

# PRESENTATION

## THE PROTECTION OF VICTIMS' RIGHTS IN MATTER OF FORCED DISAPPEARANCE OF PEOPLE.

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The objective of this presentation is to observe the protection framework of the rights from victims of forced disappearance of people, and so, to contribute to the promotion and protection of human rights. First, it is important to point out that forced disappearance of people is deprivation of freedom from one or several people by any mean, such as apprehension, detention, kidnapping; accordingly, It should lead to its concealment and to the refusal to admit that deprivation of freedom, so as to give information about the luck and the whereabouts of the disappeared person, infringed legal warranties with that.

To face this situation, the international normative makes an important definition about who is considered as a victim, which includes the missing person and also each person who suffered a direct harm as a consequence of the forced disappearance, therefore, it also includes the relatives and the closest persons of the victim.

This protection framework of victims gets wider since the forced disappearance of people is a multiple and continuous violation of human rights; that action immediately attacks against the right to live, the right to the freedom and self-security, also the right to self-integrity, the right procedure and the judicial warranties. All this gathered leads to say that it is a permanent and imprescriptible crime.

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Adding this to what was previously said, the international normative framework, that prohibits and punishes the forced disappearance of people is based on the principles and purposes from the protection systems of the human rights, with that being said, it remarks that the victims rights of “forced disappearance of people” is warranted from the Universal Declaration of Human Rights, the International Pact of Civil and Political Rights, the Declaration of Protection From Every Person Against Forced Disappearances From the ONU, the International Convention for the Protection of Every Person Against Forced Disappearances From the ONU, the Working Group on Enforced or Involuntary Disappearances (WGEID), the Committee Against Forced Disappearances of the United Nations, the American Declaration of The Rights and Duties of Man, the American Convention of Human Rights, the Inter-American Convention about Forced Disappearance of People and it integrates the rights protection framework that rules the International Humanitarian Law.

However, the international obligation to include the forced disappearance crime in the International Criminal Law, it is constituted, since it is a crime against humanity, as long as these acts are committed on a generalized manner, or systematic, also opening to the Convention about the imprescriptibility of War Crimes and Crimes Against Humanity.

Therefore, the forced disappearance constitutes responsibility in the National and International order, due to the violation against human rights, as long as those acts are committed by the State through its agents or through people themselves, or groups of people that act with the authorization and or with the support of the state. Everything previously stated is according to the Jurisprudence of the Inter-American Court of Human Rights, which has treated this problem specially in true cases; Velásquez Rodríguez Vs. Honduras, Blake Vs. Guatemala; massacres from Mozote and places near there vs. El Salvador; Gelman vs Uruguay, among other cases.

Keeping this order, and now going to Colombian plane, there are some prevention and protection mechanisms, every time the forced disappearance of people is forbidden on article 12 from La Constitución Política de Colombia, besides, it is a crime according the law number 599

from 2000 – Colombian Penal Code -, article 165, also establishing crime prevention mechanisms and protection of the fundamental rights that get affected with that conduct. Also, it is remarkable that this protection framework has had jurisprudential development in the national context through the *Caso Palacio de Justicia Vs Colombia* and the *Caso Valle Jaramillo* among others Vs. Colombia among other cases.

As a consequence against the strengthening from the constitutionality, it counts with normative layouts, such as the Law 1408 from 2010 and the Decree 303 from 2015, where it looks the non-impunity of the harmful acts of the State and the Natural and Juridical People, also, the creation of the *Comisión Nacional de Personas Desaparecidas*, the Mechanisms of Immediate Search, the National Record of Missing People and everything related to the administration of goods from missing people and the integral reparation for victims, such as the research for answers through the right to the truth, to justice, to reparation and to the non-repetition of it.

Due to everything previously stated, these lines joined to what is expressed in the Editorial, besides it is part of the responsibility and the commitment of the academy and the research, with the goal of making righteous societies that resolves problems through the respect of the human rights, the reconciliation and the reconstruction of peace.

The Universidad Católica Luis Amigó, the Facultad de Derecho y Ciencias Políticas and the Revista *Summa Iuris*, introduce the 6<sup>th</sup> level, number 1 from 2018, where lies texts that come from Mexico, Cuba, Italy and Colombia.

We express our thanks and we send a special greet to Fredy Fernández for his work on the construction of the Editorial, as well as to Diana Gabriela Cruces García, who researched about forced disappearance, an open scar from the civil war and the Francoism, the same way to Sofia Reatti, due to her research in the Italian language, and also shows us the immigration and criminality in Italy between perception and reality, going forward, in this compilation of research are also the contributions from Rodrigo Orlando Osorio Montoya, Omar Huertas Díaz and Filiberto

Eduardo Manrique Molina, who were the ones who analyzed the basic and practical concepts from the extradition of the Colombian penal right, looking to strength an agreement of general application with a base on human rights; attached to this, the input researched from Elliot Parra Ávila and César Augusto Báez Alipio, who took into consideration the right to life in Colombia: A classification of their infringement modalities, it is significant as well the study by Juan Camilo Puentes Sanchez, when treating the range of the participatory budgeting in the implementing of public politics, ending with Jorge Luis Barroso González and Marta González Rodríguez, who researched about the criminal mediation, which is a contribution to the simplification of the process and the resocialization of the criminal, as well as the possibilities of implementation in Cuba.

According to the previously stated, we consider that this scientific and investigative input increases the knowledge of the Right.