are God’s creation (Imago Dei), while a secular argument is based on the idea that we are beings equipped with reason, or as justified by Kant, because only humans ‘we – all of us, equally - contain within ourselves the moral law to which we are subject’ (Rosen 2012: 55). The respect for human dignity understood in this way has been predominantly used to justify the existence of human rights.
- 3) The third meaning refers to the right that people has to be protected against inhumane treatment and the duty of the state to protect its citizens. Avishai Margalit (1996: 88) argues that ‘a decent society is one that eradicates abuse, where humiliation is a particular form of abuse’. According to Margalit, (2011: 19) ‘because we understand humiliation better than we understand the idea of positive human dignity, we should adopt negative politics: preventing humiliation rather than promoting the positive politics of promoting human dignity.’ From this perspective, we can understand how domestic courts or international courts should decide what type of behaviours are humiliating, cruel, inhuman or degrading for people. In this case, either the concept of human dignity appears explicitly as a principle for the interpretation and application of specific human rights as in the case of many international treaties and constitutions, or it is implicit as a principle.<sup>8</sup> The last one is the case of the European Court of Human Rights, which has stated that ‘the very essence of the Convention is respect for human dignity’ (Buyse 2016) but does not mention human dignity in the convention. Here the question is not about the justification of human rights (why) but on the uses of human dignity as a principle to decide over specific situations (how or what it entails) (Carozza 2013).
- 4) The fourth meaning is associated with the ‘the capacity to endure suffering without loss of self-control’. This is how ‘the slogan “death with dignity” expresses the claim that autonomy gives human beings the right to choose to remove themselves from such a state before their dignity in this sense disappears’ (Rosen 2012: 121). This strand of meaning reflects the recognition of the vulnerability of humans and how they seek to protect their own vulnerability while defending their rights to autonomy even in the face of disaster or atrocity.

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<sup>8</sup> Some of the international treaties that include the category of human dignity as a principle are : The Universal Declaration of Human Rights, the 1965 Convention on the Elimination of all Forms of Racial Discrimination, the 1979 Convention on the Elimination of All Forms of Discrimination against Women, the 1984 Convention Against Torture, the 1989 Convention on the Rights of the Child, the 2006 Convention on the Rights of Persons with Disabilities, the Convention on Human Rights and Biomedicine. Additionally, the Inter-American instruments and the African ones make repeated use of the idea of dignity throughout their texts. They refer to the collective character of human dignity (Carozza 2013: 351).

In addition to the four strands of meaning discussed above, there are three meanings that are particularly relevant for transitional societies, these are:

- 5) Dignity as a *feeling*. This meaning refers to the feeling of ‘inherent value and worth’ that people experience (Hicks 2011: 6). Dignity as a feeling can be understood in opposition to humiliation (Fattah and Fierke 2009; Kaufmann et al. 2010). According to Avishai Margalit ‘if there is no concept of human dignity, then there is no concept of humiliation either’ (1996: 149). Humiliation is the denial of a mutual sense of worth, and it is not limited to the experience of atrocity. Humiliation can occur beyond the legal definitions of undignified or inhumane treatment, and it can include cultural sensitive notions of humiliation. It is not a philosophical or legal definition of recognition, but it is based on emotions and feelings, which are culturally and socially constructed. For instance, Atiemo (2013: 131) observes how in traditional thought in Ghana, the concept of dignity can be found in what the Akan call *enyimyam*, the opposite of which is *Enyinguase*, which ‘is traditionally so detested that death is to be preferred to it’. According to this principle, some situations that rob people of their dignity ‘include certain diseases, physically challenging conditions, and scandalous moral lapses’.
- 6) Dignity as a relational concept. This meaning intends to go beyond the personal and the individual as the root of human dignity and puts an emphasis on the dignifying capacity of human relationships. According to Llewellyn and Phillpott (2014: 21): ‘Dignity conceived of relationally is different than the dignity reflected in liberal justice. Dignity does not refer to the inherent value of the individual simply qua *rational* agent. Dignity is not something that resides in the individual alone. Rather it marks the relationship between and among parties. Dignity refers here to the way in which we are connected with others – that such connections must refer their value’.
- 7) Dignity as an umbrella term for bringing together claims of social justice from disenfranchised groups. It highlights the ‘the demand for dignity’ as a tool for pressing the urgency and severity of their situation by using the language of dignity in relation to the violation of their economic, social and cultural rights. This includes people’s claims *for worker’s dignity, peasants’ dignity, migrants’ dignity, women’s dignity and refugees’ dignity*, etc. These demands stress that a minimum of basic conditions need to be met in order to live a life worth of human dignity (Nussbaum 2011). Three subthemes can be found under this categorization:
  - a. The demand for social recognition, which goes beyond the emotional recognition and includes the claim for political recognition in equal terms. This claim is imbued in the principle of equality of access to resources and political rights, but also of equality of recognition in the difference (Margalit 2011; Taylor 1992).
  - b. Dignity as the result of the claim itself. This understanding of dignity privileges a notion of autonomy and agency that empowers the claims of citizens as a way of regaining dignity. The claim for human dignity has become a popular slogan

among emancipatory and social movements and it works as a vehicle that creates empathy and brings together the dispossessed in their fight for freedom, equality and basic resources (Alhassen and Shihab-Eldin 2012; McCrudden 2013). Regarding dignity from a postcolonial perspective, El Bernoussi (2015) brings important questions about the material aspect of dignity; can dignity be bought? In her research on the Egyptian revolution, she coined the term *dignition* to explain ‘mainly a struggle between a seemingly misunderstood dignity, and a need for defiance and recognition’ (El Bernoussi 2015, 378).

