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THE AMBIVALENCE OF PARTICIPATION IN TRANSITIONAL JUSTICE:
THE PROMISES AND FAILURES OF PEACE IN COLOMBIA

A Dissertation Presented
to
The Faculty of the School of Education International and Multicultural Education
Department

Fulfillment
of the Requirements for the Degree
Doctor of Education

By
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Dissertation Abstract

The Ambivalence of Participation in Transitional Justice: The Promises and Failures of
Peace in Colombia

The dissertation inquires into participation in transitional justice in Colombia. Through an examination of Peace Councils and Mesas de Participación, it offers readers concrete examples of such mechanisms for participation, discussing their legal and bureaucratic structures. Weaving in ethnographic research, the author allows the participants themselves, victimized-survivors of the armed conflict and community leaders, to discuss the limits and possibilities of their work. Placing these voices and archival research in historic and theoretical context, the dissertation leaves readers with questions regarding the ambivalence of state, institutional, and participant's stances towards participation in transitional justice.

This dissertation, written under the direction of the candidate's dissertation committee and approved by the members of the committee, has been presented to and accepted by the Faculty of the School of Education in partial fulfillment of the requirements for the degree of Doctor of Education. The content and research methodologies presented in this work represent the work of the candidate alone.

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Chapter One: The Research Problem

Statement of the Problem

This study inquires into victims' participation in transitional justice in Colombia at a crucial time for the construction of peace.¹ While the interviews were conducted in the first few months of 2018, the work as a whole draws on over a decades-long immersion into human rights research in Colombia. It explores the space between the legal frameworks for mechanisms of participation and the experiences of representatives of victims' associations and community research groups organizing and participating in them. Doing so, it poses important questions for the conception and formulation of participation for scholars in Transitional Justice Studies, advocates of Transitional Justice programs, and to the field of human rights more broadly.

While interviews were conducted in the first few months of 2018, the work as a whole draws on over a decades-long immersion into human rights research in Colombia. This work, while examining the current conditions under which participation in transitional justice occurs and how it contours the experiences of participants, understands these conditions as not simply a product of the political present. Colombia has been under various states of conflict since its foundation. The current armed conflict, ongoing for over a half a century, has produced a robust legacy of civil society

¹ In using the term "victim" here, I am addressing its official usage by state institutions, upon which I elaborate later. In other instances not referring directly to the state category and its adoption by civil society, and following the example of post-colonial feminist scholarship, I use victimized-survivor to address those living who have been victimized by the armed conflict (Chatterji et al, 2016, p. 265). This usage is in line with critiques of victimization and victimhood, that refuse a marginalization of the agency of victimized-survivors. (Chatterji et al, 2016; Mohanty, 1984). On the contrary, Colombian victimized-survivors have and continue to display inordinate amounts of courage and capacity in leading efforts towards truth, justice, and reparation.

mobilization against violence, forcing the development of dense and progressive jurisprudence related to human rights, participation, and peace. This both includes and stems from histories of negotiated agreements between the state and armed groups. Despite these histories of resistance and state response, the armed conflict in Colombia continues. This context is important as we examine what has brought us to this moment of transitional justice in Colombia, helping us to resist facile explanations for its current failings and possibilities.

The Fuerzas Armadas Revolucionarias de Colombia (FARC) is a product of violence. The guerrilla army emerged from the ashes of *La Violencia*, a decade long civil war that shed the blood of hundreds of thousands of Colombians, while displacing another million, and reinforcing the lesson that many across Colombia had learned from a long history of civil wars: political violence, while illegitimate, is a brutally effective tool of political force and control.² In the seventy years since *La Violencia*, political violence has become a mainstay of life in Colombia as insurgency and counter-insurgency, and its consequent paramilitarization have combined with the United States' War on Drugs to spread violence to every region of Colombia (Centro Nacional de Memoria Histórica, 2016). Hundreds of thousands of people have lost their lives, while millions have been forced from their homes (Centro Nacional de Memoria Histórica, 2017). Gendered and sexualized violence, both a direct and indirect effect of the war, are

² Depending on how they are counted, Colombia endured between four and nine civil wars between its founding in 1819 and *La Violencia* in 1948. In particular, the four civil wars between 1876 and 1899 contoured a political struggle between the traditional Liberal and Conservative parties that saw the exercise of violence as principal to Colombian politics (Palacios, 2006). Not counted in these civil wars were a great number of regional armed insurgencies and conflicts that did not become national in scale.

widespread (Centro Nacional de Memoria Histórica, 2017). Corruption, fueled by military aid and international capital, has become endemic to government at all levels (El Tiempo, 2017).

Yet civil society in Colombia has remained vibrant. Victimized-survivors of the armed conflict have organized, working with national and international organizations to document abuses, advocate for justice and restitution, and call for an end to the war. Despite a history of failed or partial peace agreements between the various guerrilla groups, and a paramilitary demobilization effort under the presidency of Alvaro Uribe (2002-2010) that saw few crimes prosecuted, even fewer punished, and led to a reconstitution of paramilitary forces across Colombia, civil society groups and human rights organizations have been insistent on a negotiated end to the internal armed conflict (Centro Nacional de Memoria Histórica, 2012; Centro Nacional de Memoria Histórica, 2014).

In April of 2011, the FARC initiated peace talks with the then-recently elected President Juan Manuel Santos, having been denied such talks by Uribe's previous government. Following years of negotiation in Havana, Cuba, with international support and civil society participation, the Final Agreement To End the Armed Conflict and Build

A Stable and Lasting Peace was signed on November 24th, 2016.³ The Peace Accord is organized under six chapters with related provisions:

1. Comprehensive Rural Reform,
2. Political Participation,
3. Agreement on the Bilateral and Definitive Ceasefire and Cessation of Hostilities and Laying down of Arms,
4. Solution to the Illicit Drugs Problem,
5. Victims, and Implementation and
6. Verification Mechanisms.

In effect, the Peace Accord presents a framework for a comprehensive system of transitional justice: mechanisms for truth, accountability, restitution, and non-repetition seeking a just transition away from armed conflict and towards stable democratic governance. Further, it explicitly seeks to guarantee the rights of victims, ethnic communities, and other vulnerable groups such as women, children, and Lesbian, Gay, Bisexual, Transgendered (LGBT) persons. It provides for a system of limited amnesty for political crimes that requires acts of restitution to affected individuals and communities while mandating sentences for grave violations of human rights. It also creates temporary and non-voting congressional seats for a non-violent FARC political party and opens the

³ Official talks began in Havana, Cuba, gathering steam as both parties signed a “General Agreement for the Termination of the Conflict and the Construction of a Stable and Lasting Peace” that gave structure to the negotiations. In the proceeding years, the FARC issued several temporary unilateral cease-fires before an agreement to an indefinite bilateral ceasefire with a commitment to total disarmament by the FARC was signed in June of 2016. The final agreement was announced in August of that year, and while a popular referendum to accept the deal was rejected by a narrow margin in October, The FARC and the Colombian Government modified the agreement and signed the Final Peace Accord at a formal ceremony on November 24th 2016, followed by congressional ratification on December 1st (Segura & Mechoulan, 2017).

door for legitimate participation in government. Lastly, it commits to a sweeping program of agrarian reform as well as a system of verification for the implementation of the accord, with international oversight.

The international community responded with commendation. The Nobel Prize for Peace was awarded to then president, Juan Manuel Santos in 2016, and foreign states committed hundreds of millions of dollars towards the implementation of the accord. Yet, some four years on, the peace process continues to be limited in its implementation of transitional justice.⁴ The Kroc Institute for Peace Studies at the University of Notre Dame, which has been charged with monitoring and verifying the implementation of the Accord, has produced yearly reports that show the limited success. While demobilization of the FARC was accomplished at a large scale with relatively uncommon speed and comprehensiveness, processes of truth, justice and reparation, those that deal with addressing both the conditions for and effects of the armed conflict, remain partial or uninitiated. Most troubling has been an increase in violence in areas formally occupied by the FARC as criminal organizations, often reconstituted paramilitary forces, fill the power vacuum. Human rights defenders and social leaders have been targeted by such groups leading to a dramatic increase in selective assassinations (Guevara & Sánchez, 2017). This incomplete and violent context for the implementation of the Peace Accord has been exacerbated by a change in government which occurred in 2018 with the election of President Iván Duque of the Democratic Centre Party, just months after the completion of

⁴ While it is salient to mention here that Iván Duque Márquez from the Centro Democrático party was elected in August of 2018 on a platform resistant to the full implementation of the Peace Accords, it should be remembered that Colombia has a long history of failing to fully implement laws and agreements towards the fulfillment of human rights.

my interviews in Colombia.⁵ Duque ran on a platform explicitly looking for the dismantling of the Peace Accord as it was signed, seeking the removal of key provisions for accountability, truth, and rural reform. In the time since his election, his presidency has faced a collapse of credibility, often seen as duplicitous in its policy, if not outright corrupt. Acknowledging this tension between professed support for peace processes, the failure to enact meaningful implementation of the Peace Accord, and inability or unwillingness to protect social leaders and participants in transitional justice, is key to understanding the ambivalent posture of the Colombian state in regards to human rights and addressing the root causes of the conflict. This ambivalence, is not solely the responsibility of any singular political figure or party, and extends backwards in time across recent decades.

