

Who are they to say? Experiences and recognition of victimhood of enforced disappearance in Colombia and El Salvador

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Key findings

- Political and social constructions of victimhood may facilitate or hinder the struggle for recognition of victims of ED. A lack of recognition, due to legal and institutional obstacles and the psycho-social challenges these create and/or exacerbate, generates additional injustice for ED victims.
- Recognition constitutes a significant and multifaceted process essential for the provision of effective redress to ED victims and in addressing the inhumane or degrading treatment / torture that they continue to suffer

Abstract

Introduction: Enforced disappearance (ED) entails a complex experience of victimhood for the family and friends of the disappeared who are in search of answers about the fate or whereabouts of their loved ones. Their victimhood stems from the suffering of not knowing, which is understood in psycho-social scholarship as amounting to ambiguous loss and in jurisprudence as a violation of the prohibition of inhumane or degrading treatment. It also stems from the community-pervading fear instilled by ED and the social stigmatization that these victims often face. For victims, the social and political recognition of the harms to which they have been subjected is of great significance, especially because ED is committed with the involvement of the state.

Method: Starting from scholarship on the significance of victimhood recognition for victims on the one hand, and the legal framework for ED on the other hand, this article addresses the remaining gap regarding the interactions of these two viewpoints. It is based on a multi-disciplinary analysis focusing on the experiences of interviewed victims and search actors against the backdrop of the development of the legal landscape addressing ED in Colombia and El Salvador.

Results: Victims interviewed in this study describe having faced most often a lack of recognition due to the legal and institutional

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obstacles, as well as the social stigmatisation they experienced. Meaningful forms of recognition, particularly public and official ones beyond the legal realm, were highlighted as pathways which can help to restore victims' sense of dignity and reintegrate them into the social and political community.

Conclusions: This analysis offers a valuable insight into victims' agency in pursuing their rights, as well as how political and social constructions of ED victimhood can both facilitate, and hinder victims' struggles for truth and justice.

Keywords: enforced disappearances, victimhood, recognition, Colombia, El Salvador

Introduction

"Victimhood" of enforced disappearance

The destructive nature of enforced disappearance (ED) affects not just the disappeared¹, but extends to their family, friends, and community (pursuant to Art. 24 para.1 International Convention for the Protection of all Persons from ED (ICPED). Coined by Boss (2004) as a sense of "ambiguous loss", the effect of ED on the loved ones creates one of the most taxing forms of loss (Robins, 2013). The undetermined nature of the fate and/or whereabouts of victims of ED amounts to a violation of the prohibition of torture, inhumane or degrading treatment, which prevents the family and friends of the disappeared from entering into the psychological and social healing process associated with coming to terms with their pain (Fulton, 2014; Boss, 2004). The all-encompassing, constant, and

seemingly unending nature of the suffering endured by family and friends is understood as the primary cause for their victimhood (Fulton, 2014). Their own suffering starts following the disappearance, which marks the beginning of their identity as victims (Adams, 2019).

As a tool of state suppression, perpetuating fear is one of the main aims of ED (Dulitzky, 2019; Kovras, 2017). ED not only affects those who personally knew or were acquainted with the disappeared. Fearful that further EDs may occur, individuals often choose distance from the family and friends of a disappeared, leading to the fragmentation of community relationships (Kovras, 2017). Ties to the community may also be weakened because of the social stigmatization relatives suffer as a result of the uncertainty surrounding ED and its implications in terms of loss of societal status (Robins, 2013).

Importance of recognition

Recognition is key for victims' struggles for redress (De Greiff, 2012; Haldemann, 2008) and particularly for victims of ED, because the unjust harm that they suffer is often purposefully not recognised due to the state's involvement. In the past ED was often either denied or represented as a legitimate action carried out by the state against subversives. As a result of this state misrecognition and adding to it, social recognition may also be deficient due to the stigmatization that victims of ED suffer in their communities.

Socially and politically determined, recognition for victims reflects a constructed understanding of victimhood as an identity or a status.² Victimhood can pertain to an individ-

1 We use the terms "forcibly disappeared" and "disappeared" interchangeably for the purposes of this paper.

2 Whilst 'victimization' refers to a specific harm or the experience of a violation, 'victimhood'

ual's identification as a victim, or the sense of belonging to a collective developed by victims around shared experiences of injustice and suffering (Wilke, 2007; De Waardt, 2016). Victimhood also relates to a status that is determined by an external set of criteria which reflects the "violation of a specified set of norms" and defines a general victim status within a society (Wilke 2007, p. 481). For victims of ED, recognition is important in how it reflects their relationship to a state which allowed their victimization. Recognition for victims of ED can thus also entail victims' claims for a new civil status as citizens with equal rights and agency (De Greiff, 2012; Fulton, 2014).

Victimhood in legal discourse

Victimhood as a status is constructed institutionally and politically (Hearty, 2018). Consequently, victims of ED must adhere to the state's definitions to be legally recognised as victims, which can pose many challenges. Moral innocence is one such popularised state-supported quality of victimhood (Wilke, 2007; De Waardt, 2016). Yet, victims of ED often come from communities historically excluded and criminalised by the state. They are not likely to fit the "ideal(ised)" status afforded to victims in legal and political discourse. They are also more likely to fall into a category of individuals whose victim status is disregarded (e.g. illegitimate, undeserving or unofficial victims) (Rudling, 2019). Victimhood is not black and white but operates as a spectrum of experiences and can reflect complex victim identities, as well as ways of coping with these different experiences, which

do not fit the 'ideal victim' imagery (Bouris, 2007). This may imply also that ED victims must put on an act, performing and moulding their identity to suit the state's victimhood rhetoric in order to be recognised (Wilke, 2007).

