Colombia and Bosnia, victims and peace:

And justice for all?

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Abstract

The article discusses shifts in transitional justice approaches in transitional justice approaches by comparing the Bosnian experience of justice agreements and practices with the current Colombian framing of transitional justice agreements within the context of the ongoing peace process between the FARC-EP and the Colombian government. The transitional justice framework for a post–agreement transition in Colombia can be analysed through the lenses of different questions: Is the objective of this framework to ensure justice? Or is the goal of transitional Justice reconciliation? Are the transitional justice agreements informed by retributive or reparative understandings of justice? Is local justice more important than international justice? To discuss the answers to these questions, the article compares the peace building experience of Bosnia-Herzegovina with the current Colombian peace process, particularly in regard to the transitional justice framework agreed upon in these processes.

Keywords: Victims, Justice, Transitional Justice, Colombia, Bosnia and Herzegovina

1. Introduction

In modern peacemaking processes, it is very common to see within peace negotiations dispositions surrounding justice arrangements as part of these processes. These are commonly referred as transitional justice. Transitional justice as an approach to postconflict reconstruction has been growing in both academic and policy making circles since the late 1980's when Latin American countries transitioned from dictatorial regimes towards a fuller democracies.[2] This process brought questions about various models for dealing with issues of justice, truth, reparation and reconciliation after violent conflicts to the fore.

Transitional justice frameworks for post–agreement transitions can be analysed through the lenses of different questions: Is the objective of these frameworks to ensure justice? Or is reconciliation the ultimate goal of transitional Justice? Are local standards/requirements for justice more important than international ones? These questions are not new, and as such have recurred in debates around transitional justice.

The choices between different notions of justice seem to be defined in terms of binary oppositions between retributive/reparative or local/national/international that have informed the evolution of understandings of transitional justice in recent decades. The challenge ahead for transitional

[2] C. Sriram, 'Beyond conflicts and pursuing accountability: beyond justice versus peace': in *Palgrave Advances in Peacebuilding: Critical developments and approaches,* ed. O. Richmond (Palgrave Macmillan UK, 2010), 279-293.

agreements is to achieve both legitimacy in relation to international jurisdiction and jurisprudence, and to cement a social covenant in a postconflict scenario. To explore this challenge, the article discusses the objectives of transitional justice and argues that different objectives as understood by the literature should not be seen as monolithic categories, but rather as evolving ones that have moved in the direction of a composite and systemic approach that is referred as a holistic approach in the literature.

To illustrate this tension and illuminate it further, the article grounds the discussion with the experiences and lessons of the transitional justice framework implemented in Bosnia and Herzegovina, reflecting on Bosnia's experience with transitional justice as an example that illustrates the debates around the type of transitional justice required in the aftermath of civil conflict. The implementation of transitional justice in Bosnia via state building and the imposition of the international justice marks a landmark moment for the field with the creation of the International Tribunal for the Former Yugoslavia (ICTY) and its emphasis on international criminal justice. Reflecting on these differences enables identification of the advantages and disadvantages of these different approaches that can be illustrated by the case of Bosnia and Herzegovina.

Then the article proceeds to discuss the current Colombian peace process and the preliminary agreements reached with regard to transitional justice between the Colombian Government and the Fuerzas Armadas

Revolucionarias de Colombia –Ejército del Pueblo (FARC-EP).[3] We discuss the nature of the agreements and argue that, should agreements regarding justice be framed in response to international frameworks, they may ignore aspects of what is most important to local actors. In the opposite case, where agreements respond primarily to local constituencies, the agreed upon notion of justice by a peace treaty could leave war criminals free, at the expense of international understandings of 'justice'. Any assessment made of the agreements reached in Havana in the Colombian peace process will be relative to the metrics we use for this. Different questions might bring different answers regarding the transitional justice agreements reached in Havana.

However, and as the agreements between the FARC-EP and the Government seem to show, there might be a third way, wherein the notion of justice can incorporate elements that could comply with these different requirements from international and local justice in a post-agreement scenario. It seems that the Colombian agreements might constitute a textbook example of a 'hybrid' justice system, reflecting recent developments of the literature of transitional justice.[4]

Finally, we discuss these agreements as exemplifying a new stage in the theory and practice of transitional justice, linking the agreements of

[3] Alto Comisionado para la Paz, 'P & R: Sistema Integral de Verdad, Justicia, Reparación y no Repetición'. Oficina del Alto Comisionado para la Paz, http://www.altocomisionadoparalapaz.gov.co/procesos-y-conversaciones/proceso-de-paz-con-las-farc-ep/Pages/preguntas-respuestas-sistema-integral-de-verdad-justicia-reparacion-y-no-repeticion.aspx (accessed 18 of February 2016).
[4] See note 1 above.

Havana with the questions arising from lessons learned from the Bosnia transitional justice experience and current debates on transitional justice.

2. Transitional justice: debates and dilemmas

One of the most complex tasks involved in any peace building process aimed at achieving sustainable peace is that of dealing with a past comprised of mass human rights violations, contested views regarding the truth about what occurred during a violent era and the need to achieve some form of reconciliation within divided societies. The measures and mechanisms created to achieve such an ambitious objective have been understood as transitional justice: the addressing of human rights violations via the establishment of tribunals, truth commissions, lustration of state administration, reparations and political and societal projects aimed at fact-finding, reconciliation and remembrance.[5]

The relevance of transitional justice to peace building is illustrated by the fact that these mechanisms now tend to be integrated into peace negotiations in order to facilitate postconflict peace building. State-building initiatives combined with mechanisms to deal with past atrocities are expected to lead to stability and reconciliation. Transitional justice as part of a peace agreement aims at establishing the venues for determining accountability for war crimes, to individualize responsibility and to generate a comprehensive view of violent pasts.[6]

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[5] M. Fischer, (2011). 'Transitional justice and Reconciliation: Theory and Practice'. in *Advancing Conflict Transformation: The Berghof Handbook II Edition*, eds. Austin B., Fischer M., and Giessman H. (Barbara Budrich Publishers, Opladen/Farmington Hills, 2011). 406-424.

[6] R. Kostiç, 'Transitional justice and reconciliation in Bosnia-Herzegovina. Whose memories, whose justice?' *Sociologija* 54, no. 4 (2012): 649-666.

