EPISTEMIC INJUSTICE, THE RIGHT TO THE TRUTH AND REPARATIONS IN CASES OF SEXUAL VIOLENCE

RITA DEL PILAR ZAFRA RAMOS[1]

Abstract: This article seeks to identify the importance of the concept of "epistemic injustice", created by Miranda Fricker, for the reparation of the right to the truth in cases of sexual violence. To this end, it conducts an analysis on the notion of epistemic injustice, (hermeneutical and testimonial); on the epistemic dimension of sexual violence; on the current content and scope of the right to the truth; and on the way said right should be repaired. Finally, it provides guidelines for reparations of the right to the truth in cases of sexual violence based on the different aspects of epistemic injustice that are experienced.

Keywords: International human rights law, Sexual violence, Epistemic injustice, Right to the truth, Reparations.

1. Introduction

Currently, the concept of "epistemic injustice" has become very prominent in the field of justice studies[2], but its presence has not been consolidated in the field of human rights. "Epistemic injustice", a concept created by Miranda Fricker (Fricker, 2007) can be understood as "a distinctive class of wrongs, namely those in which someone is ingenuously downgraded and/or disadvantaged in respect of their status as an epistemic subject." (Fricker, 2017, p. 53). Since its conception, it has enabled "the construction of a bridge between knowledge and justice" (Bustos Arellano, 2022, p. 291, translation by the author of the present article).

Even if, from its very beginning, Fricker made use of sexual violence related examples to develop said concept, there hasn't been a specific analysis of the right to the truth and reparations in cases of sexual violence based on epistemic injustice. This analysis is greatly missed in the light of the interest the right to the truth has garnered since its identification, as well as in relation toa the studies on sexual violence against women within human rights.

Sexual violence causes physical and psychological harm, but also epistemic harm. Bringing "epistemic injustice" into the analysis of the right to truth, and specifically regarding its reparation, can satisfy the victims of sexual violence' need for justice in a manner in which current reparations don't seem to do.

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[1] Law professor at the Pontificia Universidad Católica del Perú. E-mail: rita.zafra@pucp.edu.pe

[2] "Second, and relatedly, Fricker's book provided a tremendous impetus for those working in epistemology to speak to issues in fields that had previously been at a great remove from the theory of knowledge, at least as traditionally practiced – fields such as political and social philosophy, ethics, feminism, and critical race theory." (Goldberg, 2017, p. 213).

Taking this into consideration, this article seeks to identify the importance of the concept of "epistemic injustice" for reparations of the right to the truth in cases of sexual violence, with special regard to cases of sexual violence against women. Although the present article will analyze the right to the truth and reparations in general, special attention will be paid to the Inter-American Human Rights System (IAHRS).

In this line, we consider it essential to ask: "what can the concept of 'epistemic injustice' contribute to reparations in the case of sexual violence?" "How should these cases be repaired?". To this end, we will analyze international legal instruments and jurisprudence regarding the right to truth, reparation in cases of sexual violence and reparations in cases of violations of the right to truth.

In the first place, we will analyze what is understood by "epistemic injustice" as it was created by Fricker and developed later on by other authors, especially in relation to sexual violence. Later, we will analyze the relationship between the right to the truth and sexual violence. Finally, we will identify in which manner the concept of epistemic injustice can impact reparations of the right to the truth in cases of sexual violence.

2. What is epistemic injustice?

As it was mentioned beforehand, Miranda Fricker created the concept of "epistemic injustice" in 2007, in her book "*Epistemic Injustice. Power and the Ethics of Knowing*".

It's worth noting that, although Fricker is the initial creator of this concept, there are other concepts related to knowledge and power, such as epistemic violence[3], epistemic dehumanization[4], epistemic oppression[5], epistemicide[6], among others. This article will focus on the notion of "epistemic injustice", although it recognizes the importance of these other related concepts.

In this line, the concept of epistemic injustice is especially relevant in the field of justice studies because "it proposes a hybrid an interrelated definition between epistemology and politics" (García Álvarez, 2019, p. 159, translation by the author of the present article), and "draws together three branches of philosophy – political philosophy, ethics, and epistemology" (Pohlhaus, 2017, p. 13). As it has been stated before by feminist (Fricker, 2007, p. 2; Tuana, 2017, pp. 125-126; Pitts, 2017, pp. 149–157) and decolonial studies (Tuana, 2017, p. 129), and even since Foucault, as it is mentioned by Fricker herself (Fricker, 2007, pp. 10–13), knowledge is political. In this same line, knowledge about sexual violence and how it is told is also political, and it is only from this perspective that its true importance can be understood.