This is a crucial moment in the history of the armed conflict in Colombia. Past agreements have failed or been limited in effect, leading to the reconstitution of armed groups and the escalation of violence (Rúa Delgado, 2015). Transitional justice programs, in other places and at other times, have collapsed or been unable to accomplish a long-lasting reduction of political and social violence. For many victimized-survivors of the internal armed conflict, the promise of transitional justice is the result of decades of

⁵ The complexity of recent Colombian political history points to the close connections of its recent presidents. Juan Manuel Santos was the Minister of Defense under Álvaro Uribe. While his presidency was initially supported by his predecessor, Uribe began to openly denounce Santos's policies, particularly in regards to his support of a negotiated peace with the FARC. This conflict led to the establishment of the Democratic Centre by Uribe, an ultra conservative political party established in opposition to the traditional Conservative party, under which both Santos and Uribe served. Duque, a member of the Democratic Centre, is seen as having his presidency both bolstered and overshadowed by the interests of Uribe.

organizing and advocacy in the face of ongoing threats and violence. Progress towards transitional justice that sees Colombia meeting its international human rights responsibilities is key to the government's economic and political future. However, the problem of the implementation of the Peace Accord and the way it affects the lives of those most proximate to human rights violations, its victimized-survivors, remains central to an understanding of Colombia's recent history with important implications for transitional justice programs across the world.

Critiques of transitional justice efforts in Colombia and elsewhere have addressed a wide variety of concerns including their often "top-down" nature, the focus on state processes, and the exclusion of marginalized segments of the population, including victimized-survivors themselves, in the design and implementation of its mechanisms (Cuéllar, 2017; McEvoy & McGregor, 2008). Efforts to localize transitional justice by ensuring the meaningful participation of all stakeholders including victimized-survivors of the armed conflict and of human rights violations have been proposed by scholars and advocates as a way to address these issues and ensure an inclusive and sustainable peace process that addresses the root causes of the conflict while repairing the damage done to society by decades of civil war (Shaw, Warf, & Hazan, 2010).

Participation is increasingly becoming a key term in transitional justice studies, and studies of its impact and long-term effect are starting to circulate (Hilton, 2011). This study, by engaging in participatory research with a local advocacy and research organization, and conducting in-depth interviews with representatives of victims' organizations participating in transitional justice

mechanisms, as well as with other human rights advocates, seeks to contribute to this growing literature. Through this study of local knowledge, I examined a few key structures employed by the state in meeting, or failing to meet, its constitutional and international responsibilities to provide spaces for meaningful and effective participation of victims. Combining archival research that includes local and international human rights reporting, critical scholarship, participant observation, and interviews, this study provides advocates, policy officials, and human rights scholars with a critical and grounded perspective on participation in transitional justice. Critical examinations of the current situation in Colombia are markedly valuable given the importance of the Peace Accord. Human Rights advocates, researchers, and policy officials, in particular, are interested in the approach taken by the Peace Accord, many already stating that it will serve as a model for future transitional justice programs, particularly in contexts of ongoing armed conflict (Saffron & Uprimny, 2007; van Nievelt, 2016).

In summary, this work is organized around four objectives:

1. **Legal and Bureaucratic Structures of Participation:** this study describes the legal foundation for participation in transitional justice and other peace processes in Colombia, referring to its Constitution, and a complex set of laws that establish mechanisms for participation.
2. **Participatory Research:** this study offers meaningful contributions to El Centro de Estudios Políticos (CEPO), a local organizing and research

collective, while gaining an understanding of their role in supporting the creation of local participatory bodies.

3. Participation and Victimized-Survivors: this study offers an understanding of the experiences and perspectives of participants in transitional justice mechanisms.
4. Participation in Transitional justice Studies: this study offers considerations for an understanding of the limits and possibilities of participation in addressing key questions in Transitional justice Studies.

My research questions, detailed above and below, dig into these objectives. The questions break apart the relationship between transitional justice and Participation, organizing an inquiry into the structure of legal frameworks, the politics of victims' participation, and their combined effect on the actuality of the implementation of Accord.

Background and Need for the Study

The armed conflict in Colombia has no single agreed upon origin. Various events, dates, and figures emerge throughout historical accounts to give record and ground to various phenomena. Did the armed conflict that continues today begin with or after La

Violencia?⁶ Were the origins of modern paramilitarism *Los Pajaros*?⁷ Or rather a result of Decree 3398 of 1965 which made the permanent defense of the nation-state an obligation for all citizens, legalizing the formation of right-wing militias? Or perhaps a result of a clandestine alliance between Colombian and U.S. intelligence forces with right-wing militias and rival narco-trafficking cartels to assassinate Colombia's most known cartel leader, Pablo Escobar, known as MAS (Death to Kidnappers, in its Spanish acronym)? I am certainly not in a position to enter these historiographic disputes, but would rather point to enduring conditions of economic inequality; racial, regional, and gendered dispossession; and political violence to give a broad context to understand the ongoing conflict.

La Violencia

The 1940s witnessed social movements composed of liberals, socialists, and communists, both rural agricultural workers and a consolidating industrial labor force, responding to increasing inequality and economic depression through mass mobilization, land occupation, and regional strikes (Molano, 2015). Throughout the country, local police forces and private militias, under the orders of conservative politicians and capital interests, retaliated violently in a series of assassinations and massacres (Molano, 2015). These acts combined in a campaign of political cleansing that sought to determine the outcome of local elections. Those persecuted - namely, liberals, communists, socialists

⁶ Indeed, President Uribe, during his long tenure as president refused to recognize the existence of an internal armed conflict. Insisting instead that it was simply a matter of domestic terrorism requiring an internal police response ungoverned by the Geneva Conventions.

⁷ "The Birds", were bands of right-wing mercenaries used to carry out assassinations and massacres on behalf of Conservative forces during La Violencia.

and other dissidents of the Conservative Party—organized themselves into armed groups for the protection of their communities. These groups eventually evolved into modern guerrilla forces, urban and rural militias seeking to use violence for self-protection and towards political change (Molano, 2015)⁸. This context of escalating violence, historians tell, was a tinderbox awaiting a spark that came in the form of the assassination of Liberal presidential candidate Jorge Eliécer Gaitán during a political rally in Bogotá on April 9, 1948. This event, known as El Bogatazo, is often described as the start of La Violencia. Blood flowed freely in the following decade as war spread from region to region, resulting in over 300,000 deaths (Palacios, 2006). Yet, such an accounting neglects the psychosocial dimensions of a war whose dead were, in their overwhelming majority, non-combatants. Victims of violence were more often targets of revenge or personal gain than military strategy, resulting in the deaths of entire families and villages. Rape was common, and women were over one-fifth of those killed (Palacios, 2006, p.136).

The militias born to this landscape of violence would become the guerrillas of today's conflict. Escaping burned villages, the victimized-survivors of *La Violencia's* atrocities gathered in relatively inaccessible mountains and jungles, forming 33 armed commands across Colombia (Molano, 2015). It wasn't until 1965, in the aftermath of a failed agrarian reform that promised to address displacement, unequal distribution of land, and poverty, that a number of these groups gathered to coordinate efforts, forming

⁸ This history of the evolution of guerrilla groups, which preceded that of paramilitary groups, differs in a myriad of ways. Firstly, paramilitary groups were not self-organized defense groups of displaced community members, instead they were recruited forces brought together and paid by large land owners and local elites. As such, their goals have been centered around the protection (and expansion) of private property and the maintenance of the political status quo. Additionally, paramilitary groups have generally approached the use of violence in more generalized ways, seeking to produce generalized terror through its indiscriminating and spectacular use.

the FARC. Until its recent demobilization, The FARC was the longest running guerrilla insurgency in the world, fighting the most protracted civil war in the history of the Americas. In the nearly sixty years that have followed, the war has expanded to touch every region of Colombia.⁹

Over the decades the armed conflict grew in complexity, as armed actors with contradicting ideological and strategic goals joined in the conflict: other communist inspired guerrillas including the Ejercito de Liberation Nacional (ELN), leftist urban student-led insurgents such as the Movimiento 19 de abril (M-19), and right-wing paramilitary groups that found their zenith under the umbrella organization of the Autodefensas Unidas de Colombia (AUC). Whether they are understood as directly participating in the civil war, or simply contributing to the larger panorama of violence, criminal organizations such as the Medellín and Cali Cartels grew to a size and power that rivaled both guerrilla and paramilitary organizations. Increasingly, the lines between these organizations have continued to blur as they have splintered and become more widespread.

⁹ The 2005 census claims a total population of 41,468,384 with over a million Indigenous (3.4%) and over four million Afro-Colombian (10.6%) persons (Departamento Administrativo Nacional de Estadística, 2011). These figures reflect the extension of “ethnic rights” in the Colombian Constitution of 1991 and Law 70 of 1993, which created strict criteria for the identification of these groups tied to specific notions of cultural authenticity and difference including language, dress, food, and musical traditions. The “ethnicization” of difference in Colombia through a multicultural framework has had important and ambivalent effects in social movements for racial justice (Restrepo, 2004). Anthropologists have a complex and problematic role as state sanctioned experts endowed with the power to legally certify an ethnic group, thereby controlling communities’ access to legal rights to land and autonomy (Paschel, 2016).

