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Transitional Justice and Socio- Economic Rights: The role of the Inter-American System of Human Rights

Daniela Méndez Royo
PhD Candidate School of Law
University of Nottingham



Outline

- ▶ Normative Framework and Approach to economic, social and cultural rights (escrs).
- ▶ Role of the Inter-American Court in Transitional Justice Processes
- ▶ Cases dealing with economic, social and cultural rights in the context of armed conflict or dictatorships.

The Inter-American Human Rights System: Normative Framework

- ▶ The American Declaration on the Rights and Duties of Man
 - ▶ Arts. VII, XI, XII, XIV, XVI
- ▶ The American Convention on Human Rights
 - ▶ Art. 26: Progressive development: *The States Parties undertake to adopt measures, both internally and through international cooperation, especially those of an economic and technical nature, with a view to achieving progressively, by legislation or other appropriate means, the full realization of the rights implicit in the economic, social, educational, scientific, and cultural standards set forth in the Charter of the Organization of American States as amended by the Protocol of Buenos Aires.*
- ▶ The Additional Protocol to the American Convention on Human rights in the area of Economic, Social and Cultural Rights: 'Protocol of San Salvador'



The Inter-American Human Rights System: Approaches to economic, social and cultural rights

- ▶ **Direct Approach**

- ▶ *Five Pensioners Case vs. Peru, Acevedo Buendía et.al vs.Peru*

- ▶ **Indirect Approach**

- ▶ *Yakye Axa Indigenous Community v. Paraguay, Baena Ricardo et.all v. Panama.*

- ▶ **Reparations**

- ▶ *Plan de Sánchez Massacre v Guatemala*



The Inter-American Human Rights Court and Transitional Justice Processes in Latin America

- ▶ Not a traditional actor of Transitional Justice
- ▶ It has been fundamental in the transitions in Latin America
- ▶ Cases that include an economic, social and cultural rights approach in countries facing transition.



Cases with the inclusion of an economic, social and cultural rights approach

- ▶ In the context of massacres and forced displacement during armed conflict
 - ▶ *Plan de Sánchez vs. Guatemala (2004)*
 - ▶ *Mapiripán Massacre vs. Colombia (2005)*
 - ▶ *Ituango Massacres vs. Colombia (2006)*
 - ▶ *Yarce and others vs. Colombia (2016)*
- ▶ In the context of dictatorships
 - ▶ *Goiburú et al. v. Paraguay (2006)*
 - ▶ *Huilca Tecse Vs. Perú (2008)*
- ▶ *Reparations*



Conclusions

- ▶ Same indirect approach regarding economic, social and cultural rights violations, committed during a violent period or not.
- ▶ The Inter-American Court innovates to grant broad reparations with positive effects for the enjoyment of economic, social and cultural rights.
- ▶ Not consideration to the special circumstances of the violent period to eliminate State's obligations.
- ▶ Lack of recognition of these rights seem to derive more from the widely internalised stereotypes and misconceptions about economic, social and cultural rights.



Thank you!