[3] (Spivak, Gayatri Chakravorty, 2003, pp. 297–364).
[4] (Bustos Arellano, 2022, pp. 289–310).
[5] (Fricker, 1999, pp. 191–210).
[6] (Latova Santamaría, 2023, pp. 314–342).

Therefore, when we talk about epistemic injustice related to sexual violence we are not referring only to the knowledge of the world, but also to the knowledge of ourselves and our experiences, and about the way we tell them (Fricker, 2007, p. 168). In what Fricker describes as part of a global pattern (Museo Nacional de Colombia, 2020, 22:46) women are "undermined and insulted in her capacity as a knower, as a rational being who has some knowledge to give" (Museo Nacional de Colombia, 2020, 23:57).

Fricker classifies the following instances of "epistemic injustice": hermeneutical and testimonial injustice (Fricker, 2007, p. 1). The first one consists of the lack of conceptual tools for a person to name a phenomenon, and the second one to cases in which a person is awarded lesser credibility to the one which they are owed because of prejudice against their identity (Fricker, 2007, p. 168). We argue that both are fundamental to understand reparations of the right to the truth.

In this line, the first one is understood as "the injustice of having some significant area of one's social experience obscured from collective understanding owing to a structural identity prejudice in the collective hermeneutical resource." (Fricker, 2007, p. 155).

The examples mentioned by Fricker are without a doubt based on female experiences in patriarchal societies, specifically, experiences on different forms of sexual violence: "sexual harassment as flirting, rape in marriage as non-rape, post-natal depression as hysteria, reluctance to work family-unfriendly hours as unprofessionalism, and so on" (Fricker, 2007, p. 155). This allows for the concept of epistemic injustice to be particularly apt to analyze cases of sexual and gender violence against women, because it was these experiences that inspired its creation.

In regards to testimonial injustice, the key concept identified by Fricker is "identity power" which is "power that depends in some significant degree upon such shared imaginative conceptions of social identity" (Fricker, 2007, p. 14). This develops into a "credibility deficit" for those people who don't have it (Fricker, 2007, p. 17). Therefore, there are as many forms of testimonial injustice as forms of given testimony (González de Requena Farré, 2015, p. 53). She also mentions that some cases of testimonial injustice are systematic, in cases where the identify that causes the epistemic injustice also causes harm in other fields, such as the social, educational and so on (Fricker, 2007, p. 27).

This concept is linked to the concept of "epistemic trust", which, according to García Álvarez, "is divided into three levels: confidence in the defended believe, confidence on the justification of the believe and confidence on the intellectual abilities of the person who spurs it." (García Álvarez, 2019, pp. 161–162, translation by the author of the present article).

It should be highlighted, at this point, that Fricker gives a central role to the lack of intentionality as a constitutive element of testimonial epistemic injustice (Fricker, 2017 2021, p. 54). This "involuntariness" is marked by the structural nature of the credibility

deficit created by the prejudice[7] (Fricker, 2017, p. 54). In the same line, the author argues that hermeneutical injustice has a primarily structural nature (Fricker, 2007, p. 159).

Fricker mentions that testimonial epistemic injustice can act in both an active and passive manner (Fricker, 2007, p. 9). In regards to its passive form, this could lead to the person who experiences a credibility deficit preemptively silencing themselves (Fricker, 2007, p. 15). The impact could be so great people who experience credibility deficits can develop an inferiority complex, because of a self-image that is not adjusted to their real capacity as epistemic agents (Medina, 2013, p. 28).

Within the scope of this article, it is important to highlight the self-conceptualization as a person with little value as an epistemic agent can prevent someone from presenting a testimony of sexual violence (Bustos Arellano, 2022, p. 295). Taking into consideration that many campaigns against different forms of sexual violence against women focus on the need to present complaints, this self-conception as an epistemic agent is critical.

For example, people who experience these credibility deficits based on prejudices can choose to act, because of necessity, embracing said stereotypes in order to ensure that the harms don't worsen (Posey, 2021, p. xii)[8]. On this particular matter, Medina argues:

> Oppressed subjects frequently find themselves forced to acquire deep familiarity with certain domains, developing forms of expertise than no one else has. They often need to know more than they are supposed to—sometimes more than their oppressors. They are often forced to anticipate outcomes and moves in the social game; and sometimes they are also forced to hide this knowledge and render it invisible (Medina, 2013, p. 44)

Thus, it is necessary not only to understand what mechanisms act in the cases where women decide not to report or file a complaint in cases of sexual violence, but to also understand those cases in which they do, but present them in a particular way because of their credibility deficit in society. As Medina argues, this too is an action these people undertake that people with a better epistemic position don't have to.