Scope of the Civil War

The work of writing the history of the conflict, indeed, the work of memory which communities insist on as they have called for an end to violence, a space of healing and reparation, and a sense of justice, has been contemporaneous to the conflict itself (Alcalá & Uribe, 2016). Despite these herculean efforts, we are still often left to describe the effects of the war in broad strokes, forming a vague outline. “Basta Ya!”, the general report of the National Center for Historical Memory, an institution founded as a requirement of the “Peace and Justice” Process, reports that over 220,000 victims lost their lives to the conflict since 1958 (2016, p. 16).¹⁰ Of those, 81.5%, the overwhelming majority, were civilians.¹¹ To that number we must add military and paramilitary strategies intended, at least in part, to reduce the apparent number of casualties, including 25,007 victims of enforced disappearance and 2,701 victims of “false positives”(2016, p. 69, p. 185).¹²

Though the state’s Sole Registry of Victims (RUV) counts more than 4.7 million forcibly displaced persons as of 2013 in its database, official records on displacement only began to be recorded in 1997 with the passing of Law 387 which sought to implement measures to protect against forced displacement and mediate its effects.

¹⁰ The 2005 “Justice and Peace Law” ostensibly demobilized paramilitary forces and provided a framework for truth, accountability, and reparation. Its effectiveness is contested by human rights groups who point to the reorganization of paramilitary structures, the growth of right wing armed militias, and ongoing violence, including the targeting of human rights defenders and social leaders by these groups (Saffron & Uprimny, 2007).

¹¹ The figures presented in this report draw upon the *Registro Único de Víctimas* (RUV, The Sole Register of Victims) among other state and civil society sources. The RUV was created by the 2011 Victims Law (Law 1448) “as a mechanism to guarantee the care and effective reparation of victims”(Centro Nacional de Memoria Histórica, 2016, p.38).

¹² See Definition of Terms and Acronyms on page 32.

Projections based on historical records and available archives lead the authors of the report to place the figure around 5,700,00, or 15% of the Colombian population (2016, p.40).¹³ Other widespread and grave violations of human rights include acts of gendered and sexualized violence, torture, forced recruitment including of minors as child soldiers, arbitrary detention, abduction, as well restrictions on civil liberties including the violation of due process, the restriction of free movement, and limitations on the right to participate freely in political processes.¹⁴ At times, and in particular locations, these crimes have been routinized, contouring life and making the negotiation of violence a quotidian act of survival.

Vulnerable groups have borne a greater share of this burden. As the war expanded, it did so into so-called ethnic communities, a political and legal term which includes Indigenous communities/reservations and Afro-Colombian populations.¹⁵ This expansion resulted in a disproportionate effect on these communities, as racism and neglect allowed for violence to be under-reported and under-addressed by state institutions and national media. Given the rural and often precarious situation these communities endured before and during the war, the loss of life and mass displacement

¹³ The Global Report on Internal Displacement, a joint report by the Norwegian Refugee Council and Internal Displacement Monitoring Centre published in 2017, places the figure at 7.2 million. This makes Colombia the nation with the highest number of Internally Displaced Persons in the world, though they warn that this may be an overestimation. The UNHRC, in its 2016 Global Report, affirms that Colombia has the largest number of Internally Displaced Persons, placing the figure at 7.4 million. It reports that over two thirds of these persons are indigenous, with the remaining third comprised principally of Afro-Colombian and campesino farmers (p. 65).

¹⁴ I draw a distinction here against enforced disappearance whereby abduction is committed by a non-state actor without the participation, complicity, or acquiescence of the state. See Definition of Terms and Acronyms for further elaboration.

¹⁵ See entry for **Ethnic Rights** in Definition of Terms and Acronyms on page 30.

from their lands have threatened cultural survival. Afro-Colombian and Indigenous advocacy groups report that paramilitary groups targeted ancestral practices in the course of the conflict, destroying traditional agricultural lands, denying the right to public assembly necessary for ceremonies, including those of mourning, and targeting elders and spiritual leaders for assassination. According to the Organización Nacional Indígena de Colombia (ONIC), 102 distinct Indigenous communities face extinction with 32 groups having fewer than 500 members (GHM, 2016).

Of those affected by the armed conflict, women have been particularly and egregiously affected. As men roughly account for ninety percent of casualties of the armed conflict, women have been forced to become heads of households, often left as the sole financial support for their families, while also seeking accountability and reparation through state and international mechanisms (Sánchez Gómez, 2008). Taking on these burdens often meant exposing themselves and their remaining family to dangerous visibility as they endured long exhausting days of travel pursuing legal and administrative procedures that increased their vulnerability to violent repression and abuse by armed groups and state officials (GHM, 2016). Their roles as advocates and social leaders in their communities have led to their increased targeting for assassination. “Basta Ya!” also recognizes that gendered and sexualized violence in the context of armed conflict aims at “punishing and instilling regimes of control... teaches lessons, sows terror and forces unarmed civilians to comply with certain role and behavioral codes imposed by armed actors” (GHM, 2016, p. 317). Sexual violence as a weapon of war can be attributed to members of all armed groups, including the Armed Forces of Colombia, and includes

sexual slavery, sexual torture, forced abortions, and rape (Centro Nacional de Memoria Histórica, 2017). While young women and girls were the principal targets of these acts, sexual violence permeated the war, affecting persons of all genders (Centro Nacional de Memoria Histórica, 2017). Gendered violence, seeking to regulate gendered and sexual norms functioned as a “consolidation of a moral order, which coincides with heteronormativity, in its effort to punish, correct, or expel those persons which live outside of this norm” (Centro Nacional de Memoria Histórica, 2015, p. 431).¹⁶ Despite national changes in recent years that have extended legal protection to LGBT persons in Colombia; guerrilla, paramilitary, and state forces have all participated in acts of sexual and heteronormative violence against them. Furthermore, heteronormative violence perpetrated by non-participants of the armed conflict, local communities and individuals, was exacerbated by the heightened regulation of the “moral order” with the presence of armed groups (Centro Nacional de Memoria Histórica, 2015, p. 432).

Community leaders and human rights groups have worked to document violations, rebuild community support networks, and seek restitution, often in the face of direct threats and targeted assassinations. Despite the efforts of local communities and a series of national initiatives for humanitarian assistance, restitution, and justice, local leaders assert that state response has, when present, been minimal and inappropriate in addressing the aftermath of human rights violations. All states, as arbiters of justice within the nation, have the legal obligation to ensure the rights of its citizens and must be held to a higher standard than non-state groups. In its war against the FARC, the

¹⁶ My translation.

Colombian state has the added responsibility of being directly and indirectly responsible for the great majority of grave human rights violations. For example, of the 1,982 massacres documented by the Centro Nacional de Memoria Histórica, 58.9% were perpetrated by paramilitary forces, and 7.9% are attributable to the Armed Forces of Colombia (Centro Nacional de Memoria Histórica, 2016). Similarly, for selective assassinations, which account for the great majority of casualties in the conflict, paramilitary groups were positively identified as the perpetrators in 38.4% of cases, the Armed Forces in 10.01%, and joint paramilitary and Armed Forces operations in an additional 0.4% of cases (Centro Nacional de Memoria Histórica, 2016). This last figure, while a small percentage, points to the long-standing nexus of paramilitary and state forces. While paramilitary groups are, under any measure, responsible for the great majority of deaths, forced displacement, enforced disappearance, and other acts of brutality including torture, dismemberment, and sexual and gendered violence, they often committed these acts with the participation, consent, or acquiescence of Colombian Security Forces and state officials. Indirect participation included offering logistical support, silencing dissent, and omitting facts in their reporting (Centro Nacional de Memoria Histórica, 2016).

While the anti-paramilitary decrees of 1989 reversed a legal framework legalizing and encouraging the growth of paramilitary units, the phenomena reached its pinnacle in the early 2000s. Since then, there have been waves of accountability in which state investigators have slowly revealed links between the government, paramilitary organizations, and their violent acts. The para-politics scandals, as they are known in

Colombia, continue today, threatening to implicate an ever-greater number of political figures in paramilitary violence (Alsema, 2012). In 2005, Alvaro Uribe's government, facing increasing pressure from international human rights organizations, including the International Criminal Court, as well as the U.S. Congress, culminated ongoing negotiations with the AUC with the passage of the so-called Justice and Peace Law, Law 975. This law established minimal institutional mechanisms for victims to claim rights under a much larger process of paramilitary demobilization and truth tribunals. The law has been widely criticized for the incomplete and at times fraudulent demobilization of paramilitary forces. Three years after the implementation of the law, only 24 victims had successfully received damages (Summers, 2012). A joint report from the United Nations and Colombia's Ministry of Justice from 2016 declared that less than 4% of entitled victims received any reparations (Martínez Sánchez, 2016). As of 2015, paramilitary soldiers had confessed to over 70,000 crimes; yet only 37 convictions have been successfully prosecuted under the law (Human Rights Watch, 2015). The focus on the creation of justice mechanisms under the peace accord has further burdened judicial systems further slowing prosecutions under the Justice and Peace Law.

