

Contribution to
Transitional justice measures to address the legacy of serious violations of human rights and
humanitarian law committed in colonial contexts

Some could say that colonialism in Meso and South America is a matter of the past but in reality it remains powerfully present in current days. The greedy mentality that was at the origin of colonialism is still present in our countries and in policy making at national and international levels. As the independence processes started, the creation of institutions took place and legal systems were established. While these developments took place they had integrated colonial concepts. Some of these concepts remained present throughout the centuries.

The Americas has been the scenario of the most important and massive destruction of human lives in the history of humanity. The world has closed its eyes and never acknowledged that a massive genocide of indigenous and afro descendent peoples took place in our region. Till today, no individuals nor states were held accountable for committing such gross violations of human rights. According to CNN in 2019 "[European settlers killed 56 million indigenous people over about 100 years in South, Central and North America,](#)"

No provision for reparations or restorations were implemented. No memorialization process was established to acknowledge the happenings, for remembrance purposes and to help with the healing process of the affected peoples. Although legal systems are in place no successful processes to guarantee non-recurrence has been established throughout the centuries.

In Meso and South America, all countries have in place a justice system, legislations and institutions that should be able to prevent that violations of human rights are perpetuated. Nevertheless, due to the historical lack of political will to implement human rights standards and legislation we have to come to grips with the fact that colonial practices and mind sets have been institutionalized throughout the centuries and are still ingrained in our societies. The privileged societies in our region should bear responsibility. They have and continue to be complicit as they perpetuate a colonial system that keeps the less privileged sectors in a permanent state of dependency. These practices are continuously present in general decision-making processes at all levels. Such national practices do not absolve some developed countries from their responsibility for they have and continue to implement and perpetuate colonial practices towards our countries and societies. For example, the development of north south relations always ends up benefiting the more powerful and/or some multinationals. How can accountability take place in such circumstances?

There are colonial practices that are not being addressed by the judicial systems and that are being considered of minor importance. But these practices shaped our societies throughout the centuries. In some cases, legislations are actually being developed to facilitate such practices. Who should be held accountable? Nations States? Individuals? Societies in general?

Colonialism made geopolitics in the region look as it is today. Borders were established with no regard for local sensibilities and realities. We are being told that there is a dialogue established between Meso and South American and economically powerful countries but in reality what we became aware of is that the modern methodologies that are being implemented continue to be influenced by a colonial mentality. Therefore, and because of the historical past in our region the currently established international and national legal systems do not seem to have the effect that we expect.

Corruption has its origins in colonialism. We should not forget that in early colonial times they brought gifts in order that indigenous peoples accept their presence. In current times they bring large amounts of cash with the purpose of corrupting politicians in order that they accept the development of projects and exploitation of natural resources. Who should be held accountable, the ones that finance corruption or those that are being corrupted? Governments are being forced to accept the terms imposed on them.

Following are some examples on how colonial practices are ingrained in our societies including in the terminologies that we use. These practices shaped and continue to shape existing inequalities. Following are a few examples:

- a) Some prefer to say Meso and South America or Abya Yala instead of the words commonly used "Latin America", which have a colonialist connotation. Indigenous and afro-descendant peoples as well as a large proportion of immigrants that populated the region do not have Latin origin.
- b) Implementation via Spain and Portugal of an Ibero-America process that positions our region as an annex to former colonial powers.
- c) Imposed evangelization of certain sectors of our societies and associated destruction of cultural values.
- d) Escalation of violent crimes associated with Christian fundamentalism.
- e) Exploitation of natural resources and related increase of military activities throughout the region
- f) Omission of important historical facts in the official education curriculum

Social, community and environmental leaders, reporters among others are being disappeared or killed in various countries. At national levels theoretically, the legal structures to implement measures of guarantee non-recurrence of gross violations of human rights are in place. But the fact that many of the disappearances and killings are not yet resolved by the judicial systems in place indicates that there is no political will to implement the measures in place. When people live in fear it becomes difficult to establish genuine processes of truth and reparation.

The general public in our region is not informed about the resolutions that emerge from the Human Rights Council, the work of the Special Rapporteurs, the Inter-American Human Rights system and the Inter American Court of Human Rights.

A lot still needs to be done to get rid of the remaining colonial influences in institutions, legal systems and decision making in our societies. A reshaping of the whole social and economic systems in place is needed.

The reshaping should start with the education systems. An education system that is centered in a healthy and creative development of the children, that teaches about the real history, that teaches on how to live together in harmony with others. The youth should no longer be educated according to current political and corporate needs but rather to discover and develop their abilities and become creative developers of their respective communities.

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