Finally, it is worth noting that, even if "epistemic injustice" denotes an epistemic phenomenon, its effects can bleed into other fields, such as the economic, social and even legal ones (Jerade, 2022, pp. 35–36). Within the aims of this article, the last one is of special importance.

Having established what is understood by epistemic injustice, and how it pertains to sexual violence, we will continue to the next part of this article, to answer the question "what does the right to the truth in cases of sexual violence consist of?"

[7] "A widely held disparaging association between a social group and one or more attributes, where this association embodies a generalization that displays some (typically, epistemically culpable) resistance to counter-evidence owing to an ethically bad affective investment." (Fricker, 2007, p. 35).

[8] "That is, we learn to work within the parameters of negative stereotypes and to restructure our beliefs in light of any evidence that we will not be heard or believed." (Posey, 2021, pp. xiii-xiv).

3. The right to the truth in cases of sexual violence

3.1. Although this article is centered around reparations, to analyze how to repair the right to truth in cases of sexual violence, we must understand beforehand the broader context about what is the right to truth and how it applies to cases of sexual violence as human rights violations. Thus, this section, divided into three subsections, will address what is the right to truth, in which situations it can be applied, and how it relates to sexual violence. What is the right to truth?

Firstly, we must state that the right to the truth can be understood as an epistemic right (Watson, 2021, p. 55)[9].

However, it is also necessary to state that the right to the truth has developed in parallel to the concept of epistemic injustice, within the margins of International Human Rights Law. Although their development has had no real intersecting points, they share the same field of application: epistemic harm.

In the jurisprudence of the I/A Court H.R., violations of the right to truth have been understood as violations of the right to a fair trial (article 8 of the American Convention on Human Rights - ACHR), freedom of thought and expression (article 13 ACHR, specifically as the right to access to information) and right to judicial protection (article 25 ACHR), although not necessarily as a violation of all three rights in all cases (Inter-American Commission on Human Rights, 2014, para. 69).

In this line, within the Inter-American System of Human Rights, it was initially understood as a right that only existed within the boundaries of judicial processes and that it didn't have an autonomous character (I/A Court H.R, 2006, para. 219), but later on the I/A Court H.R. stated that "it has a broad nature and its violation can affect different rights recognized in the American Convention, depending on the particular context and circumstances of the case." (I/A Court H.R, 2015, para. 265). Eventually, said court recognized its autonomy (I/A Court H.R, 2021, para. 176). Regarding whom are the right holders, the IAHRS has established that they are not only the victims and their relatives, but also society in general (Inter-American Commission on Human Rights, 2014, para. 71). To fulfill this right, the States must investigate cases of grave violations of human rights, as well as prosecute and punish those who are found responsible and make available to the public the information regarding said violations. (Inter-American Commission on Human Rights, 2014, para. 70).

The I/A Court H.R has elaborated that there are acts that can satisfy the right to the truth that don't have a judicial nature, such as executive or legislative ones (I/A Court H.R, 2021, para. 178). Therefore, in relation to cases of sexual violence, the right to the truth can demand the adoption of measures that go beyond judicial judgements, which is essential to establish reparations.

[9] Nevertheless, the most recent studies about the right to the truth in relation to epistemic injustice, and the only ones that could be identified in this research are Werkheiser (2020) and Altanian (2022).

For example:

> In cases of grave violations of human rights, the positive obligations inherent in the right to truth demand the adoption of institutional structures that permit this right to be fulfilled in the most suitable, participatory, and complete way. These structures should not impose legal or practical obstacles that make them illusory. The Court emphasizes that the satisfaction of the collective dimension of the right to truth requires a legal analysis of the most complete historical record possible. This determination must include a description of the patterns of joint action and should identify all those who participated in various ways in the violations and their corresponding responsibilities. [...]. (I/A Court H.R, 2007, para. 195)

3.2. Does the right to truth apply in all cases of human rights violations?

Here's when we must address an essential question: in which contexts does the right to the truth exist? Traditionally, it has been understood that it exists in contexts of transitional justice, which means, "after conflict, mass violence or systemic human rights abuse" (Van Zyl, 2011, p. 47). Nevertheless, the I/A Court H.R. has identified in its jurisprudence the concept of "grave violations of human rights" ("graves violaciones a los derechos humanos") as those in which the right to the truth exists.

On this matter, Lengua and Ostolaza have written about the difficulties in establishing what do "grave violations of human rights" mean for the I/A Court H.R. (Lengua Parra & Ostolaza Seminario, 2020, pp. 223–269). As they state, said Court only used this term to refer to violations that are committed in a systemic or widespread manner. (Lengua Parra & Ostolaza Seminario, 2020, p. 229). Later, its jurisprudence widened the scope of what constitutes grave human rights violations to include other acts such as extrajudicial executions and torture (Lengua Parra & Ostolaza Seminario, 2020, pp. 223–232). In later cases, however, it seems to hint that grave human rights violations must also constitute international crimes, such as in the Herzog and others v. Brasil case (Lengua Parra & Ostolaza Seminario, 2020, p. 233).