Achievement of the wide array of purposes and tasks expected of transitional justice processes requires that transitional justice initiatives operate with an understanding of the dilemmas and complexities of revisiting the past. This is necessary in order to be able to plan a peaceful future within the legal system of a country coming out of conflict. Transitional justice initiatives usually combine a mix of prosecutions, truth-seeking and reparations initiatives.[7]

Prosecutions are aimed at deterring future crimes, comforting victims, and supporting trust in the new government; truth-seeking pursues the establishment of a public knowledge of human rights abuses and the acceptance of their wrongfulness within society; reparations intend to support the victims through physical, psychological and symbolic measures and institutional reform focused on eliminating abusive institutions and vetting abusers from state institutions.[8]

The field of transitional justice evolved from an initial legalistic view focused on the processing of war crimes to include a broader and transformative dimension, extending its aims and objectives. The challenges of having transitional justice mechanisms that support institutions seeking

[7] L. Huyse, 'Amnesty, truth or prosecution?' in *Peacebuilding: a field guide,* eds. Reychler, L. and Paffenholz, T. (London: Lynne Rienner Publishers, 2001): 322-329.

[8] P. Van Zyl, 'Promoting transitional justice in Post-conflict Societies' in *Security Governance in Post-Conflict Peacebuilding,* eds. A. Bryden, and H. Hanggi, (Geneva:Centre for the Democratic Control of Armed Forces, 2005), 209-231.

justice for past aggressions whilst at the same time also committing to future good governance,[9] and the consolidation of institutional legitimacy and the rule of law,[10] has driven the implementation of transitional justice initiatives towards a holistic interpretation of the field. Recent transitional justice initiatives now combine mechanisms to address improving accountability and the adherence to the rule of law, truth, institutional reform and trust-rebuilding. These mechanisms provide for reconciliation initiatives as well as those focused on cementing justice and reparations.[11]

The main advantage of a holistic approach is the possibility it presents to combine various mechanisms to address the needs of a particular postconflict context and support decision--making processes geared towards issues of justice, truth and reconciliation. For instance, transitional justice approaches can identify underlying causes of conflict by paying attention to victims' testimonies and circumstances whilst generating a comprehensive account of human rights abuses.[12] A holistic approach can develop initiatives to re-establish the rule of law and support the building of political institutions at the same time that it supports the strengthening of civil society.[13] It can

[9] K. Andrieu, 'Civilizing peacebuilding: transitional justice, civil society and the liberal paradigm' *Security Dialogue*, no. 4 (2010): 543-601.
[10] A. Betts, 'Should approaches to post-conflict justice and reconciliation be determined globally, nationally, locally?' *European Journal of Development Research* Vol. 17 no. 4 (2005): 735-752.
[11] See note 4 above.
[12] See note 7 above.
[13] see note 8 above.

provide recognition to victims and affirm their agency.[14] And it can bring about various levels of justice: reparative and distributive justice as well as restitutive and compensatory justice.[15]

There is a problematic tendency within the field of transitional justice to see all these policy options as mutually exclusive. Thus these are usually presented in terms of opposing alternatives, therefore limiting the potential for transitional justice processes to operate as a holistic approach for peace building. One of the main debates transitional justice is that of peace versus justice: a legalist approach advocating for an emphasis on criminal justice to deter future human rights violations is opposed to those arguments that focus on peace agreements that might allow elites who were related to the conflict to be part of the postconflict scenarios.[16] Here a paradox is often mentioned: a sense of justice and accountability is needed to move the process of reconciliation forward in the name of peace, yet stability is necessary in order to facilitate the transition towards a postconflict scenario without spoilers.[17]

It is argued that truth and accountability could in fact be destabilizing forces, as they could obstruct a transition process that requires cooperation

[14] C. Loyle, and C. Davenport, 'Transitional Injustice: Subverting Justice in Transition and Postconflict Societies' *Journal of Human Rights* 15, no. 1. (2015): 1-24.
[15] J. Elster, 'Justice, truth, peace' in *Transitional justice. Nomos Li. Yearbook of the American Society for Political and Legal Philosophy,* eds. M. Williams, R. Nagy, & J. Elster (New York: New York University Press, 2012), 78-97.
[16] See note 4 above.
[17] S. Stedman, 'Spoiler Problems in Peace Processes' *International Security* 22, no. 2 (1997): 5-53.

from the same actors involved in human rights abuses.[18] However, power-sharing schemes with former combatants and amnesties can end up being perceived as unjust and detrimental to stability and reconciliation. Such options function to contain spoilers in a conflict, but in doing so they can become a source of impunity and illegitimacy; they are thus often rejected or limited to partial and conditional amnesties.[19] Lerche argues that these choices risk undermining the credibility of a new political order as it is perceived to be one that does not punish offenders.[20]

For Sriram,[21] legal accountability within transitional justice is regarded as a prerequisite for democracy and rule of law, whereas for others accountability should be eschewed in order to achieve stability. When reaching a settlement, if alleged perpetrators are included in the negotiations, this opens up the space for a culture of impunity that can fail to deter war criminals or produce a just peace.[22] However, this emphasis on legal accountability can be seen as an imposed and Westernized approach to transitional justice.[23]

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[18] E. Newman, ''Transitional Justice': The Impact of Transnational Norms and the UN' in *Recovering from civil conflict: reconciliation, peace and development,* eds. E. Newman, and A. Schnabel (Portland: Frank Cass Publishers, 2002), 31-50.
[19] See note 4 above.
[20] C. Lerche, 'Peace building through reconciliation' *The International Journal of Peace Studies* 5, no. 2 (2000): 61-76
[21] See note 1 above.
[22] W. Lambourne, 'Post-Conflict Peacebuilding' *Security Dialogue* 31, (2000): 357.
[23] J.Obradović-Wochnik, 'The 'silent dilemma' of transitional justice: Silencing and coming to terms with the past in Serbia.' *International Journal of Transitional Justice* 7, no. 2 (2013): 328-347.