Despite the clear limitations of Law 975, it has deeply affected civil society in Colombia and is frequently cited as the first transitional justice effort in the country (Rowen, 2016; Saffron & Uprimny 2007; Sandvik & Lemaitre, 2015). By creating the legal category of Victim of the Armed Conflict, the law was instrumental in providing legitimization and institutional support for victims' organizations. Victimized-survivors

of the conflict have taken on this new legal category as a platform from which to advocate for justice and restitution.

Yet, in the years leading up to and immediately following Law 975, the conflict evolved and escalated as armed struggle for control of territory became increasingly tied to economic interests. Forcibly taken lands were used for drug production and trafficking and, more recently, for mineral extraction and large-scale agriculture (AI, 2014). International corporations, financial elite, and government officials have been implicated in the widespread expropriation of land by armed groups resulting in the dispossession of over 13.3 million acres - or about 14% of Colombia's territory (Amnesty International, 2014; Human Rights Watch, 2013; Summers, 2012). In Colombia, economic interest in the context of armed conflict has resulted in the dramatic concentration of land resulting in the most unequal distribution in Latin America, where 1.15% of landowners own 52.2% of arable land (Summers, 2012).

The effects of past and ongoing violence determine life for many Colombians as they work for peaceful and just mechanisms of accountability and reparation. The Peace Accord contributes to a robust but complicated panorama of past agreements, laws, and judicial and executive decrees, creating a large, confusing, and unevenly distributed system of transitional justice. Victimized-survivors of the armed conflict disproportionately assume responsibility for implementing these systems, often with serious lack of institutional support and financial resources. This study, in conducting grounded and participatory research, addresses the complexity of transitional justice in

Colombia, its uneven implementation, and points to the transformation and persistence of violence in Colombia for communities most affected by the armed conflict.

Purpose of the Study

The purpose of this study is to examine the experiences of organizers, advocates, and victims' representatives in mechanisms for participation in transitional justice in a conflicted democracy (Aoláin & Campbell, 2005; Chatterji et al., 2016). My research included in-depth interviews with members of Victims' Mesas, at the municipal, departmental and national levels, as well as participatory work with CEPO, *El Centro de Estudios Políticos*,¹⁷ an organizing and research collective dedicated to expanding democratic participation in Colombia. It documents local knowledge of these key stakeholders to offer a grounded critique of participation in transitional justice in Colombia.

Theoretical Framework

In its widest sense, the notion of governmentality, as introduced by Michel Foucault (2007), describes the techniques of government aimed at managing population and its resources. In particular, governmentality refers to: The “ensemble formed by institutions, procedures, analyses and reflections, calculations and tactics” which allow the exercise of power (in its governmental form) where the target of power is a population and the primary form of knowledge it employs is political economy with “the apparatus of security as its essential technical instrument” (Foucault, 2007, p. 108).

¹⁷ See Chapter Three for a description of CEPO and their work.

Analysis of governmentality by Foucault and others has been primarily focused on neoliberal governments and their biopolitical practices (Brown, 2017; Cotoi, 2011; Foucault, 2008; Restrepo, 2004).¹⁸¹⁹ This conception of neoliberal governmentality posits the maximization of resources and the subjectification of populations towards the liberalization of economy and the securitization of nation as the key-organizing principles of government. These are biopolitical regimes in so far as governments seek to manage populations through their categorization, divisions that produce manageable units through social discourses that affix their supposed value or threat to the larger nation-state (Foucault, 2008; Restrepo, 2004). Subjectification describes the process through which individuals and communities come to internalize (wholly or partially) these biopolitical identities.

While the theorization of governmentality has largely been limited to stable, so-called advanced democracies, I argue that this theory is helpful in understanding the experience of Afro-Colombian, Indigenous, and campesino

¹⁸ Wendy Brown in a recent work, argues that neoliberalism is not simply an economic model but a form of rationality that extends the logic of financial markets to all aspects of life, undermining democracy (2017). In an interview on her work she states, “I treat neoliberalism as a governing rationality through which everything is “economized” and in a very specific way” (Brown & Shenk, 2017). Unlike liberalism, neoliberal rationality reduces human value to its commodification and speculation, rendering formerly political and social spheres to mere economic rationality. Boaventura de Sousa Santos, makes a similar point when discussing the Colombian Peace Accord, arguing that its success in creating conditions for a lasting peace are dependent on a commitment to a “Democratic Peace” over a “Neoliberal Peace” (2017).

¹⁹ The question of the biopolitical is a site of contention across the humanities and social sciences. I understand it as the management of life *and* death, towards the subjectification of individuals in the management of populations. Here, various and contradictory techniques of government, including those grounded in medicine, pedagogy, policing and security, are aimed at both individuals and larger collectives, seeking to have them internalize particular relations of power to produce certain social behaviors. Thus techniques which produce exclusion and death are no less biopolitical, in that such acts of state sanctioned violence seek to communicate to larger communities particular understandings of national belonging and what is deemed appropriate and acceptable (political) behavior.

communities as they live within and against imposed identities manufactured by the state and contend with a political economy seeking their literal and figurative displacement. Neoliberal economics, elaborated by national and multinational elites, place the development and exploitation of ‘national’ resources as central to the economic and political security of the nation-state. Afro-Colombian, Indigenous, and *campesino*²⁰ advocates refuse this claim, documenting and denouncing the ways in which large-scale efforts at resource extraction and production have resulted in an escalation of political violence, a violation of traditional economies of subsistence, and have thus threatened both economic and cultural survival. A critical examination of Colombian governmentality not only provides a context for understanding the armed conflict in Colombia, but also affords key insight into the possibilities and limits of transitional justice as these processes seek an expansion of neoliberal economic rationales while attempting to address widespread human rights violations. Furthermore, it offers an understanding of the limits and apparent failures of mechanisms of participation and human rights despite their strong legal foundation and discursive support by state and international officials. This approach is necessary against a backdrop of certain threads of human rights scholarship, including that of human rights education, that in its universalist and legalistic forms, uncritically assumes a

²⁰ I use *campesino*, which may roughly translate to peasant, in keeping with its Colombian usage describing rural land working communities. *Campesino* is a racially ambiguous term, used, as I do above, to name those not categorized as, nor perhaps self-identified with, the “ethnicized” terms Afro-Colombian and Indigenous, but who share a dependence on land for self-subsistence and cultural reproduction. In Colombia, the terms Afro-Colombian, Indigenous, and *campesino*, are often used to name communities fighting for territorial rights.

progressive and invariably beneficial outcome to human rights norms, transitional justice mechanisms, and victims' participation (Zembylas, 2016).

Between law as norm and the possibilities of communities' and civil society's resistance to state neglect and violence lies a complex and dynamic relation. The implementation of counter-insurgency policy in Colombia, itself an extension of emergency rule established during the half-a-century-long civil war, conflates images of liberal politicians, guerrilla insurgents, Marxist students, and campesino, Indigenous, and Afro-Colombian movements for land and autonomy (Franco Restrepo 2009). As law categorized citizens as threats or possible threats to the nation, civil society and local communities were often compelled to reproduce the exclusion of dangerous others through a refusal to document, denounce, and seek justice for state violations of political and human rights. This was effected through fear of legal and extra-legal reprisal, including extra-judicial execution and enforced disappearance, and the establishment of a dominant/majority assumption that victims of state (and para-state) violence are at least partially guilty, if not of specific crimes, then of a subversive political subjectivity that either outright legitimizes or minimally explains their targeting.

Through international pressure, there has been a shift in Colombian state discourse acknowledging the systematic violation of human rights over the past 60 years (Tate, 2007). Yet such discourse, produced through varied and conflicting bureaucratic agencies, often refuses an acknowledgment of state

violence and complicity in paramilitary violence. In producing the category of ‘new criminal organizations’ (BACRIM, Nuevas Bandas Criminales) for still intact and functioning paramilitary units classified as demobilized, the state expunges recent history that establishes the legal and political continuities between paramilitary organization, funding, arming, and deployment and state support/initiation of these activities.

Human rights processes and discourse have been, at least partially, subverted to continue the marginalization of political dissidents, conflating armed insurgency, criminal (paramilitary and narco-traffic) organizations, and non-violent dissent, often targeting communities denouncing state violence. The dominant deployment of human rights law and discourse in Colombia today reinscribes the image of “other” as threat to security and nation, while providing a response to regional and international human rights bodies calling for an end to state violence and the implementation of processes of truth, justice, and reparation (Franco Restrepo, 2009).²¹ Not only must a subject produce itself as deserving of human and political rights in alignment with national interests, but the desire for

²¹ I use “other” here in the political and philosophical sense. It is an “other” to the “self” of the normative structure of governance, the target of policies intended to maximize life and its potential of capitalist productivity. It is the “other” to the subject of dominant History, the story of civilization that privileges western reason, history, economy, and subjectivity. In Colombia, the “other” in this case, are those marginalized racially, sexually, economically, and politically: Indigenous and Afro-Colombian communities, organized workers and campesinos, dissident students, and others involved in organizing for human rights and the basic needs of their communities.

such ‘being’ must also be internalized and performed through social acts of allegiance and acquiescence.²²

This discursive apparatus continues to divide Colombian society and threatens to derail the transitional justice process. It justifies the neglect of communities deeply affected by the conflict, despite robust jurisprudence establishing the state’s responsibility to ensure rights to truth, justice, restitution, and non-repetition. Furthermore, the discursive production of victimized-survivors of human rights violations as threats to national security and economic development, inhibits the implementation of transitional justice and permits the continued violation of communities and their territories through extra-legal means. It is in this context that appeals to participation in transitional justice mechanisms find their real limits, and through which participants face deeply ambivalent experiences.