The legal frameworks and jurisprudence concerning ED at international and national levels offers victims a language through which their victimhood can be recognised by the state. Examples are Article 24 of the ICPED, and the case law of the Inter-American Court of Human Rights, which has explicitly stated that next of kin (including family members) of forcibly disappeared persons are also considered victims. Legal language takes the harm inflicted by ED upon these individuals and translates this into legal terminology, which can then be used by victims to express and claim their victim status and their rights. It allows them to express the harms they have suffered in a way that is recognised within state and international discourses, as shown with families' mobilisations in many countries (Naftali, 2016; Barton-Hronešová, 2020). Legal language can also increase victims' sense of agency, as it can be both used to achieve concrete gains such as reparations and to enable the victim's self-acknowledgement of victimhood (Vera Lugo, 2016). However, legal language is only empowering when victims are able to use it. When the family and friends of the disappeared are not aware, do not understand, or crucially cannot speak the legal terminology, it may be "empowering elites and outsiders at the expense of victims" (Gready and Robins, 2014, p. 343).

The recognition of ED victimhood by the international legal framework stems from decades of victims' struggles. While it has provided victims of ED with more possibilities for redress and justice, their recognition still faces challenges in many countries, such as Colom-

refers to a social and discursive category born from the experience of victimization which can be understood as part of an individual's self-identification or as an attributed and constructed status.

Table 1. Participants

Interview Code	Case	Socio-demographic characteristics
1CV	Colombia Victim	Middle-aged woman. Husband was a victim of ED.
2CV	Colombia Victim	Elderly peasant woman. Two sons were victims of ED.
3CVA	Colombia Victim/activist	Middle-aged woman and victims rights defender. Father was a victim of ED.
4EVA	El Salvador Victim/ activist	Woman from a rural El Salvador. Several relatives, including her husband, were victims of ED. Also a human rights defender.
5CVA	Victim/activist Colombia	Colombian human rights defender, two relatives were victims of ED.
6EV	Victim El Salvador	Had two children taken from her and given for adoption.
7EVA	Victim/activist El Salvador	Lost his mother and brother, another brother was held captive.
8CA	Activist Colombia	Colombian lawyer.
9CA	Activist Colombia	Works in a human rights organization.
10CO	Colombia Official	Anthropologist.
11CV	Victim Colombia	Man whose older brother was disappeared. The remains were delivered to the family 16 years later.
12EV	Victim El Salvador	From semi-rural El Salvador. In 1985, his father who was part of the FMLN was captured and disappeared.
13EA	Activist El Salvador	Activist working in a state institution.
14EV	Victim El Salvador	From rural El Salvador. Lost two daughters in the conflict, including one from ED. Reunited with her later.
15EV	Victim El Salvador	Woman from rural El Salvador. Her three children were disappeared.

bia and El Salvador, which were analysed for this paper. Here, victims of ED often belong to marginalised communities whose victimhood experiences have mainly been denied or delegitimised by state institutions. This paper aims to understand how victims have experienced recognition and what it means for them in the contexts of Colombia and El Salvador against the backdrop of the legal frameworks and state responses to which victims are subjected.

Methods

This multidisciplinary paper draws on research conducted in Colombia and El Salvador between January 2019 and March 2021. In addition to the analysis of the legal frameworks relevant to the search for victims of ED, fifteen semi-structured interviews were conducted (see table above). with families of the disappeared, civil society representatives, former and current representatives of different state institutions and experts.

The selection of the sample of family members and civil society representatives who were interviewed was determined in great part by the existence of previously established relationships of trust with the local project partners - the non-governmental organizations (NGOs) DeJusticia (Colombia) and ProBúsqueda (El Salvador) - and the interviewees. Researchers also benefited from the help of particular gatekeepers to establish contact with persons willing to participate. The selection strategy was also based on a “do no harm” approach, taking all measures to ensure that interviewees were not endangered in this process and to devise strategies for containment against potential risks that they may be facing. Consideration for interviewees’ vulnerability and ensuring that each interviewee was psychologically ready to share, or to continue sharing, his/her experience outweighed concerns for the representativeness and complete-

ness of the data. This sensitivity also limited the choice and extent of questions which were asked to respondents. In addition to ensuring the absolute anonymity of participants during the process, an informed consent procedure was carried out for all persons before each interview began.

Lasting between 1 and 2.5 hours, all interviews were transcribed, translated, and anonymised. They were then inductively analysed, and a set of codes was gradually generated alongside multiple readings of the interview transcriptions. The main themes were developed using a thematic coding method grounded in Braun & Clarke’s (2006) approach and adapted by the team to fit the challenges related to analysing data without a qualitative analysis software. These thematic analyses involved also regular online meetings among team members in which multidisciplinary exchanges and negotiations over meanings took place with the aim of constructing shared understandings of the themes highlighted.