In this line, in the Gelman v. Uruguay case, the I/A Court H.R. established that:

> All persons, including the next of kin of the victims of gross human rights violations, have, pursuant to Articles 1(1), 8(1), and 25, as well as in certain circumstances Article 13 of the Convention, the right to know the truth. As a consequence, the next of kin of the victims and society must be informed of all that occurred in regard to said violations. (I/A Court H.R, 2011, para. 243).

Acts of torture, per se, as grave human rights violations were identified for the first time by the I/A Court H.R. in the Castro Castro v. Peru case (Lengua Parra & Ostolaza Seminario, 2020, p. 233). Later on, in the Atenco v. México case, it established that acts of sexual violence, including rape, qualified as torture (Lengua Parra & Ostolaza Seminario,

2020, p. 237). Rape and other cases of sexual violence that can be qualified as torture, thus, do not need to be committed in the context of transitional justice for the right to truth to be applicable, and therefore for the victims to be awarded the adequate reparations. However, this restricts the scope of application of the right to the truth in cases of sexual violence, because it does not include all acts of sexual violence, only those that qualify as grave violations.

In these cases, both the obligations of the States regarding cases of sexual violence and regarding the right to truth are applicable. For example, the right to truth's obligation of investigating and prosecuting those responsible should be understood also in the light of the obligations to investigate and prosecute cases of sexual violence. Thus, it is worth remembering what the I/A Court H.R. said in the Cotton Field v. Mexico case regarding "The irregularities in the handling of evidence, the alleged fabrication of guilty parties, the delay in the investigations, the absence of lines of inquiry that took into account the context of violence against women in which the three women were killed, and the inexistence of investigations against public officials for alleged serious negligence" as violations of the right to the truth (I/A Court H.R, 2009, para. 388). In the same line, it highlighted that said right includes "the determination of the most complete historical truth possible, which includes determination of the collective patterns of action, and of all those who, in different ways, took part in said violations." (I/A Court H.R, 2009, para. 454).

It is also worth noting that in the cases where acts of violence qualify as grave human rights violations because they are considered torture, they can be perpetrated by persons that are not public agents. In this respect, the I/A Court H.R. has said that acts carried out by private individuals, in the case of López Soto et al. v. Venezuela, can also qualify as torture, whether based on the fact that international state responsibility for torture does not require it to be carried out by a state agent, or because it could fit as an "omission" (Lengua Parra & Ostolaza Seminario, 2020, pp. 235–237). This addresses well-known criticism made by Chalesworth regarding the fact that, based on the definition of torture under the UN Convention against Torture, international human rights law does not consider violence against women perpetrated by private actors, such as their partners, as such. (Chalesworth, 1999, pp. 382–383).

On the other hand, the Universal System of Human Rights (USHR) has addressed the right to the truth in a very limited manner. Perhaps its greatest feat is its first conventional acknowledgement within the International Convention for the Protection of All Persons from Enforced Disappearance in 2006. (United Nations General Assembly, 2012, preamble)[10].

[10] "Artícle 24 […]
2. Each victim has the right to know the truth regarding the circumstances of the enforced disappearance, the progress and results of the investigation and the fate of the disappeared person. Each State Party shall take appropriate measures in this regard." (United Nations, 2006)

Furthermore, the UN General Assembly approved the "Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law" (United Nations General Assembly, 2005), in the year 2005. Among other principles, it recognizes the right to the truth said victims are entitled to.

This document follows a very similar reasoning to the one of the IACtHR, since it states that it is applicable to "gross violations of international human rights law and serious violations of international humanitarian law". There is, however, a difference in the language that is used, because it refers to "gross violations" and not to "grave violations"[11]. As Liganwa notes, there is no universally accepted definition of "gross violations" and only some soft law instruments give us some clues about which violations can be considered as such, including torture, arbitrary executions, genocide, among others (2015, pp. 70–71). Though it seems that there isn't a complete identity between these two concepts, coincidences can be identified which include, as it is relevant for this article, torture.

In the year 2012, the UN General Assembly adopted a resolution called "Right to the truth". Its preamble appears to recognize the possibility that the right to the truth assists victims of human rights violations that don't take place within armed conflicts and that don't qualify as massive or systematic human rights violations. Therefore, the use of "especially" in "Stressing that adequate steps to identify victims should also be taken in situations not amounting to armed conflict, especially in cases of massive or systematic violations of human rights," (United Nations General Assembly, 2012, preamble) implies that there are other situations, that do not require said special treatment, but to which the right to the truth is also applicable.