When transitional justice mechanisms are implemented, in some cases they are applied in accordance to international rules and standards to the detriment of local rules and practices. In the case of communities that had no access to formal justice before conflict emerged, and depended on customary law, this can create tensions and legitimacy gaps. This creates concerns regarding the introduction of new laws, institutions and trials that resemble alien structures. The literature refers to this as the "liberal" co-option of customary law and local forms of justice. Thus, it is common to observe that these initiatives are seen as distant, and fail to be linked to sustainable peace building initiatives.[24]

One way in which these dilemmas are solved is through the incorporation of communities into transitional justice by 'proxy' through the participation of nongovernmental organizations (which are often derived from a Western model) or by national political elites. However, this risks ignoring and setting aside the experiences and needs of local populations.[25]

The disconnection that could exist between criminal trials and reconciliation is established because the work of tribunals and courts can be often detached from local initiatives, making justice and international trials seem to be obscure processes. Citizens are instrumental to justice, as

[24] See note 8 above.
[25] R. Shaw, L. Waldorf, and P. Hazan, *Localizing transitional justice: Interventions and priorities after mass violence* (Stanford: Stanford University Press, 2010).

opposed of justice being instrumental to victims. This can affect the credibility of these processes.[26]

The lack of a tribunal's credibility for local communities might further undermine the credibility of the tribunal's work, fuelling the population's insecurity and sense of victimisation, reinforcing mistrust and dampening any expectations for justice. These fears are particularly heightened when former combatants and warlords assume places in new political institutions; the possibility of interference of former victimaries in these tribunals does not help victims allay their fears of reprisals.[27]

Another dilemma that often arises in discussions around transitional justice relates to the role that "Truth" and the work of truth and reconciliation commissions can play for reconciliation, as opposed to trials and courts.

Truth Commissions have been presented as viable alternatives to trials and prosecutions and as effective mechanisms for countering denial about human rights abuses. Truth provides redress for victims, contributing to healing and reconciliation.[28] In addition, it is argued that truth commissions can promote public dialogue.[29] However, critics of truth commissions assert that revealing the truth about human rights violations can become an

[26] M. Eastmond, 'Introduction: reconciliation, reconstruction, and everyday life in war-torn societies.' *Focaal* 2010, no. 57 (2010): 3-16.
[27] See note 13 above.
[28] See note 1 above.
[29] See note 1 above.

impediment to reconciliation as it can also promote animosity, reopen wounds and increase political instability.[30]

Some academics are in fact sceptical of the idea that truth-telling mechanisms in themselves can bring healing and maintain peace in a postconflict society.[31] Ascribing to a single type of initiative the whole responsibility of a postconflict transition to peace can oversimplify the challenges and needs of post-agreement scenarios. It is important to note that sometimes in the literature, "truth telling" is used as a descriptor to refer an assortment of different peace mechanisms and reconciliation strategies, obscuring form the analysis the role and the existence of other initiatives, programs and processes taking place.

Another of the critiques to the use of truth commissions is that these commissions often end in the creation of official, state-sanctioned, versions of a violent past. This can impose particular visions of what happened, often making the multiplicity of individual experiences and interpretations of an armed conflict less visible.[32] Where this happens, it creates controversy regarding whose truth is presented by truth commissions when these processes are undertaken.[33]

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[30] E. Skaar, 'Reconciliation in a transitional justice perspective.' *Transitional Justice Review* 1, no. 1 (2013): 10.
[31] D. Mendeloff, 'Truth-seeking, truth-telling, and postconflict peacebuilding: Curb the enthusiasm? 1.' *International Studies Review* 6, no. 3 (2004): 355-380.
[32] See note 8 above.
[33] See note 13 above.

The task of implementing transitional justice mechanisms as part of peace processes and agreements will be riddled with different dilemmas with regard to how to proceed and effectively achieve peace in accordance with the requirements of different contexts. These context-specific requirements relate to the actors, and the histories of the particular contexts that suffered violence and war. Thus, framing the debate as one centring merely on theoretical dichotomies might speak more to the type of initiatives undertaken than to the capacity of the agreements and the instruments set into place to achieve peace.

We must not forget that transitional justice is a mechanism that has been used to deal with a past comprised of mass human rights violations within reconciliation and peace-building processes. The answer to the dilemmas discussed above should be found in a holistic view of transitional justice, which can systemically assess the needs and the capacities of particular initiatives tailored to support peace building in particular contexts.

This demands that researchers see transitional justice through a peace building lens and not solely from a human rights perspective.[34] The objectives of transitional justice aim at the transformation and generation of new social contracts, a task that involves dealing with political, cultural, sociological, economic and psychological dynamics. Transitional justice is thus likely best served by a toolset that allows for the combination of different mechanisms to achieve these ends. Assumptions that a single model is

[34] See note 8 above.

universal and will fit varied contexts rely on overgeneralization and are likely to prove insufficient in achieving peace. To correct this, hybrid mechanisms and initiatives offer the capacity to understand the environment in which transitional justice mechanisms are to operate systemically and to identify the trade-offs necessary to cement peace though transitional justice.[35]

[35] P. De Greiff 'Theorizing transitional Justice.' in *Transitional justice. Nomos Li. Yearbook of the American Society for Political and Legal Philosophy,* eds. M. Williams, R. Nagy, & J. Elster (New York: New York University Press, 2012), 31-77.

3. Lessons from the past: transitional justice in Bosnia

The 1992-1995 Bosnian Civil War was a clash between Bosnian-Croats, Bosnian-Serbs and Bosniaks characterized by mass atrocities and the killing of over 200,000 people. By the end of the war, almost half of the population was displaced from their homes, drastically changing the ethnic distribution and the demographic composition of the country.[36]

The conflict ended through the Dayton Accords, an internationally-brokered peace agreement that reflected the post-Cold War approach of institution-building strategies through international intervention. Due to the legacy of genocide and mass atrocities as well as the devastation of Yugoslavian justice institutions, Dayton incorporated the International Tribunal for the Former Yugoslavia (ICTY), previously established in 1993 to deliberate over cases of crime against humanity and considered to be a vehicle for justice and reconciliation.[37]

The formulation of transitional justice in Bosnia, and particularly the role of the ICTY, is intrinsic to the state and institution-building process that was set in place in Bosnia through a process of international intervention after the 1995 Dayton agreement. This internationally brokered negotiation

[36] M. Moratti, and A. Sabic-El-Rayess, 'Transitional Justice and DDR: the case of Bosnia and Herzegovina.' International Center for Transitional Justice (2009): 6.
[37] D. Hoogenboom, and S. Vieille, 'Rebuilding social fabric in failed states: examining transitional justice in Bosnia.' *Human Rights Review* 11, no. 2 (2010): 183-198.

became the blueprint for peaceful settlement in Bosnia, which included the creation of a state aimed to accommodate the different ethnic groups and powers present in the negotiation, but also turned Bosnia into an international protectorate under the management of international organizations.[38] The outcome of this process in Bosnia and Herzegovina was informed by the transformation of international justice and the emergence of the International Criminal Court, and is representative of the new international framework for peace and peace building.