- c. In the Latin American context, the claim for human dignity has been linked to resistance and responds to different cultural and emotional norms (Taylor 2014). The historical component that associates human dignity to human rights and social movements in Latin America needs to be further studied.

This working paper proposes to explore how different meanings of human dignity interact with values such as autonomy, freedom, equality and social recognition, which can be often irreconcilable in practice. This can be a problem in the practice and implementation of transitional justice mechanisms. Additionally, the imposition of universalistic meanings of human dignity might lead to deny the influence of the socio-economic contexts in which the concept of human dignity is used and the conventional or cultural understandings of its meaning (Donnelly 1982). Researchers have demonstrated that people’s understanding of human dignity depends upon other social variables such as religious beliefs, interpersonal sensitivity and social context (Breskaya and Döhnert 2018; Ziebertz, Döhnert, and Unser 2018). Further, using human dignity as a principle to promote or defend human rights, presents the problem of competing dignities. For example, ‘The GFCC [German Federal Constitutional Court] also explained that after the age of eighty-nine, the lower court should give more weight to the prisoner’s personality traits. Thus, the GFCC made quite clear that the dignity of the war criminal would weigh heavier on the balance than, for instance, the competing dignities of holocaust victims’ (Rao 2008: 209) in this case, ‘promoting the dignity of the accused may greatly discount the dignity of the victims of crime’ (Rao 2008: 210).

## Human dignity and the goals of transitional justice

The literature on human dignity has emphasized the problematic character of its definition, its negation and the mechanisms oriented toward its protection, but little has been theorized about its restoration. Margalit (1996) argues that a decent society requires laws that prevent humiliation. In the case of post-conflict and transitional societies, where humiliation or degrading treatment already took place, it is necessary to create mechanisms that are not only seeking to prevent humiliation but that they help to transform humiliation into dignity. The restoration of human dignity in transitional justice takes different interpretations:

- Mechanisms that aim to help victims to affirm their own dignity
- Mechanisms that aim to restore victims’ dignity
- Mechanisms that aim to acknowledge victims’ dignity

- Mechanisms that aim to protect victims' dignity through their implementation

The analysis of the process that can help to transform humiliation into dignification, should consider the different meaning of human dignity as they were explained above. The study I will conduct based on the conceptual framework here presented will show how these mechanisms relate to the different meanings of human dignity. For example, do they aim to restore dignity as status, as the ontological worth of human beings, as the protection against disrespectful treatment or dignity as a dignified manner of being? In the post-conflict context of peace agreements, is it possible to negotiate dignity? Are there cases in which dignity is irretrievably lost?

I concede that diverse transitional justice mechanisms address some of the different meanings explored in this paper at different times. An empirical part of the research will observe how local victims and commissioners define human dignity and what their ontological position on human dignity is. Do they consider that dignity can be taken away from people? Can it be violated? and how can it be repaired? is this an external process in which the victims 'receive' their lost dignity through recognition, reparation, empowerment or other action by the state? Or are victims in charge of rebuilding their own dignity even after experiencing the most extreme human rights violations? What is the role of consent in the consideration of dignity?

This paper hypothesizes that the uses of human dignity in transitional justice can be found in the following categories:

1. As a principle for interpreting how different mechanisms are operationalized in practice. According to Cardozza (2013), human dignity is not only a foundational premise for human rights but it is also a principle that has an impact on how human rights are interpreted, protected and defined. In the case of Colombia, human dignity affects how the Victims' law defines its goals and also how certain measures of satisfaction are implemented. The verb used in the law is 'dignification', which is used to explain the how-to of the implementation of mechanisms, such as when victims tell their testimony or how human remains will be returned to their relatives.
2. As a justification of why certain mechanisms should be implemented instead of others and how they should be implemented. For instance, when to provide monetary compensation instead of land restitution. It helps to justify which mechanism will contribute to the restoration or recognition of the victims' human dignity better.
3. As a tool for future reconciliation. The restoration of human dignity appears in the future and it helps to frame the premise of leaving the past behind and moving toward a future of reconciliation, peace and democracy that includes the restoration of victims' dignity. This rhetorical use of human dignity does not provide clear paths of implementation of how to restore victims' dignity and why this specific mechanism will help to do it. In this sense, human dignity is part of the 'political

instrumentalization of justice discourses and practices’ (Schneider and Esparza 2015: xiii).