Later, the Human Rights Council created the mandate of the Special Rapporteur on the promotion of truth, justice, reparation and guarantees of non-recurrence, in 2011, through Resolution 18/7 of the same year (Human Rights Council, 2011). In a 2012 report, they state that "More recently, the measures defined under the mandate have been progressively transferred from their 'place of origin' in post-authoritarian settings, to post-conflict contexts and even to settings in which conflict is ongoing or to those in which there has been no transition to speak of." (Special Rapporteur on the promotion of truth, justice, reparation and guarantees of non-recurrence, 2012, para. 16). Thus, this is another argument in favor of the fact that currently the scope of scenarios in which the right to the truth is applicable has expanded. Therefore, this right cannot not only be claimed in cases of sexual violence that occur in transition contexts, but also outside of them, but, as it was previously mentioned, as long as they are "grave violations of human rights" or, in any case, "gross violations".

[11] In Spanish, the wording is "violaciones manifiestas", although there isn't a clear definition of said concept either. (López Martín, 2014, p. 136)

3.3. The right to truth and sexual violence

With respect to the right to the truth and sexual violence, regretfully, in patriarchal societies these concepts are closely linked. For example, Bustos talks about the epistemic dimension of sexual violence (Bustos Arellano, 2022, p. 296, translation by the author of the present article), which they describe in the following manner:

> From this observation I note that the epistemic dimension of the testimony of sexual violence is present in three ways: (1) in the silencing of the victims because of the fear of discredit of their testimony or complaint; (2) in the silencing of the survivors due to the lack of language that allows them to tell and make sense of their experiences of abuse not only for others, but for themselves; and (3) in the silencing as a condition for survival. (Bustos Arellano, 2022, p. 296, translation by the author of the present article).

This is due to the fact that sexual violence has consequences that include "the group of practices, customs and values that justify and normalize it." (Bustos Arellano, 2022, p. 303, translation by the author of the present article). An example is the "feminicide message" (Motta, 2019). Thus, the physical and psychological consequences of sexual violence do not exist separate from their epistemic consequences.

This proves that sexual violence has a strong epistemic dimension that requires its reparation in the context of human rights to also possess an epistemic dimension. Said dimension, as it has been mentioned, encompasses not only the direct victim or victims, but extends to all people who share their characteristics (on which the human rights violation was based) and society itself.

Therefore, in the current state of International Human Rights the right to the truth cannot be claimed for the totality of cases of sexual violence, only for those that constitute grave violations of human rights. The recent and restrictive recognition of the right to the truth is not surprising due to the fact that, in general, law has a very slow response to recognize and incorporate terms and concepts that emerge from activists' efforts to create their own language to give testimony (Medina, 2021, p. 231.) Even with such a limited scope, a wider use of the notion of epistemic justice can be achieved, not in respect of the situations in which the right to the truth applies, but in respect to how to understand the reparations that should be awarded in those cases.

In conclusion, in regards to this section of the article, the right to the truth operates in cases of grave human rights violations, that may or may not constitute international crimes, and that can be perpetrated through torture. This means that acts of sexual violence, mainly as rape but also in other cases, can be considered grave human rights violations (or gross violations in USHR language), and therefore entail a violation of the right to the truth, even if they occur outside of contexts of transitional justice. Also, based on the aforementioned arguments, this can entail State responsibility for acts of private actors. This is the state of the scope of application of the right to the truth in cases

of sexual violence, in the current state of International human rights law, and therefore these are the cases where reparations for said right can be awarded. Understanding these human rights violations as cases of epistemic injustice, as it will be demonstrated in the next section of this article, is necessary for reparations to also address the epistemic harm caused by them.

4. Is it possible to obtain justice through truth?

Based on all the aforementioned arguments, understanding the right to the truth as a necessary response to epistemic injustice in cases of sexual violence is of the utmost importance, because only through understanding what epistemic injustice harm has to be repaired can adequate reparation measures be designed and implemented.

As it was previously stated, the kind of epistemic injustice experienced by victims of sexual violence, especially women, includes both the obstacles to name and tell their experiences. Therefore, reparations in cases of sexual violence require compensation for this injustice through reparations of the right to the truth, that can start by the mere fact of acknowledging their entitlement of said right and its consequent reparation:

> Because being epistemically recognized as a creditor of truth is a fully human interest. In second place, because denying the recognition of being creditors of truth or of certain knowledge constitutes part of the harm reported by victims of sexual violence. (Bustos Arellano, 2022, pp. 304–305, translation by the author of the present article).