The reconstruction initiatives after the Bosnian war became a template for postconflict interventions: the international community started engaging with peace building tasks that promoted a "liberal peace". This formula focuses on democratization processes in postconflict societies which include the promotion of civil and political rights, preparing democratic elections and drafting national constitutions, retraining police, army and civil servants for liberal democratic practice, as well as the development of free market economies.[39] The liberal peace implies an international intervention reliant on international financial structures, support for state sovereignty and alignment with the international "status quo" where peace-builders transpose "Western" liberal values,[40] institutions and markets.[41] This notion of peace is not de-

[38] E. Sloan, *Bosnia and the new collective security* (Greenwood Publishing Group, 1998).
[39] R. Paris, *At war's end: building peace after civil conflict* (Cambridge: Cambridge University Press, 2009).
[40] R. MacGinty, 'Indigenous peace-making versus the liberal peace.' *Cooperation and conflict* 43, no. 2 (2008): 139-163.

linked from ideas of justice, and as such the normative values embedded in a liberal peace model are also related to particular understandings of justice.

The 1995 Dayton peace agreement established international control under a UN mandate which covered a broad range of priorities: international regulation of elections, institutional development and economic management, assistance towards the development of a democratic political culture and civil society–building.[42] Transitional justice was also developed through the Dayton peace agreement, which incorporated the compliance of all signing parties with the ICTY, an international court that would adopt a retributive approach to transitional justice by focusing on perpetrators of mass human rights violations. The legal framework of Dayton enlists a series of human rights treaties that were directly applicable to Bosnia: the European convention on Human Rights, the International Covenant on Civil and Political Rights and the Geneva Conventions.[43] The decision to incorporate the ICTY into Dayton's structures shaped Bosnian transitional justice.

According to UN resolution 827 of 1993, the ICTY was established with the sole purpose of prosecuting persons responsible for serious violations of international humanitarian law committed in the former Yugoslavia since January 1991. Its jurisdiction extended to war crimes, crimes against humanity and genocide. The ICTY was the first court

[41] S. Tadjbakhsh, 'Conflicted outcomes and values: (Neo) liberal peace in central Asia and Afghanistan.' *International peacekeeping* 16, no. 5 (2009): 635-651.
[42] D. Chandler, *Bosnia: faking democracy after Dayton*. (Pluto Press, 2000).
[43] See note 35 above.

implemented under UN sponsorship and seen at the time as an innovative instrument in the context of reconciliation and postconflict justice.[44] With the incorporation of the ICTY into the state-building architecture for Bosnia, the tribunal became an ideal complement in the field of justice, truth and reconciliation for the Dayton agreement's institutional focus. Moratti and Sabi-el-Rayess claim that prosecution efforts were largely dominated by the ICTY, whilst domestic courts were not encouraged to prosecute past abuses as the judiciary system at the time lacked independence from political parties and its courts were mainly mono-ethnic and prone to partial processes.[45] This is interpreted by Hoogenbom & Vieille as an example of a democratic deficit, where the top down approach to justice that gave primacy to the ICTY undermined the prospects of Bosnian domestic courts to address the challenges of postconflict justice in the country.[46]

Despite its impact on the advancement of international criminal law and jurisprudence and its launching an innovative formula (together with the International Criminal Tribunal for Rwanda) that would generate a movement leading towards the establishment of an International Criminal Court through the 1998 Rome Statute, the ICTY has failed to promote sustainable peace via transitional justice. The ICTY has been criticized for its distance from Bosnians and their real needs. It has also been criticised for its lack of legitimacy as political elites in Bosnia have denounced it for being ethnically-biased in its decisions. The ICTY became an isolated institution that lacked

[44] See note 4 above.
[45] See note 35 above.
[46] See note 36 above.

sufficient outreach with the Bosnian population, affecting its ability to achieve reconciliation or reinstate the rule of law.[47]

As the ICTY was based outside of Bosnia and Herzegovina, in The Netherlands, it meant that it was seen as a distant mechanism, far from the reach of Bosnians and their justice requirements. For Eastmond, the ICTY defined its mandate in narrow terms, avoiding linkages with any ground projects surrounding the rebuilding of social relations. Eastmond claims that the tribunal was affected by the ethno-political play created by Dayton's state-building; as political players implicated in mass atrocities were now part of the political elite, the possibility of justice seemed to be driven by "ethnic interests". [48] Therefore, politicians worked to undermine the credibility of the Tribunal's decisions by using political rhetoric based on the population's insecurities and sense of victimization, reinforcing mistrust and division along ethnic lines.

One of the most common critiques to transitional justice is its excessive reliance on retributive justice's focus on perpetrators and on international criminal law, leaving aside victims and their families as key subjects in the reconstruction process. Victim participation in the justice process was limited by the ICTY. The ICTY was the dominating institution that victims had in which to be heard, but their interaction with this institution emerged only when they were called to testify as witnesses. In that sense, the

[47] See note 1 above.
[48] See note 25 above.

relationship between Bosnia and Herzegovina citizens and the ICTY was of the former being instrumental for the latter, and not the contrary.[49]

In addition, the ICTY lacked a system of reparations to compensate victims and support their livelihoods. This further relegated victims to the background of criminal trials. This lack of acknowledgement and support for victims, tied with the problematic entrenchment of ethnicities in Dayton's complex state structure, had negative effects on the way the court was perceived by locals. The ICTY was denounced as ethnically biased and incapable of fair trials as both Bosnian Croats and Bosnian Serbs claimed the tribunal did not reflect their concerns as they could not claim ownership of the judicial process.[50] Bosnian jurists understood the ICTY as a means for acknowledgement of Bosniak victims, leading Bosnian-Serbs and Bosnian-Croats to doubt the possibility of any contribution of the Tribunal to the social reconstruction of the Bosnian state. On the other hand, delays in the arrest and prosecution of war criminals such as Radovan Karadzic and Ratko Mladic represented a major cause for Bosniak disappointment in the ICTY as a mechanism to deal with their grievances.[51]

As seen in the ICTY, the excessive institutional, retributive and legalistic focus of transitional justice approaches to peace building can generate exclusion, resentment and rejection amongst populations subject to

[49] C. Garbett, 'My Neighbor, My Enemy: Justice and Community in the Aftermath of Mass Atrocity' (Berkeley: University of California, 2004).
[50] See note 36 above.
[51] See note 35 above.