4. As a tool for bringing forward claims by marginalized groups of victims. On one hand framing one’s claim as a fault against one’s human dignity and by extension as a demand of ‘human rights gives more weight to that claim, connecting it to fundamental, legally recognized basic needs and interests of people’ (Buyse 2016). On the other hand, the long tradition of human dignity claims by social movements in Latin America provides an echo chamber for the specific claims by grassroots victims’ groups. It is a way to connect to transnational claims for social justice.
5. As a social emotion: dignity is understood as an ethical concept but also as a social emotion that is defined by culture, politics and religion. Dignity as an emotion can be observed in the victims who **reclaim** the feeling of being worthy, and recognized as equal citizens. Here, I follow Fierke’s concept of ‘basal emotions’ to explain dignity as an emotion, ‘which relate to existential concerns about survival and value as a human being’ (Fierke 2015: 45).

## The Colombian case

Colombia has experienced over fifty years of conflict, and multiple peacebuilding initiatives, transitional justice policies, and the most recent peace agreement between the government and the FARC in 2016. The Colombian context offers an opportunity to analyse how the concept of human dignity has been discussed in transitional justice mechanisms such as the implementation of reparation measures framed by the *Victims’ and Land Restitution Law* (Ley 1448: 2011), including reparation and the work of the Historical Memory Group. The issue of the recognition of victims’ human dignity was also implicitly part of the peace dialogues between the FARC and the Colombian government in Havana, which was signed in 2016. The peace agreement established a Comprehensive System for Truth, Justice, Reparations and Non-Recurrence as well as the creation of domestic tribunals (Special Jurisdiction for Peace) and a Truth Commission (Truth, Coexistence and non-Recurrence Commission).

In Colombia, the idea of transitional justice places victims at its center. ‘The agreements include a series of elements that combine reparation, retribution, and restoration of the rights of the victims. The Colombian agreements appear to constitute an example of what is referred to in the literature as a ‘hybrid’ justice system (Sriram 2010)’ (Pabon 2018:4). The peace agreement signed by the FARC and the government establishes that

We hope that with the implementation of this and all of the Agreements, **the dignity of victims will be restored**, justice will be done, and the foundations will be laid to bring an end, once and for all, to the violence of the conflict in the country, and to ensure that nobody in Colombia ever becomes a victim again.’ (Gobierno de Colombia and FARC-EP 2016: 131).

The empirical part of the research will focus on the definitions of dignification, restoration of victims' dignity, recognition of victims' dignity and other implicit and explicit uses in the documents, mandates, and legal basis of the transitional justice in Colombia. As well as an analysis of the reports conducted by the Historical Memory Group. I will conduct interviews with experts and commissioners for this stage of the research. Finally, I will conduct fieldwork in an indigenous victims' group, a peasant victims' group and an urban women victims' group. Regarding the three mechanisms (truth commission, reparations, historical memory commission) I intend to address the following questions among others:

- Does it promote victims' autonomy in relation to the management of their testimony? Are victims restricted to a state-sanctioned forum/methodology?
- Does it promote victims' freedom? Will victims' face retribution after sharing their testimony that can put their freedom in jeopardy?
- Does it promote victims' equality? Does it promote a hierarchy of victims?
- Does it promote victims' social recognition? Does it make them vulnerable to stigmatization?
- Does it promote the protection of victims' human rights? Does it make them more vulnerable to human rights violations?

## Conclusion

Human dignity has a dual definition as a normative principle and as a legal principle. The first one argues the equal worth of humanity that condemns the instrumentalization of human beings. The second one is the legal principle that justifies the adoption of human rights, as it appears in the Universal Declaration of Human Rights and several other international treaties and constitutions. To study the role of human dignity in transitional justice implies to assess this dual pathway in the field. This is a gap in the literature of transitional justice. The concept of human dignity has been used in a commonsensical manner, and the problematization of the application of the universal concept of human dignity to local contexts has been insignificant. It is important to analyse how human dignity appears in the everyday reality of victims, how they give their own meaning to the goals of dignification, and how they reflect the public policies and measures of transitional justice.

On the one hand, transitional justice is understood as a set of official mechanisms, discourses and practices that include judicial proceedings, reparations, and truth commissions in charge of dealing with the legacy of authoritarian or violent past. On the other hand, transitional justice is part of the language and practices led by civil society in order to bring the recognition of their rights as victims, transform institutions and participate in politics. The role of human dignity in transitional justice involves the justification of practices and principles that give continuity to a discourse of justice that is influenced by an international language of protection of human rights and it is sanctioned in the constitutional norms of the countries that implement it. The role of human dignity in transitional justice also brings a different discussion, one that requires the assessment of how the official mechanisms as well as localized practices of

transitional justice contribute to reducing the dehumanization that happened during the conflict. Furthermore, at a more abstract but no less consequential level, the question of human dignity in transitional justice allows us to ask questions about the limit of agency, autonomy, and the negotiation of principles that are at the core of social justice, peace and reconciliation. The Colombian case offers an ideal scenario to test some of the hypotheses and arguments explored in this paper.

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