This harm as epistemic agents in a certain society is not minor, but, as it is argued in this article, constitutes an essential part of the harm consequence of sexual violence, in patriarchal societies[12].

In this line, the Inter-American Commission on Human Rights (IACHR) has stated that:

> Because it is an obligation of the States that emanates from the guarantees of justice, the right to the truth is another form of reparation in cases of human rights violations. In effect, the acknowledgement [of the facts] is important, because it constitutes a form of recognizing the significance and value of persons as individuals, as victims and as holders of rights. (Inter-American Commission on Human Rights, 2014, para. 124).

[12] We note that we refer to patriarchal societies because there can exist other societies in which victims of sexual violence, especially women, do not have a credibility deficit, this not necessarily creating the same kind of epistemic harm.

It is worth noting that the role of the victims in the Inter-American System has evolved greatly since its inception (Franco Martín del Campo and Fajardo Morales, 2021, p. 75). The third version of the Rules of Procedure of the Inter-American Court of Human Rights strengthened the participation of the "Representation of the Victims or their Next of Kin" (I/A Court H.R, 1996, article 23) (Franco Martín del Campo and Fajardo Morales, 2021, p. 88). In the current version of the Rules, victims' participation in the oral proceedings is especially pertinent in regards to epistemic injustice because "during the audience, the victims and their representation can manifest before the Court's judges the impact that the violation of human rights has had and maintains in their lives and in those of the people closest to them, establish the expectations they have of the Inter-American Court; as well as conduct the process in accordance with the interests, necessities an convictions of the victims", as was done in the Atenco v. México case. (Franco Martín del Campo and Fajardo Morales, 2021, p. 94, translation by the author of the present article).

Epistemic injustice changes the manner in which reparations are understood for the victims of sexual violence. In regards to hermeneutic epistemic injustice, its innate structural nature requires that reparations bestow tools to understand that said experiences are owed to their exclusion/oppression situation, and thus allow for adequate reparation measures to be designed and applied (García Álvarez, 2019, p. 166).

In regards to testimonial injustice, the testimonies of the victims of sexual violence must be understood as part of a current tendency for testimonies to be considered "affective and therapeutic self-expression of remembrance, in order to maintain memories, realization of grief and collective conciliation." (González de Requena Farré, 2015, p. 62, translation by the author of the present article). Meaning that not only testimonies brought forward during the judicial processes must be understood in such manner, but that also the reparation measures must aim to repair the harm by creating spaces and opportunities for the victims to give testimony in said conditions. This, because testimony also constitutes a social practice (Wanderer, 2017, p. 27).

Although the main subject of this article is the right to truth regarding reparations and not regarding criminal procedure, it is important to note that some reparations could, and have in some cases, consist of ordering the state to prosecute those responsible. It is also important to note that in cases in which reparations are awarded in the context of judicial procedures, the victims and their representatives can ask and argue for specific reparations. Therefore, there are some issues that should be taken into consideration to fight against epistemic injustice in the justice system, for example, regarding the manners in which judges (and in the American case, the jury) analyze the case (Sullivan, 2017, p. 295). For example, in cases in which the victims and their representatives argue and complain using language different from the standard in (international human rights) law, this can give cause to "rejection to epistemic difference, this is, disdain to any interpretation of reality that is not consistent with ours or, simple, that has not been proposed and drawn by the prevalent and dominant voices in the public space, in social networks or in mass means of communication" (Eraña 2022, p. 168, translation by the author of the present article).

This is what happens, for example, when indigenous people[13] seek to claim rights on their own territories (Townsend and Townsend, 2021, 153). In this line, Sullivan's proposal is applicable to Latin American indigenous people realities, but noting, furthermore, the linguistic diversity that exists in the region, that adds another challenge for the system based on the existence of people with indigenous mother tongues different from Spanish, which can constitute linguistic injustice (Cátedra Unesco de Igualdad de Género en IES – PUCP, 2024a, 1:36:47). For example, the killing of the shaman of a people can signify not just murder but the extinction of a people to them. (Cátedra Unesco de Igualdad de Género en IES – PUCP, 2024b, 00:31:31).

It is also worth mentioning that, in the regards to the act of giving testimony within processes, the duty to listen to them though this lens is not only for the judges, but also of their own representatives (Lema Añón, 2023, p. 287). It is important that not only those testimonies are listened to, but that they are heard with the due merit and significance (Townsend and Townsend, 2021, p. 149). The challenge resides in the fact that many times trying to translate to a language that the court knows and comprehends experiences that sometimes even the victims themselves cannot necessarily express, not because of a lack of knowledge of the judicial language, but because of the structural differences of hermeneutic injustice. This, in addition to the epistemic labor mechanisms explained beforehand through which victims try to navigate these processes from their marginalized epistemic situation.