intervention. The gap between international agents and locals often leads to contestation and resistance to “liberal” formulas that can lead to a retreat from the liberal project and generate tension and further division in societies that have already experienced violent conflict and oppression. According to Kostiç,[52] the failure of transitional justice in Bosnia to impact on local populations has to do with the fact that political negotiations and power sharing agreements in fact worked against the delivery of truth and justice to victims as external parties lack clarity regarding who is a victim and who is a perpetrator. This legal accountability approach, informed by a retributive view of justice, disrupted domestic peace and reconciliation processes in the country. This retributive focus on transitional justice, focused on conflict management via state structures, led international actors to ignore the reconstruction of Bosnia’s social fabric. Focus was placed on the strengthening of state structures rather than rebuilding social relations.[53]

This has had the consequence of a lack of legitimacy of the transitional justice system due to the lack of outreach within the Bosnian population. This ended up reinforcing mistrust and social divisions, which dampened the expectations of achieving real justice. In addition, justice has been hijacked by political elites for their own goals.[54] Proof of this is the reinterpretation of transitional justice as a process with a dominant ethno-

[52] See note 5 above.
[53] See note 25 above.
[54] See note 25 above.

nationalist focus that understood responsibility as collective; countering the effect that accountability was intended to have.[55]

Although it is important to identify, detain and prosecute perpetrators of atrocities and human rights violations, it is also important to complement this with an approach that supports and gives space for victims to have their needs and interests heard within the peace building process. It is not a question of either/or but more of the need to find complementary strategies that give legitimacy (not only legal compliance) to peace building by bridging the gap between international frameworks and local realities, connecting state-building priorities with international obligations and local needs.

[55] The ICTY is seen by the Bosnian- Serbs as a tool with an ethnic bias against them. This perception is informed by the fact that most of the ICTY decisions have been against Serb leaders, with just a few sentences against Croats and Bosniaks favoring therefore electoral campaigns that have exploited the ethnic fault lines in the country.

4. Contemporary transitional justice: the Colombian peace process

The Colombian armed conflict is usually described as the fight between FARC-EP and the government. The presence of different armed groups resembling varied categories, such as warlords, paramilitary forces, guerrillas, rebels, and drug lords, further complicates the description of this violence. Various groups with different agendas overlap eccentrically in different provinces, making the task of describing this context in a simple narrative difficult. Paramilitaries, Ejército de Liberación Nacional (ELN), FARC-EP, Ejército Popular de Liberación (EPL), Bandas Criminales (BACRIM),[56] and Drug Traffickers are some of the labels used to describe some of the organizations involved in the conflict, which has differing dynamics at the regional and national levels.

The conflict can be explained as a consequence of unresolved challenges in the consolidation of a strong and legitimate state (Rotberg, 2002). The current conflict can be seen as the offspring of several previous civil wars in the 19th century that impeded the consolidation of a strong political system with full territorial presence.[57] This is supported by a system

[56] After the peace process with paramilitaries in the early 2000's the government prescribed the used of the word paramilitary and started to use the acronym of BACRIM (*Bandas Criminales* – criminal organizations) for organizations that were formerly described as paramilitaries.

[57] M. Palacios, Entre la legitimidad y la violencia: Colombia 1875-1994 (Bogotá: Editorial Norma, 2003).

where violence is linked to the acquisition of wealth and local power.[58] The period known as "*la violencia*" (1948-1958); in which around 2% of the population of the country died in bi-partisan violence,[59] is usually referred to as the reference date for when the conflict emerged.[60]

The current peace process with FARC-EP should not be seen as a discrete event, but rather as a process preceded by several peace attempts in the last three decades and the outcome of a process in the making since the mid 1980's.The mutual realization by the FARC-EP and the Government that military victory was not feasible brought both actors back to the negotiation table. The current agenda's structure is informed by past lessons,[61] and can be seen as the outcome of the failure of the 1999-2002 peace process between the government and the FARC-EP, as well as of the subsequent "all-out war" strategy.[62]

The current process has reached some preliminary agreements on land ownership, political participation, illicit drugs, and justice and

[58] N. Richani, 'The political economy of violence: the war-system in Colombia.' *Journal of Interamerican Studies and World Affairs* 39, no. 2 (1997): 37-81.
[59] It should be noted that under this grim panorama of violence the emergence of self-defense organizations and the feudalization of security was a natural outcome, through the appearance of multiple guerrilla groups (M19, FARC-EP, EPL, MAQL, ELN, among others) and right wing 'paramilitary' groups in the country.
[60] M. Palacios, *Violencia pública en Colombia, 1958-2010* (Fondo de Cultura Económica, 2012).
[61] Ibid.
[62] F. Diaz, and S. Murshed, ''Give War A Chance': All-Out War as a Means of Ending Conflict in the Cases of Sri Lanka and Colombia.' *Civil Wars* 15, no. 3 (2013): 281-305.

reparation.[63] Challenges still persist with regard to the remaining points of the agenda, which include disarming and demobilization, and the implementation countersigning and verification of the agreements.

4.1 Victims, victimizers, and Justice?

A historical understanding of the absence of justice (linked to the failure of the state to exert its presence) can partially explain the emergence of the current violence, as it can be argued that some of the founding FARC-EP members can be seen as victims of "political" violence in Colombia between 1920 and 1950.[64] Failure to deliver justice in this context and the achievement of a monopoly of violence in the country fuelled violence[65]. To end such cycle, a focus on justice is imperative, yet this does not cleanse either FARC's or the state's co-responsibility for violence in the country.

Transitional justice models such as that used in Mozambique, or the Truth and Reconciliation Commission in South Africa, are no longer feasible options for Colombia according to the current standards of the international community regarding justice within peace processes. The core challenge to the Agreements reached under the peace process is that of legitimacy: the

[63] For accessing the draft agreements on land, drugs and political participation see https://www.mesadeconversaciones.com.co/documentos-y-comunicados

[64] G. Sánchez, D. Meertens and E. Hobsbawm, *Bandoleros, gamonales y campesinos: el caso de la violencia en Colombia* (Bogotá: El Ancora, 1984).

[65] It can be argued the emergence of right wing paramilitary forces also is symptomatic of this lack of justice within the country.

agreements must achieve legitimacy with both the broad community of victims in Colombia and the international community.