Case studies: the development of legal frameworks and state responses to ED

Colombia: It is assumed that at least 184,870 persons have been victims of ED during the Colombian armed conflict (1958-today). As part of a broader civil society-led focus on victim rights, families of victims have increasingly mobilised for the recognition of ED as a crime, for the closure of the impunity gap and for the adoption of protection measures by the state (Centro Nacional de Memoria Histórica 2016). This led to the recognition of a fundamental right not to be forcibly disappeared by the Colombian Constitution, the typification of ED as a crime, the establishment of search and protection measures and the ratification of the Inter-American Convention on Forced Disappearance and the ICPED. The legal framework for addressing ED further devel-

Table 2. State responses relevant to ED victims in Colombia

1991 Constitution which includes the right not to be subjected to ED.
 2000 Law 589 criminalizing ED and creating the National Search Commission.
 2005 Justice and Peace Law.
 2005-today Development of various memorialization initiatives.
 2005 Ratification of the Inter-American Convention on Forced Disappearance.
 2011 Victims and Land Restitution Law 1448 further defining victims' status and rights.
 2012 Ratification of the ICPED.
 2016 Measures implemented in the wake of the peace agreement between the guerrilla group FARC-EP and the government: A Truth Commission, Special Jurisdiction for Peace and the Unit for The Search of Disappeared Persons (Search Unit).

Table 3. State responses relevant to ED victims in El Salvador

Despite the UN-led Truth Commission report in 1992 referring to many cases of ED, an Amnesty Law to evade prosecution of grave human rights violations, including ED was in place until 2017.
 El Salvador has not ratified the Inter-American Convention on Forced Disappearance of Persons, nor the ICPED.
 2010 and 2012 Symbolic reparations (e.g. official apologies to victims of ED).
 2010 Creation of a search commission for children
 2013 Creation of administrative reparations program (Presidential Decree 204).
 2017 Creation of a search commission for adults

oped the concept of “victims” by not only enshrining the victim’s need for protection but granting diverse rights at their disposal. While ED victimhood is institutionally recognised in Colombia, it is still attached to socio-political and socio-economic charges suffered by both victims and society, which can lead to the stigmatization of all those affected by ED.

Despite the solid legal framework and infrastructure put in place to recognise the rights of victims of ED, given the large scale and structural nature of the violations, the implementation of these frameworks continues to be unsatisfactory to this day.

El Salvador: It is estimated that more than 8,000 cases of ED were committed during

the internal armed conflict (1980-1992). ED was included as a crime against humanity in the criminal code in 1997. While the practice of ED was specifically mentioned in a UN sponsored Truth Commission report, an amnesty law passed in 1993 prevented significant legal developments for ED victims until 2016, when the Amnesty Law was declared unconstitutional. Domestic legislation has not addressed the issue of ED (only including a general mention of victims in criminal procedure), and does not spell out “the right to truth”. Domestic jurisprudence, which has at least in the past years followed the standards established by the Inter-American Court of Human Rights (IACtHR), has been the sole

means to address ED victimhood. Moreover, the two search commissions and the reparations program created by presidential decree upon requests from judgments of the IACtHR, fail to clearly define the term “victim”. Thus, the legal situation in El Salvador remains uncertain for ED victims, and its interpretation and sustainability are subject to political interests.

Results

Meanings attached to being a victim and to recognition

When searching for answers as to the whereabouts and faith of their loved ones, victims struggle to have their victimhood recognised in the face of denial and silence. Yet, victimhood is a multifarious experience which ranges from powerlessness to agency.

For some victims, victimhood is related to feelings of **powerlessness in the face of injustice**. 2CV describes her plight to have the remains of her children returned by the perpetrators: *Of course, how can I not be a victim? They took the children, they took them! (...) I followed that man, I said: “Give me back my child”, I said to his face: “Give me back the child, at least this one” and they did not want to. (2CV)*

Other victims describe their victimhood as a lifelong burden which they want to escape, but which they have no other choice but to confront. 1CV explains that she must go ahead with her life for the sake of her children and continue her struggle for truth. While she has the certainty that her husband is dead and that his remains have been found, her struggle is far from over. In the face of unsupportive legal actors, this struggle is exhausting: *Yes, I’m mom and dad at the same time. (...). I’ve taken a lot of blows, (...) I don’t want any more. I’d like to run away and forget everything, (...), but I know I can’t do it, I have to live it. (1CV)*

This victimhood is often described as entrenched in **ambivalent feelings and emotions**. 3CVA explains that the state of ambiguous loss she has experienced since learning about the disappearance of her loved one dominates her daily life. She describes how she sometimes escapes from this feeling momentarily so as to retain a sense of normality within her life. She describes in detail how victims may switch from a state of sadness and despair to momentary light-heartedness: *You can see a victim (...) very sad and after five minutes it’s as if that hadn’t happened, because I think that the soul, the spirit, surrounds itself like a shell and people let go of their feelings for a moment and it comes back and it’s like a sudden forgetfulness (...) it happens to all the victims of ED and it happens to me. I may be very sad in a moment, but then I can joke without any problem and go on with life. (3CVA)*

9CA, a professional working with victims of ED, also highlights this ambivalence of feelings experienced by most victims: *(...) the constant uncertainty of not knowing what happened, which leads you to despair and hope on the same day. The hope that he will suddenly appear alive but knowing that it has been so long that you will most likely find him dead. (9CA)*

While victimhood can be understood by some victims in terms of feelings of vulnerability and helplessness, many also describe this experience as a **struggle which reflects agency and power**. In 12EV’s recounted experience, these contrasting meanings of victimhood are not antagonistic. She distinguishes between the forcibly disappeared person, in this case her father, and his family, who are not only victims but also survivors struggling for memory and justice. Their struggle serves as a form of resilience for relatives: *(...) he was and will always be a victim, because for me a victim is a person who is in a vulnerable situation, confronted with external powers and they*

have the power to do and undo things (...) at the time I think that we as a family were victims, but now we no longer consider ourselves victims, (...) we are the surviving relatives of victims of ED because (...) we are still fighting for life, and to rescue the memory and social justice of that person. (12EV)

This reflects a certain **resistance to an external identification of victims as passive actors**. Taking on such an agentic stance may be necessary for victims to continue their struggle to effectively defend their rights.