Additionally, it should be taken into consideration that all these efforts must be carried out without revictimization. The way in which the practice of testimony seeks to be implemented during the process as a form of reparation, in all its range of necessities, should in no way suppose an additional baggage for the victims, but a possibility for reparation. We must "go beyond certain testimonial melancholy and of the compulsive repetition of trauma", betting in its place for "more strategic and critical modalities of the political practice, in a way that achieves acknowledgment of the conditions of the injustice exercised on the victims and in this way legitimizes proposals of action (Cf. LaCapra 25–6)." (González de Requena Farré, 2015, p. 62, translation by the author of the present article). Thus, said testimony could be understood as a form of knowledge transmission, as well as a form of community building, depending on the approach used in the analysis (Bustos Arellano, 2022, pp. 291–292).

On this matter, Fricker highlights the importance of both individual remedies as well as structural remedies (Fricker, 2010, cited in Anderson, 2012, pp. 167–168). A wider understanding of the right to the truth is needed, in its epistemic-relational aspect as a right to know[14], for reparation measures to be restorative (Altanian, 2022, p. 8). This relational

[13] "(b) peoples in independent countries who are regarded as indigenous on account of their descent from the populations which inhabited the country, or a geographical region to which the country belongs, at the time of conquest or colonisation or the establishment of present state boundaries and who, irrespective of their legal status, retain some or all of their own social, economic, cultural and political institutions." (International Labour Organisation, 1989, article 1)

[14] "Recalling that a specific right to the truth may be characterized differently in some legal systems as the right to know, the right to be informed, or freedom of information,". (United Nations General Assembly, 2012, preamble).

aspect is not unimportant, because reparation measures, both individual and collective, that should be awarded have to take them into consideration.

Specifically, it is required to have reparation measures that allow:

> "To restore the victims' epistemic standing against this background, they need to be recognized as *authoritative contributors to the common pool of epistemic resources based on which knowledge and understanding of the injustice are generated*. This ensures that victims are indeed acknowledged as authoritative epistemic contributors and not only receivers of evidence and knowledge about violation and injustice." (Altanian, 2022, p. 13).

It is worth nothing that the I/A Court H.R. has awarded reparation orders for the right to the truth in many cases (Santiago, 2022, pp. 82–96), which means there already is a starting point for this endeavor.

For example, in the case of Serrano Cruz sisters v. El Salvador, it highlighted that knowledge of the facts that took place has a beneficial effect on the family and society, due to its preventive effect (I/A Court H.R, 2005, para. 169). In this line, it ordered that judgement of the criminal process to be divulged publicly to make the truth of the facts known. (I/A Court H.R, 2005, para. 175). It was also ordered that "a day dedicated to the children who, for different reasons, disappeared during the internal armed conflict, in order to make society aware" (I/A Court H.R, 2005, para. 196).

Afterwards, in the Cotton Field v. México case, the I/A Court H.R. ordered the State to publish the judgment in the official newspaper and in two more, in addition to publishing it on a website (I/A Court H.R, 2009, resolution number 15). Additionally, it ordered Mexico to carry out an acknowledgement act (I/A Court H.R, 2009, resolution number 16) and to build a memorial (I/A Court H.R, 2009, resolution number 17). It also ordered the following measures:

> The State shall, within a reasonable time, continue standardizing all its protocols, manuals, prosecutorial investigation criteria, expert services, and services to provide justice that are used to investigate all the crimes relating to the disappearance, sexual abuse and murders of women […] (I/A Court H.R, 2009: resolution number 18).
>
> The State shall continue implementing permanent education and training programs and courses for public officials on human rights and gender, and on a gender perspective […] (I/A Court H.R, 2009: resolution number 22).
>
> The State shall, within a reasonable time, conduct an educational program for the general population of the state of Chihuahua so as to overcome said situation. […] (I/A Court H.R, 2009: resolution number 23).

In the Rosendo Cantú v. México case, the I/A Court H.R. noted that when victims participate in criminal processes, said participation needs to be aimed "to make effective her

rights to know the truth and obtain justice before the competent judicial authorities." (I/A Court H.R, 2010, para. 167). It also indicated that, if the State has Rosendo Cantú consent, as a victim, it should divulge what is the decision reached at the end of the process, "so that Mexican society can learn the truth about the incident" (I/A Court H.R, 2010, para. 213).

Later on, in the Gelman v. Uruguay case, it stated that access to justice and investigation constitute part of the reparation to the right to the truth (I/A Court H.R, 2011, para. 243).