Before the current peace process with the FARC-EP, most peace settlements in Colombia attempted to reach a settlement by granting amnesty to perpetrators of human rights violations.[66] The panorama changed with the ratification of the Rome statute of the International Criminal Court on the 5th of August 2002. This was followed by the jurisprudence set by the law of justice and peace,[67] used as a "transitional justice" framework for the demobilization of the so called paramilitaries. The current peace process thus does not operate in vacuum, salient practices and institutions relating to transitional justice in Colombia exist and harness relevant experiences and lessons learned.[68]

Key lessons learned from previous peace process are the incorporation of lessons into programs within state institutions that have been set into place with the objective of bringing justice,[69] also the strengthening of victims as an actors with a stronger voice able to defend their rights, and the

[66] F. Gómez Isa, 'Justice, truth and reparation in the Colombian peace process.' *Revista Derecho del Estado* 33 (2014): 35-63.
[67] Law 975 of 2005.
[68] S. Pfeiffer, Peace Infrastructure in Colombia.' (2014).
[69] J. García-Godos, and A. Knut, 'Transitional Justice and Victims' Rights before the End of a Conflict: The Unusual Case of Colombia.' *Journal of Latin American Studies* 42, no. 03 (2010): 487-516.

realization that without the effective demobilization and reintegration all illegal armed actors, the goals of justice and reparation may be a mirage. [70]

Thus, the agreements achieved with the FARC-EP are informed by experiences, institutional capacity built and lessons learned. These lessons learned have been institutionalized through law by the jurisprudence of the law 975 (the Law of Justice and Peace), and more recent jurisprudence of the Victims and Land Restitution Law (Law 1448),[71] passed in 2011. The Victims and Land Restitution Law is promising and ambitious; it intends to restitute land to those dispossessed as a result of the violation of human rights by armed groups. Law 1448 seeks to achieve integral reparation to the victims of human rights abuses in the context of the Colombian armed conflict.

The preliminary agreements on rights, reparation and recognition of victims between the FARC-EP and the Government,[72] can thus be seen as a set of principles linking reparation, retribution and non-repetition, outlining the creation of a series of new institutions to support this process, such as the

[70] Several problems have been highlighted around this peace process and its notion of justice and practice. Among the most salient critique was the definition of victimhood that did not consider victimization made by government forces or state institutions.
[71] Ley de Victimas y Restitución de Tierras
[72] Oficina del Alto Comisionado Para la Paz, 'Borrador conjunto - Acuerdo sobre las Víctimas del Conflicto ', Oficina del Alto Comisionado para la Paz, http://www.altocomisionadoparalapaz.gov.co/procesos-y-conversaciones/proceso-de-paz-con-las-farc-ep/documentos-y-comunicados-conjuntos/Documents/acuerdo-victimas.pdf (accessed 18 January 2016).

creation of a Truth, Coexistence and non-Repetition Commission,[73] a special jurisdiction for peace,[74] and a Peace Tribunal.[75]

4.2 Transitional justice in the 'international' context: reparative and retributive debates meet the Colombian agreements

The options of transitional justice mechanisms range from a total amnesty to prosecution and incarceration.[76] The decision on what justice means also depends on who the justice system is focused on: the perpetrator (amnesty, prosecution and lustration) or the victim (financial compensation and memorialization).[77] In the Colombian case it seems that the agreements point to partial pardons, as crimes related with rebellion will be granted amnesties.[78]

For Wagner and Winter,[79] retributive justice is a punitive, perpetrator-focused justice whereas reparative justice is victim-based, focused on

[73] Comisión para el esclarecimiento de la verdad, la convivencia y la no Repetición
[74] Jurisdicción especial para la Paz
[75] Tribunal para la Paz
[76] See note 6 above.
[77] Memorialization can be understood as a cultural approach to confronting a traumatic past through practices of remembrance, representation and commemoration where communities come to terms with a difficult event through means of expression such as novels, films, music, performances, monuments or museum exhibitions.
[78] This excludes crimes against humanity such as genocide, war crimes, kidnappings, torture, forced displacement, forced disappearance, extra judicial killings and sexual violence.
[79] D. Christie, R. Wagner, and D. Winter, eds. *Peace, conflict, and violence*. (Prentice Hall, 2001).

compensation, reparations and restitution. In the case of Colombia, the agreements reveal a hybrid model of reparation and retribution. On the side of reparation, there is the existing legal framework defined by the Victims' Law that establishes a mechanism for repairing the harm done by different actors of the conflict to victims. In addition, some of the agreements hints at the reparative role of the perpetrators of crimes, as the agreements outline their possible role in activities such as de-mining processes as a twofold mechanism that is both retributive and reparative.[80] In addition, it is planned the participation of victimizers on illicit crops eradication programs.[81]

Another element to consider in the case of the agreements of Colombia is the legitimacy of actors delivering justice. The main belief of the international community is that peace and reconciliation will only be legitimately achieved through legal justice;[82] a perspective that is contested by the fact that there is no existing evidence of a direct link between criminal trials and reconciliation.[83] International mechanisms can offer remedies where the state is unable to address past violations due to amnesties, pardons or settlements; yet the territorial and symbolic distance of international tribunals

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[80] Since 1990 it is estimated that more them 11.000 people have died or been injured by land mines. 38 % of the victims are civilians and 62 % are members of the Armed Forces. 80% of the victims were injured and 20% died.

[81] Oficina del Alto Comisionado Para la Paz, see note 71 above.

[82] Some initiatives such as the Transitional Justice Database Project or the Transitional Justice Research Collaborative have collected data in order to assess the impact of the different initiatives in regards to transitional justice.

[83] See note 48 above.

introduce a gap between international justice practice and local needs for justice and reconciliation (see section three for the case of Bosnia).[84]

It seems the agreements achieved between the Colombian government and the FARC-EP might break new ground in relation to the abandonment of the dichotomy of international/national definitions and standards of justice, reaching a middle ground able to comply with national needs and international standards and incorporating notions of both reparative and retributive justice. The hybrid nature of the agreements is supported by some prominent Colombian human rights groups, and opposed by international human rights organizations with a zero tolerance policy for impunity. The latter might in fact jeopardize the peace talks.[85]

In the agreements established between the government and the FARC-EP, the objectives of the transitional justice framework can be interpreted as speaking to local realities and necessities. As the objectives relate to access to justice, the definition of a justice system that serves the Colombian society, and contribution to the reparation, the agreements mix elements of restorative and reparative justice. [86] In doing so, the agreements establish an integrated system for Justice, Reparation and non-repetition as an avenue for institutionalizing this process. The success of this model in achieving both justice and reconciliation will depend on how effective the

[84] See note 1 above.
[85] R. Carlin, McCoy, J. and Subotic, J. 'Legitimacy Deficits in Colombia's Peace Talks: Elites, Trust, and Support for Transitional Justice' Research and Innovation Grants Working Papers Series, February 8, 2016.
[86] Oficina del Alto Comisionado Para la Paz, see note 71 above.

state institutions will be in converting this framework into practice. What has been agreed in Havana is a Weberian ideal type that needs to be grounded and clarified with regard to the role of the victims and how it will be implemented.