Similarly, 4EVA explicitly rejects the idea of recognition of victimhood, if this does not lead to any constructive outcomes through the rights and duties to claims that this status implies. She refuses the victimhood status if this means being considered as a passive and non-agentic individual who will be satisfied with the mere recognition of their suffering. Victims need recognition of their dignity, that is to have the agency to claim their rights as legitimate citizens who have been wronged: (...) *if they don't recognise us as victims, they will recognise us far less as people who have a right and a duty to claim, because they don't accept it. But if they accept it, it would be good if they saw us as people who are thinkers and we have a calm conscience if they tell us what they did with them. (...) we are people, that we have rights, that we were born with rights. And that rights cannot be evaded at any time. I prefer to be told that I am a person with dignity, with rights, than to be told that I am a victim but in reality, we are victims of the state. (4EVA)*

This also points to the importance of recognition for victims as a means of validation and vindication. As 4EVA suggests, the recognition that their suffering is valid is important, but not sufficient for victims. Victims also need vindication, that is the recognition that they have been wronged, leading to the possibility to claim rights and duties from the state.

Recognition as validation: 14EV, using the example of the psycho-social support received from the NGO Pro-Búsqued, explains that recognition as validation of victimhood is important, because it can help victims make sense of their pain and finds ways to live with it: (...) *the one who is destroyed, needs an accompaniment that gives him strength, that helps him to live with the pain (...), it has been very successful, because it has known to understand the victims. (14EV)*

Recognition is also important in the **collective validation** it offers to victims. The sense of shared solidarity which can result from being in a collective is emotionally comforting for victims, particularly in the face of fears of reprisals or repression: (...) *this led the families, to get together and take the initiative to gather the family of the disappeared and start looking for them, because when you went to a courthouse, you went to a garrison, how they gave you information, if possible they sent you into fear, (...) you could not walk alone. (14EV)*

Within a collective, victims can identify with each other's struggles and mutually recognise shared experiences of suffering. As 3CVA explains, this can also result in perceived opportunities to mobilise within an organised movement: *The relatives, each one in their own pain that we met and that we decided to get together to look for and above all to demand that they return alive. (3CVA)*

Recognition as vindication: How victimhood is constructed by external actors determines whether the wrong done to the victim is recognised, as explained by 15EV. She describes how her experience of victimhood was re-constructed by a media interviewer as being the result of a wrongful action on her part: this implied that she herself had lost her children and that no wrong was done to her. She had to correct the interviewer and explain that her children disappeared because the armed forces

had kidnapped them: (...) *the one who was interviewing me said “look, (...) and how did you lose the children”, no, I have not lost them I said, they were taken away from me, (...) they were kidnapped, I told him, that’s not called losing.* (15EV)

Having the perpetrator acknowledge that the victim has been wronged by his/her actions is also central for victims because it restores the balance of power which was tilted towards the perpetrator through the commission of the violation. This diminishes the victim’s sense of injustice in the face of impunity and denial, can also facilitate the societal understanding of a victimization experience and may diminish stigmatization within the community, as one Colombian activist (8CA) highlighted.

How victims are perceived and how this affects them

ED generally occurs within a socio-political context of denial and stigmatisation, forcing victims to continue their lives without any official acknowledgment of the disappearance or/and state involvement therein. Due to this lack of public acknowledgment of their victim status, victims may also be viewed with suspicion within their communities. Many victims describe how painful it is not to have their suffering and the violations that they have suffered acknowledged, and the consequences in terms of added stigmatization and entrenched feelings of injustice.

A lack of recognition from the state, reflected by the denial and inaction of authorities in terms of the search, may also further impact the public legitimacy of their victimhood claims and provide further cause for stigmatization. 5CVA explains how victims’ claims were delegitimised as they were blamed for their relatives’ disappearances: (...) *they scolded us, mistreated us, for “not having educated our children”, (...). Because people who thought differently (...), who thought about social justice,*

about rights; of course, they were subversive people, (...)? (5CVA)

In the face of such stigmatization, some prefer to deny their own victimhood. E.g. 12EV explained that her father’s capture and disappearance was covered-up with a story that he went abroad to work to avoid questions and suspicion from the community: (...) *we had to tell people with a smile: “That my dad had gone to America, that he had gone to work...”, so, of course, that takes the questioning out of people. (...), you had a smile even though inside we were ultra mega afflicted.* (12EV)

