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Memory in Transition: Enforced disappearance in the judgments of the Inter-American Court of Human Rights of post-dictatorship and post-conflict countries

[Memoria en la transición: la desaparición forzada en las sentencias de la Corte Interamericana de Derechos Humanos de países en postdictadura y postconflicto]

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Abstract

This article addresses the relevance of memory in periods of transition, focusing on the concepts of "right to memory" and "duty to remember", arguing in favor of the latter, as it does not present contradictions with other fundamental rights. Four categories of measures are proposed to analyze "the duty to remember" in the jurisprudence of the Inter-American Court of Human Rights in six Latin American countries that experienced post-dictatorship or post-conflict transitions. 118 judgments were analyzed, divided into two groups: enforced disappearance (ED) and other crimes. The results reveal that the typology of the crime does not form a uniform pattern in the measures ordered, and that the most frequently ordered categories related to the "duty to remember" are the measures of clarification and disclosure of the truth. Finally, we discuss how aspects such as context and local legislation can explain the absence of reparation patterns for ED. © 2024 Departamento de Literatura Española-Universidad de Sevilla. All rights reserved.

Author keywords

duty to remember; Inter-American Court of Human Rights; post-conflict; post-dictatorship; right to memory; transition

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PATTERNS OF VIOLENCE AND MACRO-CRIMINALITY: A DISPUTED CATEGORY IN COLOMBIAN TRANSITIONAL JUSTICE

[PATRONES DE VIOLENCIA Y DE MACROCRIMINALIDAD: UNA CATEGORÍA EN DISPUTA EN LA JUSTICIA TRANSICIONAL COLOMBIANA]

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Abstract

This article addresses the relationships between patterns of violence and patterns of macro-criminality, delving into the definitions and elements of the latter within transitional justice in Colombia. Specifically, it focuses on analyzing four macro-cases developed by the Special Jurisdiction for Peace (Jurisdicción Especial para la Paz [JEP]) to identify how the JEP methodologically applied patterns of macro-criminality in the investigation of serious human rights violations and their effects in determining individual responsibility. The article concludes that macro-criminality is a different category from patterns of violence, noting that there are significant differences in its operationalization regarding armed actor variables, case types, and policy scope, as well as divergences in its conceptualization. These factors render it a contested category in a process of construction. © 2024, Universidad Nacional de Colombia. All rights reserved.

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[PATRONES DE VIOLENCIA Y DE MACROCRIMINALIDAD EN LA JUSTICIA TRANSICIONAL COLOMBIANA]

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Abstract

This article addresses the relationships between patterns of violence and macro-criminality, entering into the definitions and elements of the latter within the framework of the Special Jurisdiction for Peace (JEP), analyzing four macro-cases developed by the Special Jurisdiction for Peace to identify how the JEP methodologically applied patterns of violence to human rights violations and their effects in determining macro-criminality. It is concluded that macro-criminality is a different category from patterns of violence, and its operationalization regarding armed actor variables is a different conceptualization. These factors render it a contested category. Universidad Nacional de Colombia. All rights reserved.

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Progress in the responsibility of the colombian state based on the recommendations of the inter-american court of human rights contained in the rulings against Colombia

[Avances en la responsabilidad del Estado colombiano a partir de las recomendaciones de la Corte Interamericana de Derechos Humanos contenidas en los fallos contra Colombia]

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Abstract

This article contains an analytical approach to the 30 rulings issued by the Inter-American Court against the Colombian State, and the way in which contentious-administrative justice has incorporated said contents into the Sentences of the Council of State. The above allows us to demonstrate progress, setbacks and challenges of contentious-administrative justice to achieve effective judicial guarantee and protection in all cases that are investigated, and the harmonization of the domestic legal system with the demands of the Inter-American Human Rights System. © 2024 Departamento de Literatura Espanola-Universidad de Sevilla. All rights reserved.

Author keywords

human rights; Humanitarian law; international instrument; justice; responsibility of the State

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