Research Questions

Following from my research objectives, the following research questions guided my inquiry. The first two dig into the broader contexts of Transitional justice and Participation, offering a way to approach the relationship between both and the experiences of participants themselves. My last question leads towards the

²² “Being” here reveals the phenomenological roots to the discourse on the “other” in post-structural and post-colonial thought from which my arguments come. “Being” in this context, refers to the ways of life organized in congruence or in resistance to dominant governance and neoliberal rationality.

conclusion of this dissertation, asking the theoretical and practical implications for Transitional Justice Studies, and human rights advocacy more broadly.

1. Structures of Participation: What are key structures for victims' participation in transitional justice in Colombia? What are their legal foundation? Who are participants in their bodies and what power do they have to affect the larger peace process?
2. Participation in Action: What have been the experiences of participants in these transitional justice mechanisms for participation? What have been the limits to their effective participation? What has their participation made possible?
3. Participation in Transitional Justice Studies: What do the experiences and perspectives of Colombian participants in transitional justice mechanisms offer to scholars and advocates of Transitional Justice?

The first two questions are addressed thoroughly by my findings in Chapters 4 and 5. Both of these chapters examine laws and institutions directly related to legal rights for participation, particularly in transitional justice. Chapter 4 examines the constitutional basis of participation, as well as Law 434, which established the Peace Councils. These councils are an early form of participation in peace processes, and are described in this chapter. Chapter 4 continues by drawing from interviews conducted on a pilot study to address issues with

participation and the implementation of transitional justice mechanisms. Chapter 5 picks up where Chapter 4 leaves off, addressing more recent legal and institutional mechanisms for participation. The chapter weaves in narratives from participant observation and interviews to ground my findings in the experiences of victims' organizers and advocates participating in the mesas, a mechanism for participation established by law 1448 and built upon by the Peace Accord.

I examine my third research question in my concluding Chapter 6. Here I link the critiques of participation and the implementation of transitional justice mechanisms offered by community members and victims' representatives to larger questions for Transitional Justice Studies, calling for an approach that recognizes the limits of participation in addressing issues inherent to Transitional Justice and the problematics of neoliberal bio-political governance in securing a just, equitable, and sustained peace.

Delimitations and Limitations

This study is delimited by a set of specific choices. First, I have chosen to conduct my research in two overlapping phases. In collaboration with CEPO, I conducted participatory research, supporting their development of a research protocol to investigate the implementation of the Peace Accord in the Urabá region of Antioquia while learning from their work in creating Peace Boards for local participation. In the second phase I interviewed representatives of Victims'

Mesas and other civil society advocates, and participated in a series of events offering participatory spaces for victimized-survivors of the armed conflict.²³

My interviews focused on the experiences of participants in transitional justice mechanisms, many of whom survived human rights violations and have sought accountability and restitution since the time of the violation. The interviews at times necessarily involved reference to specific events in their personal histories, yet interviews did not undertake a recording of in-depth testimonies of violations. While counseling and legal support was made available as necessary through allied organizations, such testimonies were beyond the scope of my study. Furthermore, given participants' experience with human rights work, including being well versed in discussing their personal context for the work, no persons interviewed accepted my offer for referral to psycho-social services. Instead, my interviews focused on their understanding of and experiences in transitional justice structures for participation, principally CEPO members' experiences with organizing Peace Councils across Antioquia, and members of various Victims' Mesas. As such, this study did not include a detailed history of the conflict, though I provide relevant context on the history of the armed conflict. Furthermore, this study is not comparative and as such will only include passing mention to other events in recent Colombian and international history.

²³ The two phases of this research were conducted in March and April of 2018. While the first phase was conducted primarily in March and the second in April, there was a degree of overlap.

Important limitations included financial and time constraints associated with my travel and stay in Colombia. My professional and personal circumstances required that I conduct my research over a three-month period. While this is a relatively brief period in which to address the research questions I proposed, my experience in Colombia over many trips and years and previously established relationships to community organizations made this timeline viable.

Lastly, there are important safety concerns that affected my travel. Many regions in Colombia continue to be under threat by paramilitary successor groups that have only expanded since the start of the Peace Process between the FARC and the state. Human rights advocates, including some whom I interviewed, have received threats that limited their availability and need for limited visibility.

Situating the Self in the Context of the Research

This dissertation represents a network of relationships and experiences that have defined more than a decade of work in solidarity with those struggling for peace and justice in Colombia. Though the work of my mentor, Dr. Angana Chatterji, I was lucky enough to attend the Second World Congress on Psychosocial Work in Exhumation Processes, Forced Disappearance, Justice, and Truth at the Universidad Nacional in Bogotá, Colombia in 2010 where she presented on the findings of “Buried Evidence: Unknown, Unmarked, and Mass Graves in Indian-administered Kashmir” and participated in the drafting of international norms for psychosocial support. There, alongside my colleague

Heidi Rhodes, we met leaders from the Asociación Renacer Siglo XXI, including Hector Marino Carabalí, its co-founder and legal representative. This organization, formed in 2001, in the aftermath of a violent decade's long paramilitary incursion, was the first of its kind in Northern Cauca.

Through this amazing network, we helped to document cases of enforced disappearance in Northern Cauca, wrote a report on those cases that was presented internationally, arranged a solidarity speaking tour in the United States, and organized a campaign for the protection of human rights advocates threatened by paramilitary violence, including securing international grants for their temporary relocation and supporting asylum processes. These experiences, reflected upon through these crucial relationships, represent my understanding of the Colombian conflict and the efforts of victimized-survivors to document violations, expand spaces of democratic participation, and call for and work towards peace, justice, and reparation.

Despite this immersion, I am and will continue to be an outsider to Colombia, and in particular to those communities most affected by the armed conflict. I am aware, as are those whom I collaborated with and interviewed, that our experiences related to the work we are discussing are separated by very real differences. I am a visitor to Colombia, someone who has not lived for a prolonged period under the effects of armed conflict, and who, with a U.S. American passport in hand, could leave freely at my own discretion. Despite

meaningful political commitments, my work in Colombia has always been a choice made through the relative safety of graduate studies and international travel. This choice is one not available to many of the participants of this study driven to do their work given the often painful circumstances of their personal lives. I state these differences clearly, as they are important in understanding the perspective I offer, and the contexts that have influenced the meaningful relationships I have built with Colombian human rights defenders and social leaders. I believe that in this case, this difference has the potential to be productive allowing for a cross-cultural and international collaboration that seeks to leverage relative privilege towards accountability in Transitional justice as it is both understood by scholars and implemented by international advocates.

Definition of Terms and Acronyms

AUC: The Autodefensas Unidas de Colombia (United Self-Defense Forces of Colombia) was the largest paramilitary organization in Colombian history. An umbrella organization that integrated various other paramilitary forces, their *bloques* (squadrons) came to occupy large tracts of land across the entire territory of Colombia. A demobilization process that began in 2006 under the “Justice and Peace Law” 974, led to the dismantling of the AUC and to testimonies by former paramilitary soldiers in exchange for amnesty that has given us a partial record of the history of paramilitary human rights violations. The demobilizations are critically understood to be incomplete as so called “New Criminal Bands” (BACRIM), also named paramilitary successor groups, continue to

target human rights advocates and community leaders with assassination and disappearance.²⁴

ELN: The Ejercito de Liberation Nacional (National Liberation Army) is now, following the demobilization of the FARC, Colombia's largest insurgent armed force. A Marxist-Leninist insurgency, it began in 1964, and had strong ties to liberation theology. At its height it had over 5,000 soldiers though their number today is believed to be under 2,000 (Torres, 2017). They are currently in peace talks with the Colombian government in Ecuador, and a temporary ceasefire has been in place since October 1, 2017.

Enforced Disappearance: According to the Rome Statute, Enforced Disappearance is to be understood as “the arrest, detention or abduction of persons by, or with the authorization, support or acquiescence of, a State or a political organization, followed by a refusal to acknowledge that deprivation of freedom or to give information on the fate or whereabouts of those persons, with the intention of removing them from the protection of the law for a prolonged period of time” (UN General Assembly, 1998, p. 5). It has also been codified as a grave violation of human rights by the United Nations' International Convention for the Protection of All Persons from Enforced Disappearance (CED) and the Organization of American States' Inter-American Convention on the Forced Disappearance of Persons. The generally accepted history of the definition and criminalization of enforced disappearance traces its emergence to movements for accountability to its widespread use by the authoritarian regimes of Latin America in the latter part of the twentieth century. There are alternative histories in which scholars point

²⁴ Following Colombian social leaders and human rights advocates, I will refer to BACRIM simply as paramilitary forces.

to a longer history including the Third Reich's use of Enforced Disappearance in its Night and Fog program and the application of existing international law in prosecuting those responsible for the program during the Nuremberg Tribunals (Finucane, 2010). *Noche y Niebla*, a publication by The Center for Research and Popular Education, is a quarterly catalogue of human rights violations in Colombia. The title is a nod to the history of the Nazi program.