Victims may face stigmatization from law enforcement, particularly in cases where they are part of social groups which are criminalised or stigmatised (e.g., youth). As 12EV explained, there is a disconnection between imageries of victimhood and the complexity of victims’ experiences and identities. This in turn can bias the handling of cases, with certain cases being given less attention or even being closed by the Attorney General’s Office in El Salvador when the disappeared come from criminalised communities: *if it is not a gang member then they put a little interest in the case, (...) and otherwise sometimes (...) they practically classify it.* (13EA)

The delegitimization by state authorities of individual’s claims of victimhood is felt to be unjust and humiliating. Such experiences affect victims at the core of their sense of dignity, as 11CV describes. They send an unfavourable message about their standing and value as citizens, denying victims the basic rights attached to citizen status: *And we go to the Victims’ Unit and they receive us with the other blow: “You are opportunists, (...) you are looking for help that you do not deserve, that you do not have the right to. We said: “We never came here (...), to be recognised as victims (...) because I need to know about my brother, what happened,*

how the process is going”. (...) That it is a recognition of dignity is what one claims. (11CV)

Similarly, another victim, 14EV, described this lack of recognition by the state as demeaning and re-victimizing, a state which: “(...) *has not known how to deal with the victims (...) we have been treated as something inferior, we have been re-victimised more.*” It leaves victims powerless to search for their loved ones: “(...) *in the end they have conformed to live like this and not look back, because also the state has not given them a chance, to be able to look for their family.*”

Pre-requisites to legal victim recognition

Within national contexts, being recognised as victims and having access to the rights which are attached to this status is not to be taken for granted. In El Salvador, the legal establishment that a violation has been committed, that is whether the victim’s experience can be understood as a violation of the law, is the main issue. Impunity reigns and legal frameworks to address the issue of ED victims’ rights are largely absent. In the case of Colombia, the problem concerns a failure to adequately implement the legal framework and a lack of effective access to justice for victims.

El Salvador: In El Salvador, ongoing impunity for ED is an obstacle for official and state recognition of victims in the form of reparations or criminal justice proceedings. Impunity, which is reflected in almost non-existent sentences for ED, has several consequences in terms of legal recognition.

7EVA explains that victims have no chance to have their claims recognised, even after the major socio-political transformation based on the peace agreement, when the state is involved in the violations that they have suffered and continues to deny these violations. The state authorities did not recognise the existence of disappearances: “(...) *the Attorney General’s Office, the political power was still main-*

tained by the right wing that was the one, accomplice, of course a policy without conflict but accomplice. Then it turns out that when they went to the Attorney General’s Office, the prosecutor was elected by them of course, that via the Assembly, but they elected him. Well, they refused when the cases just came up. (...) they did not accept to say: “yes indeed it was us. (7EVA)

Moreover, individuals are unlikely to be recognised as victims when they are presented as subversives against whom state agents acted legitimately. As 4EVA explains, during the armed conflict, and even after with the enactment of the Amnesty Law, there was no possibility to seek justice because the violation was perpetrated by a state agent and the latter had been entitled to amnesty. Victim recognition cannot occur when perpetrators’ actions are constructed as legitimate responses to insurrection and victimhood experiences are delegitimised: *My sister when she went to put the complaint to Verapaz of the death of her husband (...) Since he was killed by the guard, that’s why they have no right to be recognised, nor to have anything written down, that was the response of the judge at that moment in Verapaz, how were we going to go somewhere else, if in the same municipality we were being discriminated against. (...) he said: “No, it is that those who the guard kills do not have the right to be recognised because the guard is in on his duty to do what it wants”. (4EVA)*

As 4EVA further explains, the repeal of the Amnesty Law in 2016 should have opened the door to the recognition for victims, in that it enabled crimes committed during the armed conflict to be investigated and prosecuted. However, it did not change anything for them. They are still faced with silence and uncooperative state authorities, leaving them struggling for recognition, answers and ultimately justice: *We wanted the archives of the armed forces to know where one’s relatives were, I have not*

heard any answer. (...) we don't even have a space where they can take care of us, where they can tell us what happened, (...). (4EVA)

13EA, a Salvadorian activist, describes how impunity taints the judicial system, making prosecution of ED in national courts unlikely and resulting in very limited recognition: *(...) the majority of cases remain at the administrative level in the Attorney General's Office, and those that have been taken to the Court have perhaps been (...) one or two that I know of, but no more.* (13EA)

In El Salvador, state recognition may also be hindered by complex victimhood experiences, which result in those who have been forcibly disappeared being represented within their communities as victims, or alternatively as heroes. These diverging imageries of victimhood within communities may also pose challenges for victims to mobilise collectively in their struggle for recognition. 12EV explained that this created tensions around the memorialisation of her father. Her uncle was opposed to adding his name to a monument in honour of victims and have him recognised publicly as a defenceless civilian, because he wanted him to be remembered as a hero and a guerrilla.