In this line, it stated that:

> The acknowledgment and exercise of the right to know the truth in a specific situation constitutes a means of reparation. Therefore, in the instant case, the right to know the truth gives rise to the victims' expectations, which the State must satisfy. (I/A Court H.R, 2007, para. 289).

In relation to public apologies, the Special Rapporteur on the promotion of truth, justice, reparation and guarantees of non-recurrence has stated "that truthful apologies are required in order to validate the experience of victims and restore their dignity. Dehumanization is often a necessary element of the process of rationalizing and inflicting suffering on others. Truthful apologies are a fundamental part of humanizing – or "rehumanizing" – those who have suffered past abuses and re-establishing their human worth, dignity and self-respect" (Special Rapporteur on the promotion of truth, justice, reparation and guarantees of non-recurrence, 2019, para. 21).

Without a doubt, all these measures entail a certain level of reparation for the epistemic injustice experienced by the victims of sexual violence, both perpetrated during the violent act as well as those than can happen during the judicial process, for which victims can feel like they have been "raped twice" (Museo Nacional de Colombia, 2020, 00:30:22).

Nevertheless, to address these reparations based on the notion of epistemic injustice requires to go beyond, taking in consideration all the topics addressed in this article.

Thus, we argue that the following guidelines should be followed to allow for more complete reparations to the right to the truth on the basis of the concept of epistemic injustice, in cases of sexual violence:

- As it was mentioned above, some of the reparation measures the I/A Court H.R. already orders constitute a form of reparation for the epistemic injustice experienced by victims of the different forms of sexual violence. For example, responsibility acknowledgements.

- Some of the reparations that are already awarded can be modified to address other aspects of epistemic injustice experienced by victims of sexual violence, such as, among others, their empowerment as epistemic agents. For example, the training that should be undertaken by agents of the justice system that investigate

and prosecute sexual violence cases centers not only on the prejudices that can operate in these cases, which is related to testimonial injustice, but also on the epistemic labor carried out by the people for their testimonies to be credible. This allows for the victims to be recognized as epistemic agents, even if they are in epistemic marginalized positions, and thus actively act as such when this is not easily perceived.

- Furthermore, it is necessary to address the hermeneutical aspect of the epistemic injustice experienced by the victims of sexual violence. Thus, another form of reparation could be the explicit acknowledgement that the testimony of the victims contributes to the understanding of sexual violence and with gratitude for this contribution. Many times, victims report their experiences of sexual violence to prevent it to happening to others, not only to find the persons responsible, but also for it to be understood as a phenomenon that needs to be acknowledged and addressed. In this way, they seek to "convert […] their own painful experiences into something that will help convert and transform the lives of other women. To be able to share their stories and speak proudly about what they had survived and what knowledge they can pass on." (Museo Nacional de Colombia, 2020, 00:49:20).

- These guidelines should be adapted with more specificity to different types of sexual violence. For example, in some cases there won't be a deep understanding of the type of sexual violence perpetrated, and therefore there should be special attention paid to the hermeneutical aspect of the epistemic injustice. In other cases, the main aspect of the epistemic harm will be testimonial, and thus the reparations should focus on it.

These are only a few proposals on the basis of the research undertaken in this article. Nevertheless, the main proposals that should be taken into consideration are those made by the victims themselves, if they are truly to be recognized as epistemic agents. Their complaints and testimonies also constitute knowledge, and thus essential elements for the development of human rights if we truly seek reparations of victims as the focus of this labor.

5. Conclusions

This article has demonstrated the importance of taking into consideration the concept of epistemic injustice to conceptualize reparations for the right to the truth of victims of sexual violence.

In this line, we presented that concept and its current development, to understand its implications. Later, we analyzed the right to the truth, especially in the IAHRS, and how it's been applied in cases of sexual violence. This allowed us to identify that, in the current state of IHRL, it is only applicable to acts of sexual violence that qualify as grave human rights violations (or gross violations in the language of the USHR), for example, when they constitute torture.

We proceeded to analyze which kinds of reparation are required for sexual violence in the epistemic field. It was also explained, how, currently, reparations for the right to the truth have been awarded, especially in the IAHRS. Finally, we have proposed guidelines for reparations for the right to the truth in cases of sexual violence, based on what has been established in the previous sections.

IHRL can give very important answers to the epistemic injustice experiences in cases of sexual violence through reparations of the right to the truth, as it has been proved in this article. This could lead us to some questions that are outside of the scope of this article, such as: should the right to the truth be applied to all cases of sexual violence, not only to those who constitute grave human rights violations? The answer to this question would have a major impact on the right to the truth not only in relation to cases of sexual violence but in relation to cases of violation of any right, which merits its own research.

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Received: 15th October 2024

Accepted: 16th January 2025