

The LGTBI Community in the JEP

On 14 April 2021, the Chamber for Recognition of Truth issued Auto 066 in which, for the first time, five people from the LGTBI community were accredited as victims. By means of this decision, the Chamber established that the Special Jurisdiction for Peace (JEP) has jurisdiction in cases of persecution and discrimination against the LGTBI community associated with their sexual orientation or gender identity in the context of the armed conflict.

The Case

As part of Case 05, on 9 March, the JEP received a report from the Corporación Caribe Afirmativo - "Aquí Nadie Pidió La Guerra (Nobody Asked for War Here)". This document reported the existence of a systematic pattern of threats, harassment, torture, sexual violence, arbitrary detentions, kidnappings, forced displacements and attempted homicides against persons based on their gender, sex, gender identity and sexual orientation in Northern Cauca between 2005 and 2012 by the FARC-EP and the Colombian Armed Forces. According to the report, children, adolescents and young people with diverse gender expressions were subjected to a control strategy that considered childhood and adolescence as a time to "correct" and "punish" gender identity and sexual orientation.

Based on this report the Chamber for Truth concluded that, although the JEP does not have jurisdiction to hear about all human rights violations, the persecution of the LGTBI community for discriminatory reasons related to sexual orientation or gender identity in connection with the armed conflict and its development, may constitute a crime against humanity. Therefore, given the systematic way in which conducts such as murder, extermination, slavery, forced displacement, serious deprivation of freedom, torture, sexual slavery, sexual violence, enforced disappearance and other inhumane acts were effected against the LGTBI collective, this persecution can be considered a crime within the jurisdiction of the JEP.



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The Numbers

In 2016, the National Center of Historical Memory published the report “Annihilate the difference. Lesbians, gays, bisexuals and transgenders in the framework of the Colombian armed conflict”. 63 people shared their accounts, in which they reported having suffered 106 victimising acts, 96 of which were committed on account of their sexual orientation or gender identity. In addition, the report established that 65.3% of these acts had been perpetrated by members of paramilitary groups, 19.4% by members of the guerrillas, and 11.1% by members of the state security forces.

The report determined that, on occasion, even the local communities supported the violence committed against LGBTBI people. This tolerance shown towards these violent acts, as also noted by the Inter-American Commission on Human Rights, has been characterized as a form of “social cleansing” and punishment; a phenomenon in Colombia of which international Human Rights bodies have been receiving reports since 1993.

Other reports sent to the JEP determined that, as of March 2019, 801 people on the Registry of Victims identified as Lesbian, Gay, Bisexual or Trans in the department of Antioquia, and a further 78 in the municipality of Tumaco. Even so, underreporting prevails. When family members report victimising events, for example, they may be unaware or ashamed of the victim’s sexual orientation or gender identity and so do not report this aspect.

The Gender Approach in the JEP

In the case of LGBTBI people, international protections and guarantees of human rights have been established and developed through different norms and jurisprudence of international Human Rights bodies and courts. Within the JEP, in addition to applying the International Human Rights Law norms in its judicial decisions, the regulatory framework also includes a direct requirement that the gender approach be applied throughout the JEP’s procedures, investigations, decisions and reparations.



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Article 1 of the JEP Procedure Law establishes that the application of differential approaches is a principle that requires the adoption of adequate and sufficient measures in favor of subjects of special constitutional protection such as members of the LGTBI community. That is why, in addition to having its own distinct regulations encapsulating the importance of applying the differential approach (especially the gender approach) in each of its actions, the JEP has gone a step further. It has progressively brought in protocols, processes and policies that apply not only within the organisation, but also in the JEP's judicial functions, in order to avoid the re-victimisation of LGBTI victims.

Embrace Dialogue celebrates the decision of the JEP to employ a gender approach and invites them to continue implementing measures that guarantee a comprehensive application of this approach in the JEP's decisions. We hope that in the future, society will understand the systematic and historical violence that this community has experienced in the context of the armed conflict.



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