When impunity and the state denial of grave human rights violations prevail, victims are also often not aware of their rights and of the possibilities for them to claim them. 4EVA describes how this marginalises victims even more in their struggle for recognition: *(...) we did not know that everyone had the right to life, the right to many things, a fair job, a fair salary, we did not know that there were those rights and we did demand them but without having protection, no one protected us, (...) so they marginalised and murdered right and left and gave no true explanation.* (4EVA)

Faced with poor chances of obtaining justice, public recognition by authorities may bring validation and vindication for Salva-

dorian victims. This does not necessarily have to occur in the judicial realm, as 12EV reflects on the importance of “effective recognition” by the state through a symbolic trial. The latter aims to symbolically restore victims’ moral worth and dignity as citizens. It helps victims to have their claims legitimised and their experiences officially recognised within their communities as well as to facilitate their collective mobilisation: *it is our right to know what happened to him (...) even if it was a symbolic trial, because I am not even asking for a trial of those who captured him, in the end they are responsible for that situation, (...) a symbolic trial where there is effective recognition that there has been a violation of rights and of life itself, which is the maximum right of a person, that there be recognition by the state through a trial, (...) something that can unite us, because all the survivors who are victims of ED can be united in this search for justice.* (12 EV)

In the face of state-level inaction, legal recognition for victims may come from other international institutional channels. As some of the victims interviewed highlighted, international recognition of ED as a crime has constituted a significant resource, if not last resort, for victims’ struggles in El Salvador. As 4EVA explains, the hope is that the Inter-American Court of Human Rights and the pressure it exerts on the state will bring some form of recognition to victims in the long run: *“this can also help them to recognise that they hurt the population, that they hurt the people and that they have no choice but to recognise the truth and that they are investigated.”*

Colombia: In contrast to El Salvador, various legal frameworks exist in Colombia. Yet, the law can be considered to be more of a mirage than an effective resource for victims. There is a disconnection between the multiplicity of existing laws and the ineffectiveness of the

national legal framework. The failure to implement legal criteria is explained by various factors.

Many victims argue that their difficulties in achieving recognition are due to the administrative burden which accompanies the initiation of the different processes for justice.

As 1CV recounts, the disappearance of her husband, which left her alone to take care of her children and which should have constituted enough evidence of her victimhood, did not suffice to obtain recognition of this status. This depended on whether she could provide proof of her children's affiliation to her disappeared husband: *And if you don't have the evidence then you're no longer a victim (...). I'm a victim because you don't see that it's my children's dad and it's my husband who died?* (1CV)

2CV explains her struggle to achieve administrative recognition of her victimhood in a bureaucratic maze. She had to go back and forth between different actors for a year and a half just to obtain the death certificate for the disappearance of her two children, which she needed to receive minimal financial compensation: *I went to Bogotá and they said: "You have to bring the death certificate to prove it anyway". (...) Then I came to Chaparral and talked to the secretary, I said: "Doctor, this is where they killed the child", (...) He said, "We need the death record." (...) she took my data and I went to Bogotá that day. And at the end of the month they called me from the battalion to ask them for the address (...): "to send you the register of death". They sent it to me, three days later I went and took it to Social Action.* (2CV)

11CV's account illustrates the complexity of the judicial bureaucracy. Although his brother filed a case before the Office of the Human Rights Ombudsman (Ombudsman's Office) to be recognized as a victim in order to obtain reparations for the property which belongs to both of them, 11CV needs

to file a separate claim to also be recognised as a victim, because he has a different address.

Moreover, the legal framework is just the first step towards recognition in practice. This recognition on paper needs to be followed up by concrete actions to implement the law on the ground.

3CVA, a victim and an activist, explains how many laws which have been enacted in Colombia are obsolete and do not help victims. Referring to a situation where a family member disappeared, she explains that when the Victims Law was enacted and the family received the body, they thought that they could qualify for reparations, but then realised that this was not possible. The timing of the law did not fit the timing of the victims, which led to disappointed expectations and additional violations: *And there begins another degree of violation of rights. (...) Because laws are made without socialization and sensitization for victims, (...) anyone writes them.* (3CVA)

1CV criticises the Victims Law, which creates expectations in victims which are then disappointed when they experience a lack of support and recognition from the state authorities. She explains that her experience of the process to claim for compensation for her husband's death due to ED was very painful and that she had not expected it to be so difficult: *And if this [the Victim Law process] is so cumbersome and so unconscious and so inhuman, you'd better not give him anything, that's simple. Because it's more the suffering they give to you and what you do to cause, than you suddenly expect, right? (...) You don't see it because things often aren't how you paint it.* (1CV)

Similarly, 11CV questions the multitude of institutions created in the wake of the peace agreement and deplores that they have not brought more recognition to victims: *"we have continued to be outraged. The mere fact of denying us at least recognition as a victim..."*

The lack of state recognition and support for ED victims is also observed by civil society actors working to help them. One official explains that the state's inaction may result from a lack of resources or a lack of political will to prioritise victims' needs on the state agenda: "(...) the state structures, the offices of the disappeared that we have as such no longer exist, they have been blurred. (...) either there's no money or politically they're against it, or nobody cares...". 10CO

In a similar vein, another activist gives the example of the law which had created the Commission for the Search of Disappeared Persons. This Commission illustrates a well-intended initiative which has not fulfilled its promises for victims, because it was never given the proper means to do so: "*although it has a valid purpose and objective, it was not given the necessary strength to act: budgetary strength, administrative strength, it does not have a team.*" 8CA

Meaningful forms of recognition beyond the legal
Our findings indicate that recognition takes on different forms which are expressed as meaningful for victims.