Ethnic Rights: The 1991 Constitution of Colombia, itself the product of a constitutional assembly that was formed as part of a peace accord between the government and several guerrilla organizations, most prominently the M-19, provided collective rights to ancestrally held lands for Indigenous groups, the right to prior consultation on development projects that affect their communities, reservations for political participation, and the right to limited self-governance (Semper, 2006). Law 70 of 1993 extended these rights to Afro-Colombian communities who met certain requirements under the law, introducing the concept of a Consejo Comunitario (Community Council) as the subject of collective Afro-Colombian rights (Paschel, 2016). Due to the strict system of state authorization of Consejos Comunitarios, many are in an indeterminate state of approval and are known as Procesos Comunitarios (community processes), this self-identification functions as both political reminder and metaphor for the unfinished process of ensuring Afro-Colombian rights.

False Positives: False positives, also known as fake encounter killings, are cases in which the Armed Forces of Colombia committed extrajudicial executions of civilians and then documented the killing as (in the language of the state) a positive: a neutralized

guerrilla insurgent. This tactic included the planting of evidence in the form of guns, munitions, and went as far as dressing buddies of the deceased in guerrilla fatigues.

Pressure from military command structures contributed to these killings as subaltern units were pressured to produce increasing numbers of kills (Alston, 2010). Such pressure took, at times, the form of incentives such as promotions, raises, and extended leaves of absence. Though investigations of these acts are still underway, by 2011 the state prosecutor had investigated 1486 cases involving 2701 victims (Centro Nacional de Memoria Histórica, 2016, pp. 185).

FARC: The Fuerzas Armadas Revolucionarias de Colombia (The Revolutionary Armed Forces of Colombia) was the largest and longest running insurgency in the Western Hemisphere. It declared itself in 1964, from what had been 33 separate militias fleeing persecution by military forces. Its disarmament was declared complete by the United Nations Mission to Colombia on September 22, 2017 (UNMC, 2017). A small minority of FARC commands refused to disarm and participate in the Peace Accord, these groups have reconstituted as FARC dissidents. The persecution of demobilized soldiers, as well as persisting conditions of poverty and marginalization, have led to the increase in size of these dissident groups. They have not, as of yet, reconstituted as a national organization.

RUV: The Register Único de Víctimas (The Sole Register of Victims) was created by the 2011 Victims Law (Law 1448) “as a mechanism to guarantee the care and effective reparation of victims” (Centro Nacional de Memoria Histórica, 2016, p.38). It is the state’s most comprehensive database of victims of the armed conflict and human rights

violations. It largely depends on self-reporting of “victims,” subject to verification by the Register, and is a requirement of application for state restitution and aid.

Chapter Two: Literature Review

Introduction to Transitional justice

In the growing and disparate field of literature and social, legal, and political practice known as Transitional justice, no single definition encompasses the multiplicity of theoretical perspectives or political initiatives. In the widely accepted toolbox approach, it may be understood as a set of mechanisms: truth tribunals and commissions, prosecutions, memorialization, amnesty, as well as projects for reparation and reconciliation (Shaw, Waldorf, & Hazan, 2010). More broadly, it may be defined as an approach to ensuring basic rights in addressing mass violations of human rights, rights to truth, justice, reparation, and non-repetition during periods of political transition (Saffon & Uprimny, 2007). Its discourses are recognized and reproduced through international law, human rights organizations, state institutions, and civil society groups. Increasingly, there are academic departments, conferences, and journals dedicated to its study and development (Shaw, Waldorf, & Hazan, 2010). Transitional justice is an expanding but contested field, still under creation and revision. It is a discursive site where individual and group actors stake claims to particular visions, aspirations, and futures, mediated by a particular social and political position and at times in contradiction to each other's assertions. Transitional justice is where abstract legal and political theory meets its instrumentalization in law and practice, with important effects for those left vulnerable by political violence and armed conflict.

Truth and Justice

While questions on the origin of transitional justice may be debated by scholars interested in fixing a particular identity for its conceptualization and implementation, its gradual consolidation as theory and practice evolved in response to critical reflection on relatively recent historical events. In addition to post-Soviet contexts, the experiences of Latin American states, particularly Uruguay, Argentina, and Chile, figure significantly in the development of Transitional justice (Hinton, 2011; Teitel, 2000). These countries, whose leftist, dissident, Indigenous and Afro-descendent communities endured mass violations of human rights committed by military governments who had overthrown liberal democracies in the name of cold war security, followed somewhat similar trajectories in their transition to a political state of nominal democracy.²⁵ Transitional justice, in its formation in these contexts, evolved from mass participation in social movements and international pressure. Amnesty was favored over prosecutions, as jurists and researchers participating in truth commissions documented the scope of atrocities committed, at times in the face of violent threats (Teitel, 2000).²⁶ Drastic economic changes, which were pushed through under emergency rule, were continued or expanded under new dubiously

²⁵ The United States of America figures prominently in these histories, offering various forms of political, military, and intelligence support to these coup d'état.

²⁶ The National Commission on the Disappeared, in Argentina, which documented the forced disappearance of over 30,000 people under the Argentine dictatorship, is a standout example of such truth process both in terms of their value and their limits (Hinton, 2011).

elected governments.²⁷ Despite the inability of these new governments to address the crimes of the previous regimes and, perhaps most consequentially, the effects of mass violence and physical and economic displacement, a paradigmatic framework had been established. Transition, the shift from military and/or authoritarian rule, to liberal democracy, no matter how minimal in its guarantee of basic rights or in its political representation of the majority of its citizens, became paramount in these processes (Teitel, 2000). Subsequent critiques sought to address the issue of impunity in political transitions creating crucial debates between models that alternatively emphasized ‘truth’ or ‘justice’, dovetailing into larger human rights debates on ‘peace’ and ‘justice’ (Hinton, 2011). Scholars critical of legalistic approaches that prioritized accountability under international law over questions of peace and stability in political transitions emphasized the use of truth tribunals to symbolically address the past and seek reconciliation between communities. The South African Truth and Reconciliation Commission, is seen as paradigmatic of this approach (Teitel, 2000).

Legal scholars, emphasizing the normative functions of transitional processes, sought to ensure that international legal standards were followed, thereby helping to establish criminal accountability and the strengthening of human rights law and mechanisms. The late 1990s witnessed a swing towards accountability with the establishment of the International Criminal Tribunal for

²⁷ These neoliberal reforms included widespread privatization, austerity in the form of cuts to, or total annihilation of, social programs including health and education, and the dependence on a debt economy in the name of economic growth.

the former Yugoslavia (ICTY) and Rwanda (ICTR). Both of these Tribunals initiated mechanisms now associated with transitional justice while prosecuting large numbers of human rights perpetrators. The International Criminal Court, established under the Rome Statute of 1998, is also representative of an accountability approach to addressing mass human rights violations in nations unable to prosecute powerful perpetrators of human rights through their own judicial systems.

Time

In *Transitional Justice Genealogy*, Ruti Teitel, who has been cited as having coined the term, asserted that, “Transitional justice can be defined as the conception of justice associated with periods of political change, characterized by legal responses to confront the wrongdoings of repressive predecessor regimes” (Teitel, 2002, p. 25). The substantive emphasis in this definition is on righting wrongs, specifically in the addressing of past human rights violations.

The goals of Transitional justice are fundamentally tied to the aspiration of transition, both towards justice for past violations and towards a cementing of a new political order that will prevent the old order, with its attendant human rights violations, from returning. (Iverson, 2014, p 85)

Here the question of temporality, implicit in understandings of transition, is made explicit. Transition evokes a temporality, a movement from the past, into the

future. The definitions offered by Iverson and Teitel, extend this temporality by giving it a linear and progressive structure, Transitional justice is thus the progressive movement in time towards justice and accountability and away from illegality (Aoláin & Campbel, 2005). Postcolonial critics, and anthropologists in particular, have cautioned us against implicit teleological bias (Hinton, 2011). *The End of History*, a teleological goal recognized by its universality and linear trajectory, risks becoming the logic of transitional justice.²⁸ Critics have rightly argued that such approaches may reproduce a colonial logic, locating primitivity or savagery in the organization of non-democratic regimes, even as liberal democracies justify violence (against its own citizens and residents, and those beyond its borders) as acts towards the defense of their democracies and the evolution of an underdeveloped world needing their guidance (Chatterji et al., 2016; Foucault et al., 2003; Restrepo, 2011).²⁹ Time, in a sense, is compressed, as long and complex histories of conflict are reduced to the violence of specific and recent events. The toolbox approach to transitional justice may then be understood as a simple application of prescribed solutions, a fix to an otherwise broken

²⁸ Francis Fukuyama's "The End of History and the Last Man", published in 1992, following the collapse of these South American dictatorships and witnessing the end of the Cold War, argues that Liberal Democracy represents the culmination of political evolution. As such, it represents the "End of History" as a history of political development, time becomes the only true impediment to the fulfillment of a colonial dream of global identity promising peace in the universal reflection of democratic values and institutions thought to be achieved by so-called advanced Western Democracies.