The agreement seems to have a strong emphasis on sentences, and alternative mechanisms for serving time. Therefore, the legalistic language of the agreement gives preponderance to the penal sentences, but does not give clarity on how the reparative aspects of the agreements speak to the needs of the victims. In addition, the lack of clarity on the process of integration of these two elements (the special jurisdiction for peace and the integrated system of truth reparation and non-repetition) leaves the role of the victims in this process and what will be the real contribution of the victims within this process for justice and reconciliation open to speculation. This ambiguity on how the process will be grounded has been met with concern by some sectors of the Colombian polity and the international community.

The integrated system of truth, reparation and non-repetition is comprised of a series of institutions, such as the Commission for the Clarification of Truth, Coexistence and Non-repetition and the Unit for the Search of Disappeared in the Armed Conflict), as well as the Special Jurisdiction for Peace.[87] This institutional layout reflects the intersection of a series of mechanisms and institutions that should bring a comprehensive understanding of justice, reparation and retributive justice. The system aims

[87] Oficina del Alto Comisionado Para la Paz, see note 71 above.

to recognize the rights of the victims beyond the peace agreement with the FARC-EP (victims from paramilitaries and other operating guerrillas will have access to it). As such it can possibly function as a framework for other peace processes. The agreements highlight the attempt to bring an integral response to the victims, and claims to prioritize understanding the victims' rights through a holistic approach.

The Special Jurisdiction for Peace establishes a national jurisdiction in order to investigate and sanction the crimes occurred within the Colombian conflict. Interestingly enough, some members of the magistrates that will comprise this tribunal will be non-Colombians. Members of the negotiation parties at the table are banned from participating in these courts. According to the agreements of Havana, human rights abuses will not be the object of pardons or amnesties or alternative judicial punishments. It is worth noticing that this jurisdiction will be applied to citizens and fighters alike that have any responsibility for crimes within the Colombian civil war. It is thus capable of achieving justice for atrocities committed by the FARC-EP or the government forces. The agreements outline statutory penalties,[88] emphasizing their retributive nature.[89]

However, a series of lessons learned should be mentioned in the process of the transitional justice mechanisms established by the negotiations

[88] According to the agreements, these are between five to eight years for those who recognize their crimes late, and for those who do not recognize their crimes these penalties can range between fifteen and twenty years.
[89] Oficina del Alto Comisionado Para la Paz, see note 71 above.

between the FARC-EP and the Colombian Government in comparison with the Bosnian case. First of all, the role of victims in Colombia is much bigger than in Bosnia. The framework has dispositions that are more orientated towards a victim-focused justice, supporting truth and reconciliation initiatives rather than a simple punitive device. Victims have met some of the members of the delegations negotiating between the FARC-EP and the Colombian government. Victims did not participate directly in negotiating the agreement on victims, though they informed the negotiations with their views and needs. As the agreements did not involve the victims' consent or approval it could be claimed that their participation is more aesthetic than real.

The agreements have a strong focus on the reparation of victims. The redressing of victims is expected to be symbolic and material; yet challenges remain in terms of the capacity to restitute rights, something that former attempts with previous law initiatives and the peace process with the paramilitaries proved difficult and challenging.

The decision to define an external negotiation venue due to past negative experiences has made mobilizing domestic support for a peace more difficult. Some initiatives by the FARC-EP to mobilize their cadres' support for the peace process within the FARC-EP have been put into place, but similar initiatives from the government have been short and have faced a strong opposition by some sectors of Colombian public opinion and several political leaders, including former president Uribe. In spite of the progress with the peace process agenda and the outline of the goals of the transitional

justice framework agreed on in Havana, critics of the peace process believe impunities are being provided at the negotiation table.

However, several breakthroughs have been achieved such as the political will by leaders of the government and FARC-EP to address victims; the participation of civil society and women's and business groups in the talks, the inclusion of members of the Armed Forces in the negotiation team panel and international support in the facilitation processes, such as the United States, Uruguay, Venezuela and Cuba. Finally, and more important is the role of a plebiscite that will be conducted to validate the agreements between the FARC-EP and the Government once the agreements are finalized.

However, we could argue that the agreements have slanted towards local and national understandings of justice considering the restrictions set in place by the international community. This is not a system that gives preponderance to local initiatives of justice over international justice frameworks, but one that gives preponderance to peace building over some international requirements for justice in consideration of the local necessities.

5. Conclusions: the new stage in the evolution of transitional justice

Defining the type of justice framework to be used for a post–agreement transition is a task fraught with tensions that derive from various and often clashing understandings of peace, justice, truth and reconciliation. An overarching question underpinning this dilemma relates to the end goal of a transitional justice, and varying responses illustrate that multiple different understandings of the purpose of transitional justice may be in operation. Is the purpose of transitional justice to ensure peace? Is it to ensure justice? Or is the goal of transitional Justice reconciliation? One of the most common sources of tension is the different understandings of justice held by international, national and local actors involved in postconflict peace building. It seems that the agreements achieved between the Colombian government and the FARC-EP might break new ground in relation to the abandonment of the dichotomy of international/national understandings of and approaches to justice, reaching a middle ground able simultaneously to comply with national needs and international standards, and integrating notions of reparative and retributive justice.

The Bosnian experience highlights some of the problems of externally driven transitional justice pursued through negotiations and institutions that are distant from local populations. This distance can generate a legitimacy gap that can affect justice initiatives, peace building efforts as well as the foundations for a sustainable peace. Bosnia's state building model failed to achieve reconciliation as power sharing did not provide for cooperation on the

elite level and rather promoted a politics of division that was legitimized by early elections.