Truth as a form of recognition: Obtaining truth and its different layers is the form of recognition which is most salient in the interviewees' discourses. For 1CV, knowing the fate of her husband, the circumstances of his death and the reasons why he was killed are the most saliently expressed concerns, while demands for accountability and justice in the sense of a judicial outcome are absent from her discourse. Knowing that her husband's remains have been located, identified, and buried constitutes only a small part of the truth. Moreover, knowing that this information is withheld and that someone somewhere can answer her questions is felt as a lack of justice and recognition in and of itself: *In Legal Medicine he*

says it was December 22, 2007, would that be the date he was killed? (...) Or was that the date he had the necropsy? (...) Where did you find him? (...) there is no one to tell you "we found him in the river" or "we found him in a park." Why? What did they do to him? (...) yes, I have questions, and who answers those questions? (...) No one, because we don't know who to ask. Or all of a sudden there are people who can know them, but they don't tell me. (1CV)

Knowing the truth, or some part of the truth, is a central form of recognition for many victims, as it is often the only outcome that they may expect in a context of impunity.

Victims, such as 2CV, who come from a poor and rural Colombian community, have little hope to obtain justice through the prosecution of perpetrators, and thus express truth as a necessity in the face of denial and silence. Talking about her two disappeared children, one of whose remains have not yet been found, 2CV expresses this powerfully: (...) *let them give me the remains to give them a Christian burial and so it would be that I would rest as a mother. (...) but I know they're there. But don't let them give me a body that's not my son (...). Yes, sir, that's what I'm asking.* (2CV)

Furthermore, 2CV reiterates her need for truth and explains the injustice she feels about the lack of recognition she receives, as she is denied answers and lied to, whilst still having to struggle to survive for her other children: "*It's an injustice, that's unjust! (...) Having to go and ask, having to endure hunger (...) What did they do with our loved ones? (...) We need the truth, but let it be the truth, that they don't put lies in us.*" 2CV

This Salvadorean victim describes knowing the truth as a right which is not only essential for relatives, but which is also very important for society at large, as it may contribute to healing communities and restoring social ties: *First of all we want to know about it as a family,*

and I personally want to know about it as well, so that society also has knowledge about this type of situation, which occurred and continues to occur, in order to restore the rights of both the disappeared and the surviving family members, which is very important for a healthier and more liberated society. (12EV)

Reparation as a form of recognition:

Victims also highlight the importance of reparation as a valuable form of recognition, either in the form of financial compensation or symbolic acts of satisfaction, such as commemoration and other remembrance practices.

2CV explains that she would like some form of state compensation, as a validation of her suffering and a message of the state's recognition of its obligation to repair the wrong done to an innocent citizen: *Then I would like the state or they, just as they have made me suffer (...) that they put themselves in our shoes because we carry the bulge, see, paying rent, (...) so that (...) pay the victims at least something (...) To alleviate that weight you carry (...) because of them!* (2CV)

2CV contrasts the lack of financial compensation for her to the financial support received by the former guerrilla FARC-EP as part of the demobilization process, expressing disbelief that former perpetrators, "people who did badly" and "who did wrong", are given more state attention than victims.

Yet, for reparation to be a meaningful form of recognition, it should not constitute a means to maintain denial and silence. 15EV expresses this feeling well, highlighting that compensation is a right for victims', not a way for the state to silence people: *(...) they will give you the money and they will shut you up, no, (...), I do not accept that, if they give me the money it is because I have the right because a house was lost, animals were lost, all the patrimony was lost (...) where one was born, (...) all that is a debt*

that they have, and they do not recognise that, the state. (15EV)

One official from Colombia denounces those who minimise the symbolic importance of financial compensation, which is an important form of recognition by the state of the suffering of the victims and the harm that they have experienced. This compensation is also a right that all victims of the armed conflict can claim in virtue of the Victims' Law: *I heard many times from my colleagues and from people in the Victims Unit where they say: "It's that people only care about money". (...) they are claiming the little that the state gives them by acknowledging the death, or the loss or the disappearance and the torture of their loved one. (...) I think they have absolutely every right to claim what little they are given. (...) I don't know if it would hurt less but at least they would feel less badly treated and less alone.* (10CO)

8EA, a Colombian activist, explains what reparations mean for victims in terms of recognition, underlining their potential to re-affirm the dignity of victims and restore them as members of the moral community to which they are affiliated: *I think that reparation should be fair, (...) some gesture that soothes. The recognition of compensation is a form and has positive effects, but also the performance of symbolic acts, the recognition of a good name... In this, no type of action should be underestimated. (...) There are many ways in which a contribution to their healing can be made.* (8EA)

This last extract also hints at the importance of symbolic acts of recognition, particularly when victims have no other means to achieve public recognition of their suffering. The significance of symbolic acts of recognition is also highlighted by other victims. E.g. 4EVA explains that in a context where victims were too fearful of reprisals to file a complaint when their relatives disappeared, they had at least a monument which was established to

commemorate these events and have them publicly recognised: (...) *What happened to us is not in any court or any human rights organization (...) Because of fear (...) we could not go to file a complaint, (...) but it is there in the monument, the massacre of the canyon they say, there in the monument of Cuscatlán Park.* (4EVA)

There exists potential for recognition using symbolic forms of reparation as meaningful societal marks of solidarity and care for victims when no other official channels to recognise their victimhood are available. This official describes how such symbolic forms of reparation have been used to create relationships of solidarity between victims and ordinary citizens who were not affected by ED across Colombia. This initiative consists in adopting a tree and growing it, then once a disappeared person is identified, giving this tree to the relatives of this person: (...) *you adopted a tree, I give you the letter (the necropsy of that person), you go to plant that tree in memory of... And then you give it to him and incredible things happen there. Why? Because this person (...), knows that this beautiful young man who has nothing to do with that person planted a tree and took care of it and is going to give it to him.* (10CO)

This, as 10CO explains, creates a symbolic link of solidarity which constitutes a meaningful form of recognition for victims who are often left alone with their feelings of ambiguous loss and unrecognised within the broader society.