²⁹ It should be understood without saying that the very governments asserting the savagery of undeveloped nations often actively and directly participated in their colonization and underdevelopment, at times instituting anti-democratic regimes in the name of their own economic and political interests.

society or failed state, to reproduce an order of justice already exemplified by Global North liberal states (Hinton, 2011; Shaw, Waldorf, & Hazan 2010).

Postcolonial and feminist scholars of Transitional justice have argued for a different approach to time and history (Mibenge, 2013). Transitional justice, per their approach, cannot simply be the transition of a primitive state of violence to a replicable and already known system of liberal governance. Instead, it must also be transformative. Transformative justice, itself an emerging field within and against Transitional justice, seeks the transformation of law, institutions, and social relations in ways that address the root causes of conflict and both long standing and future inequities within society, even those irreducible to human right's law (Chatterji et al., 2016; Daly, 2002). The relation to time, history, and memory necessarily changes through this approach as transitional and transformative justice must contend with "the present effects of the past as much as it is dynamically informed by commitments to the future" (Chatterji et al., 2016, p. 59). Openness is key to this understanding. Transition, for it to be both meaningful for victimized-survivors of human rights violations, and transformative of governance, must be in creative and collaborative construction with those most marginalized by structures of state, economy, and society.

Conflicted Democracy

Colombia, in its implementation of the Peace Accord and approach towards transitional justice, is acting on multiple registers. It has secured an end

to the armed conflict with the country's largest and longest-running insurgent force. In doing so, the government has committed itself to a process of political transition, to address past violence and guarantee against future violations, and to seek justice for human rights violations. The Peace Accord is not simply an addressing of the law of war, or even of the effects of war, but is ultimately a commitment to a "transition to a new regime of accountability for human rights abuses" and a social and political transformation that opens space for non-violent dissent and popular participation in governance while seeking to address the root causes of the conflict (Iverson, 2014, p. 90).

Yet, here we confront a contradiction. In most transitional justice processes, it is acknowledged that the former regime was authoritarian, non-democratic, or at least so deeply compromised in its legal framework as to not meet the requirements of a nominal democracy (Aoláin & Campbel, 2005). Colombia, on the other hand, is one of the few Latin American states to have not seen a formal suspension of its democracy (Palacios, 2006). In asserting the right to negotiate with the FARC and implement the peace agreement, the government has sought to invoke democratic institutions. A constitutional amendment passed in 2012, established the legal right for the government to negotiate with the FARC and create a structure for transitional justice. The Peace Accord was originally put to a national plebiscite in October of 2016. Though voted down by a slim margin and with a minority of the population casting ballots, the agreement was renegotiated, taking into account the objections of the 'No' campaign, before

ultimately being ratified by Congress in November of that year.³⁰ The Accord's implementation continues to depend on Congress to draft laws in accordance with what was negotiated. By depending on its democratic institutions and creating a structure for institutional, social and political reform, the Colombian government is pursuing a strategy of complementarity, where transitional justice becomes integral to peacemaking (van Nievelt, 2016).

In successfully negotiating an end to the internal armed conflict with the FARC, the Colombian government under Santos gained international commendation for its commitment to peace, and for the strength of its democratic institutions. Yet, the war in Colombia continues. Other guerrilla groups and dissident former FARC factions persist in open conflict with military and paramilitary forces, competition for control of coca production and trafficking has increased violence in areas left vacant by the FARC, and international capital continues to be complicit in forced displacement and selective assassinations in energy, mining, and agricultural industries. Fundamentally, Colombia remains a deeply divided society with high rates of economic inequality, racial and gendered disparities, and corruption at all levels of government (Centro Nacional de

³⁰ Much can and has been said about this plebiscite. Generally it is seen as a miscalculation by the Santos administration, seeking confirmation of their approach through popular support. Its failure has been alternatively explained by storms keeping turnout low, a complex and compromised political system that depends on the local buying of votes, and the always present threat of political violence.

Memoria Histórica, 2016).³¹ In stating that “Conflicted democracies in the Global South may be characterized as political democracies that grapple with deep-rooted dissension born of political and ideological differences that are historical, ethnic, racial, economic, gendered, and religious in character”, the authors of *Conflicted Democracies and Gendered Violence* might as well be describing the root causes of the Colombian conflict (Chatterji et al, 2016, p. 20). These divisions, while constitutive of violence in Colombia, have not resulted in the total collapse of democratic institutions. As with other conflicted democracies, these institutions often manage to function sufficiently for a portion of the population, particularly for elites and the urban middle class, while failing to address the basic needs of marginalized communities (Chatterji et al., 2016, p. 21). The participation of the Armed Forces of Colombia in human rights violations and their complicity and collaboration with paramilitary groups in mass violence against campesino, Indigenous, and Afro-Colombian communities is testament to the uneven distribution of state support to all of Colombia’s peoples (Centro Nacional de Memoria Histórica, 2016). Complicity in paramilitary and military violence extends to other institutions of governance as hundreds of national and local politicians have been implicated in political violence and human rights violations (Centro Nacional de Memoria Histórica, 2016). State and para-state violence

³¹ According to OXFAM, 80% of land in Colombia is in the hands of 14% of the land owners, and that concentration has grown over the last 50 years (Gillan, 2015). According to the World Bank’s GINI index (the deviation of income in a country from a perfectly equal deviation), Colombia has the world’s 11th highest unequal distribution of income, and the 3rd highest in Latina America after Honduras and Surinam. See: <https://www.indexmundi.com/facts/indicators/SI.POV.GINI/rankings>.

becomes a mechanism of order and exclusion, facilitating access to resources that benefit ruling and 'majoritarian' classes while producing a national other defined as a threat to prosperity and stability (Chatterji et al., 2016; Franco Restrepo, 2009). Majoritarian classes, in this usage, refers not to demography, but rather to a structure of national identity consolidated and reproduced by an elite class that positions its interests as national, and competing interests, such as ecological or economic sustainability or cultural survival, as anti-national. Counter-insurgency in Colombia is an explicit goal of governance, seeking to identify and punish those guilty of the political crime of insurgency. The nation's others, defined vis a vis majoritarian nationalism, are often conflated with armed groups, legitimizing the use of violence against them and denying equal access to structures of justice and accountability. This logic extends to victims of state and paramilitary violence. In the logic of counter-insurgency, only subjects of guerrilla violence are rightly victims deserving of recognition and a fulfillment of their rights to truth, justice, reparation and non-repetition. Victims of state and paramilitary violence are conflated with guerrilla forces, either as disguised soldiers or willing collaborators. The state's commitment to the participation of victims in transitional justice mechanisms runs afoul of the logic of counter-insurgency creating confusion and contradiction in state processes that are typical of conflicted democracies.

The Local

These questions on the accessibility of resources, state support, and structures of justice and accountability as well as the bifurcation of citizens between loyal and subversive subjects underlie current efforts towards transitional justice. The Peace Accord acknowledges the need to address these inequities and proposes structural changes directed towards lessening the deep divisions in Colombian society. Yet, political entrenchment, capital interests, and ongoing conflict threaten to derail its implementation. Understanding the needs and listening to the stories of those most proximate to violence, the victimized-survivors of human rights violations, is crucial in highlighting the importance of the Peace Process and ensuring that it is implemented in ways that address the conditions that produce violence and instability in Colombia.

Indeed, victimized-survivors of the armed conflict have been at the center of advocating for the peace process from the beginning (Alcalá & Uribe, 2016; Centro Nacional de Memoria Histórica, 2017). Participating actively in civil society and engaging with the state at all levels, victimized-survivors have propelled the movement for human rights and long called for peace, justice, and restitution. This constant pressure, channeled through regional, national, and international human rights groups, has compelled the government to respond through a series of legal initiatives and decrees that have created robust transitional justice jurisprudence. Under these laws and policies, “victim” has

become a legal category toward whom the state has particular responsibilities in ensuring restitution, protection, and participation. Yet, throughout the last decades of attempted peace negotiations, prior guerrilla and paramilitary demobilizations, and projects for restitution and guarantees of non-repetition, victims' organizations, as they are known nationally, have consistently denounced the lack of their involvement in the drafting of laws concerning their rights and well-being. Worse, they argue that these initiatives have been either insufficient or absent in their actual implementation.

In the absence of meaningful changes to the quality of life for victimized-survivors of armed conflict, regional human rights organizations claim that many aspects of the current transitional justice program risks becoming mere theater. If in a democracy, the state is understood as having the consent of the majority of its citizens, for whom is transition performed? Is it for the majority to assure itself of its own legitimacy in the face of a deep and protracted conflict with minority dissenting communities? Or is it performed in the name of external witnesses, the international community and foreign capital, that seek reassurance that the liberal rights of both citizens and property are safeguarded in their interest? Teitel (2000), in her constructivist approach, argues that justice is self-created through the process of transition. Historical context, the balance of power and the politics it produces, law and jurisprudence, institutional organization, and other factors produce the conditions of possibility for both the emergence of a unique sense of justice and its application. If we follow Teitel's (2000) constructivist approach,

must not all of these purposes, as well as others, be a part of the aim of transition?

For whom is transitional justice?