Aside from the many critiques written on Dayton and Bosnia's state building, in the case of transitional justice, the predominant source of failure was the inclusion of transitional justice mechanisms into the externally run peace building process: solutions were seen as imposed by westerners with an excessive focus on legal accountability, which opposed local appreciation for a collective community identity.[90] Imposing the ICTY from the outside ended up undermining and disrupting peace and reconciliation initiatives, and alienated local organizations in this process. This is understood by Eastmond to demonstrate a gap between the aspirations of the international community and the practice of transitional justice in Bosnia: the ICTY was narrowly defined to prosecute war criminals without any linkage to processes for rebuilding social relations. It was placed abroad and removed both geographically and legally from the population, negatively impacting its options for social influence.[91]

The fact that the ICTY, as the key institution to deal with past atrocities, had very little to do with both the needs and expectations of the local population as well as with the political realities that emerged through the state building process, clashed with local views on justice. Transitional justice was then reinterpreted with dominant ethno-political narratives surrounding

[90] See note 5 above.
[91] See note 25 above.

guilt and innocence. ICTY resolutions did not mention the need to build foundations for social reconstruction, such as the consolidation of a national shared history of the war or the creation of institutions to guarantee individual rights and freedoms.[92]

The gap between international and local in the case of the ICTY and the disconnection between state building and transitional justice requires further study of transitional justice and its impact in the affected populations, local initiatives surrounding peace building and the relations between designers, implementers and recipients of transitional justice measures. The debates on "the local" in transitional justice have shown the need to reframe such practices, involving a view "from below" that allows participation and acknowledgement of victims in the decision-making process. If experiences and practices have created new knowledge, it is clear that transitional justice initiatives should be expected to include a locally designed combination of instruments such as truth-telling, restorative justice and reparation that support the local peace building.[93]

Having a local perspective on transitional justice demands asking those most affected by the conflict experience about how the mechanisms designed can address their needs, placing particular emphasis on survivor's priorities for postconflict reconstruction over legal, political or bureaucratic

[92] See note 36 above.
[93] See note 7 above.

guidelines.[94] This standpoint has the potential of encouraging better state-society relations as civil society adopts a new role which fosters political pluralism and creates channels for victims to articulate their views and demands within the state, encouraging tolerance, trust and cooperation.

This is where the on-going Colombian peace process might be missing an opportunity, as the participation of victims has been instrumental as consultative mechanisms while the FARC-EP and the Government negotiated justice. The victims were only consulted, but did not have decision-making power, the result has been that retribution has taken precedence over reparation, and this has been decided by the FARC-EP and the government, not by the victims. This implies adopting national and international view of justice, where the participation of victims in the process, and an effective reparation process justice approach is in the limbo and cannot be assessed clearly yet.[95] The Colombian High Commissioner for Peace has made clear on several occasions the importance of the local in the post-agreement scenario; however it is not clear if this will include local transitional justice

As the agreements so far have been framed as a set of guiding principles, clear guidelines as to whom justice will serve, and how it will operate are absent at this point. The instrumentalization of justice as

[94] See note 24 above.

[95] Reparations contribute to the reintegration of victims, reducing the likelihood of violence by recognizing the harm endured by victims. Compensation should be granted on an individual basis for physical, psychological and material damages and the state should remain responsible for the damage caused by officials and state representatives.

something to be achieved via a checklist of requirements from the international community might not be the most sustainable way of defining and reaching justice. It might indeed be the case that the agreements reached tick a series of checkboxes of what is required from the state on a legal and international level, but will this be sufficient for peace and reconciliation? This is an answer that can only be assessed once agreements are implemented.

Transitional justice strategies need to emerge from local consultation and be based on local conditions in order to achieve a more meaningful form of justice. Local consultation could present an avenue through which those affected and demanding justice can define what would constitute justice for them, and could facilitate the implementation of more comprehensive transitional justice strategies that would not focus solely on one component (truth, justice, reparation, institutional reform, reconciliation, etc.).[96] Eschewing meaningful local participation would be patronizing and risk a lack of civic support; legal legitimacy would not be risked. The capacity of the implementation of the agreements on justice to allow the engagement and the participation of Colombians at the fringes of the state will reveal how inclusive this justice framework is. The challenge still remains in how to translate these national level mechanisms into a comprehensive, community-focused approach that includes the ideas of those affected.

[96] See note 6 above.

In the agreements established between the government and the FARC-EP the objectives of the transitional justice framework can be interpreted as speaking to local realities and necessities. As the objectives are access to justice, the definition of a justice system that serves the Colombian society, and contribution to reparation,[97] the agreements mix elements of restorative and reparative justice and establishes an integrated system for Justice, Reparation and Non-repetition as an avenue for institutionalizing this process.

We could argue that when a justice framework is mostly retributive it speaks primarily to national and international constituencies, as the legal framework that imparts justice takes precedence over the reconstruction of the social covenants and the social relations in a postconflict scenario. On the other hand restorative justice appeals to the reconstruction of the societal balance, and therefore requires that the measures to restore this balance should be defined and assessed by local citizens and not necessarily according to international standards. Social covenants in Europe have clear differences in understandings regarding what society should look like from those established in Africa or Latin- America; therefore why should we expect that justice can be achieved in different scenarios through a replicable mechanism? Restoration cannot be achieved by putting universal steps together like Lego pieces; one should not forget that peace and justice requires a balance between good governance, rule of law and institutional

[97] Oficina del Alto Comisionado Para la Paz, see note 71 above.

legitimacy, keeping in mind issues of identity formation, stability and democracy.[98]

Transitional justice should be as broad and comprehensive as possible, understood as a spectrum of mechanisms that should be adopted based on cultural, historical and legal considerations regarding the underlying causes of conflict, its particular dynamics and the effect that these have had on local populations affected by violence. In addition, transitional justice mechanisms should be linked to a range of reforms and processes. These include justice and security sector reforms, and connecting transitional justice with activities essential to peace building that extend to areas outside of justice: inclusion of rebels in new security forces, Demobilization, Disarmament and Reintegration (DDR), etc. As such, transitional justice is part of an agenda for change, necessary, yet not sufficient in itself to achieve that change.[99]

Will the truth be a juridical artefact for clarifying the political and judicial future of the FARC-EP in a postconflict scenario?, or will it be a tool that also meets the needs of the victims and serves as a platform for empowerment and the strengthening of a new social contract in Colombia? If it is the former justice will fail, if it is the latter peace and justice for all may finally be reached.

[98] See note 9 above.
[99] See note 1 above.