Finally, searching for their loved ones is a painful process for families and friends and is rife with many obstacles, fears, and uncertainties. In this long and uncertain trajectory, victims need to be accompanied and receive empathy from others. As described by some of the participants, support can constitute a meaningful form of recognition which validates victims' experiences of victimhood.

Discussion

Our findings highlight the complexity of the victimhood experience for families and friends of forcibly disappeared persons, as well as the struggles they face to have their victim status recognised. Different, ambivalent, and contrasted meanings afforded to victimhood can be identified among the victims interviewed, ranging from feelings of powerlessness and despair to a strive to re-affirm their agency and a rejection of the passive victim label. Having their victimhood recognised is very important for victims.

Furthermore, the findings show how recognition is particularly meaningful due to its value in terms of validation and vindication. Both of these dimensions of recognition help victims to make sense of the pain that they experience, as well as to provide them with the legitimacy to rightfully seek redress for the injustices that they suffered, which may also help to lessen their stigmatised status within the community.

At the collective level, the mutual recognition of victimhood within a group of victims may provide them with a sense of solidarity and agency, thereby bolstering their mobilisation in searching for answers.

Yet, most victims interviewed describe experiences of denial, inaction, silence and the delegitimization of their claims by state authorities, as well as social stigmatization. This lack of recognition is experienced as adding salt to their wounds and as profoundly unjust.

A more fine-grained analysis of victims' experiences in the legal realm carried out against the backdrop of the institutional responses to ED in Colombia and El Salvador reveals the multifaceted nature and entrenched legal and institutional mechanisms of this lack of recognition. It suggests a gap between legal responses to victimhood and the concrete implementation of these responses with regard to

victims' needs, which translates differently in both contexts.

In El Salvador, ED victims face a legal system where impunity reigns and legal frameworks to address their rights are largely absent. ED victimhood is often not recognised, because these victimization experiences are for the most part unlikely to be constructed legally as a violation and a crime. For Colombia, victims tend to describe experiences reflecting a context where legal criteria and frameworks exist, but are only partially implemented, thereby affecting victims' access to justice. This reveals an insidious and paradoxical system for victims. Legal norms are numerous and the legal framework recognises the victims as legal subjects, a status which in theory should serve as a basis to make claims on the state. Yet, the existing laws create high expectations, which fail to be achieved in practice due to various implementation flaws, leaving victims disempowered and unable to effectively exercise their rights.

The effective pursuit of victims' rights within the legal domain is thus challenged in more or less explicit ways in both contexts: through the delegitimization of victims' claims, the bureaucratic and politicised obstacles to effective legal recognition and the absence of the official recognition of the commission of ED by a state. The latter makes it almost impossible for victims to obtain redress.

Many victims highlight other forms of recognition. For example, some emphasise the significant role of international and regional channels for legal and institutional recognition. Many reveal the significance of meaningful forms of recognition beyond the legal realm, particularly the different layers of truth found by the victims in their search for answers, the support received from the NGOs, as well as the role of reparations, such as financial compensation or commemorations. All of

these are valuable ways to recognise victims' experiences, which involve different actors and realms, whether public or private, official or informal, collective or individual.

Our findings reveal that obtaining some form of recognition is very meaningful for victims, particularly when it is public and official. Such recognition constitutes a significant step towards restoring victims' sense of dignity and a message of solidarity and care, which can pave the way towards reintegration in the social and political community.

Our findings suggest that recognition may also have a beneficial impact on the search. Recognition may render victims' participation in the search process more legitimate by acknowledging their suffering and right to know the fate of their loved ones. Moreover, as some victims also describe, recognition may have an important part to play in victims' collective mobilisation. E.g. organised collectives of solidarity may be generated through the mutual recognition of shared victimhood experiences and a shared need for answers.

In addition, increased societal recognition of victims of ED in public spaces may also bolster civil society initiatives which pressure for the prioritization of the search by state actors. The more the plights and concerns of victims are recognised in both public and official discourse, the more visibility and resources can be afforded to ED, which can result in more efficient and successful search processes. Bringing societal visibility to victims' experiences through increased recognition may also help to prioritise responses within the judicial system.

Finally, supporting initiatives to increase societal recognition of ED victimhood may help foster a better societal understanding of the violation's magnitude and complexity. This can make the reality suffered by family

members more visible by revealing the long list of the violations experienced.

Conclusions

These findings provide a valuable insight into the (lack of) agency of the families and friends of the disappeared in their search for their loved ones by illustrating how political and social constructions of victimhood may facilitate or hinder their struggles for recognition. They also suggest that a lack of recognition, due to legal and institutional obstacles and the psycho-social challenges these create and/or exacerbate, generates additional injustice for ED victims and plausibly affects their opportunities to mobilise in the search for answers and as citizens. They reveal that recognition constitutes a significant and multifaceted process involving different levels of society, which should be accounted for in the provision of effective redress to ED victims and in addressing the inhumane or degrading treatment that they continue to suffer.

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