Scholars of transitional justice have increasingly argued for its localization (Hinton, 2011; McEvoy & McGregor, 2008; Shaw & Waldorf, 2010). These authors suggest that we must move away from the established binaries and categories that have organized debates in the field. To juxtapose so-called universal human values to local perspectives and needs, elides both the particular history of their emergence, and the inequities that inhere in such a division. Moreover, it robs us of creative possibilities to reshape and contextualize law and practice in particular settings. The local itself cannot be abstracted from larger national and international contexts. This is not only because those contexts contour and constrain the local through structures and institutions that penetrate it such as media, economy, and law but that to abstract the local within human rights practice is to marginalize it (Shaw & Waldorf, 2010). The local, rendered peripheral to the universal, becomes conceptualized as a reservoir of culture, antithetical to modernity, and separated from larger systems of thought and governance (Restrepo, 2011). Thus, the local is conceptualized as a place from which knowledge, particularly knowledge of human rights, cannot emerge. Instead, scholars critical of universalizing approaches argue that the local is indeed an important site for the production of knowledge (Chatterji et al., 2016). It is not separate from the rest of the world, but rather provides a unique perspective on it (Shaw & Waldorf, 2010). The local is not merely the site for the

implementation of transitional justice, but a potential site for its reconceptualization towards the transformation of society. In a conflicted democracy such as Colombia, the addressing of inequity, that is, of the uneven effects of the armed conflict, is essential for a successful program of transitional justice.

Evaluation of such success cannot be a question of measuring whether abstract and external qualifications are being met, but must emerge from the local itself. A critical understanding of relations of power is crucial to this perspective. While we recognize that it is precisely the uneven distribution of power that leads to the reduction of transitional justice processes to mere theater, not benefiting those most proximate to violence, we must also seek to understand how the local itself is uneven. Relations of race, gender, sexuality, class, language, and otherwise contour who participates at local level and who from there have an entrance to national and international forums. If we refuse to abstract the local from the larger world, we must also refuse to render it monolithic either across or within local sites. Instead, critical scholarship must prioritize an analysis of power in understanding transitional justice processes as they are conceptualized, legislated, and implemented unevenly across society.

Chapter Three: Methodology

Restatement of the Purpose of the Study

International and national frameworks of transitional justice, understood in the contemporary sense, are a relatively recent phenomena which emerged following the Second World War and have only begun to take concrete shape in the last few decades. Studies, thus, is a new field still in a process of disciplination and formalization. Necessarily emerging as an interdisciplinary field, Transitional justice Studies already draws heavily on social sciences including sociology and anthropology. In particular, I employ post-colonial participatory ethnographic and pedagogical methods in seeking to understand and support the work of local researchers and advocates.³² Engaging with English and Spanish language scholars, I focus on the experiences of victimized-survivors turned researchers and advocates. Examining legal, institutional, and policy frameworks, this study attempts to be an act of translation between various archival, advocacy, institutional, academic sites that document the grounded work of transitional justice. Through this work, I have supported the development of research protocols for the evaluation of the implementation of the Peace Accord in Medellín and Urabá, participated in workshops organized by state and civil

³² I name my methods post-colonial in the acknowledgement of the long history of social sciences broadly, and anthropology in particular, serving as handmaiden to colonial and neo-colonial interests. Taking seriously a critique of power relations is key to questioning this legacy. Participatory research, by working in solidarity with local actors, seeks to undermine the traditional binaries of researcher and researched, subject and object.

society organizations, and conducted interviews with victim advocates and civil society leaders.

Research Design

This study is ethnographic and participatory in its methodological approach. Drawing from a rich and critical history of ethnographic research in anthropology, including activist and engaged ethnography, this study can be understood as having been undertaken in two phases (Chari & Donner, 2010; Hale, 2008; Kirsch, 2018). In the first phase, I conducted participatory observations and interviews to understand the history of CEPO. By attending several of their meetings I gained an understanding of institutional dynamics, as well as methodological and political commitments that helped shape several workshops which resulted in the collaborative creation of a research protocol designed to evaluate the implementation of the Peace Accord across five municipalities of Urabá, Antioquia.³³ Semi-structured interviews with CEPO members deepened my understanding of how their personal histories led to their participation in this work, a sense of their academic and organizing backgrounds, and the importance of this research for the development of their organization. My participation in CEPO's study culminated in a preliminary research trip to Urabá where we conducted interviews with demobilized FARC soldiers, state officials, and community leaders.³⁴ These interviews not only deepened my understanding

³³ The meetings were on 3/3/18, 3/7/18, and 3/12/18.

³⁴ The trip was conducted between 3/26/18 and 3/30/18.

of the specific history of the conflict in Urabá but also provided the opportunity to refine CEPO's research design and interview protocols. Through CEPO, I also gave a lecture on transitional justice in a Human Rights Education course at the Universidad de Antioquia and organized a workshop for community leaders in Apartadó.³⁵

The second phase of the research consisted of in-depth semi-structured interviews with victims' advocates, civil society leaders, and state officials concerning their personal histories, participation in transitional justice work, and reflection on the Peace Accord and its implementation. In total, I recorded semi-structured interviews with 20 individuals, and conducted several informal interviews of which I took extensive notes. Participant observations also extended to the second phase including several workshops and events variously held by state institutions and civil society organizations. These included the first departmental convocation of Victims' Representatives in Cauca by the Victims' Unit, a public event organized by victim's organizations commemorating The National Day of Memory in Medellín, an official meeting between the Truth Commission and civil society organizations from Antioquia, and *Re-tejiendo Saberes*, a formal discussion and workshop between representatives of state institutions tasked with addressing the needs and guaranteeing the rights of Victims (The National Police and Armed Forces, Ombudsman's Office, Attorney General's Office, Solicitor General's Office) and Victims' Representatives and the

³⁵ The lecture was given on 3/14/18 and the workshop was held on 3/26/2018.

heads of women's civil society organizations organized by Lawyers Without Borders.

Participants and Data Collection

CEPO is a student- and faculty-led community research and teaching collective at the Universidad de Antioquia (though not directly affiliated with the university), created with the intention of contributing to the strengthening of the social fabric of rural and urban communities in Antioquia, Colombia. Their work is focused on building and documenting collective and cultural memory in ethnic communities, supporting open and inclusive democratic participation, consolidating the right to peace, and seeking the social well-being of local communities. They have approached this vision through several projects including the building of Peace Councils in both Medellín and Apartadó, researching the implementation of a national Human Rights Education curriculum, participation in electoral organizing supporting candidates and organizations dedicated to implementing peace, and developing forums for public dialogues on Peace.³⁶

In supporting the work of CEPO, I led a series of workshops which resulted in the development of a complete research protocol for future implementation.³⁷ The research will inquire into the state of the implementation of the peace accord in five municipalities of the Urabá region of Antioquia deemed

³⁶ See Chapter Four for more background on CEPO and their work.

³⁷ The workshops were conducted between 3/20/18 and 3/25/28.

amongst the ‘most affected’ by the armed conflict, and thus requiring monitoring and verification per the Peace Accord: Dabeiba, Remedios, Anorí, Ituango y Vigía del Fuerte. This research will include interviews and focus groups with community leaders, human rights defenders, local officials, students, teachers, healthcare workers, and others and is to be conducted by a network of local school teachers trained by CEPO team members. The data collected by CEPO will be recorded and transcribed to form part of an archive gathered by the Comisión de Seguimiento, Impulso y Verificación a la Implementación del Acuerdo Final (Colombian Commission for Monitoring, Promoting, and Verifying the Implementation of the Final Agreement, CSIVI) and the Instancia Especial de Alto Nivel de los Pueblos Étnicos para el Seguimiento de la Implementación del Acuerdo Final (Special High-Level Body with Ethnic Peoples for Monitoring Implementation of the Peace Accords), bodies created by the Peace Accord to ensure its full and just implementation, the later focused on guaranteeing the rights of ethnic communities in this process. CEPO, as part of this process, will use the data collected to write individual reports for each of the five municipalities and a cumulative report on the state of the implementation of the Peace Accord in Antioquia. In continued collaboration with this work, I committed to translating and helping to circulate these reports.

In supporting the development of this research project, I accompanied CEPO team members on a preliminary research trip to Urabá where we conducted interviews and site visits in Brisas, Turbo, Apartadó, and a ZVTN near Brisas.

Over four days we interviewed the Community Leader of Brisas, a professional mediator working with the UN, an envoy of the Colombian Armed Forces to the FARC transitional zone, survivors of the La Chinita massacre,³⁸ and other community members including the president of the Community Action Board. These visits helped to finalize the research and interview protocols we had been developing.

Phase two of my research was situated in Medellín, where, through personal referrals which began with long term relationships and extended through my interviewees, I recruited Victims' Representatives (themselves victimized-survivors), civil society leaders, and officials working with the Victims' Unit to participate in one- to three-hour semi-structured interviews. These interviews focused on their participation in the implementation of the Peace Accord and other transitional justice processes, what in their personal histories brought them to this work, their sense of how the peace accord was being implemented, and its effects on their communities, and their hopes for the future of Colombia.

Participants in these interviews were advocates, researchers, and officials practiced in discussing these topics. My questions did not inquire directly into personal histories of violence, or other human rights violations. Instead, they focused on the aftermath of these violations particularly in the post-accord period,

³⁸ Named after the neighborhood in the City of Apartadó where it occurred, La Chinita Massacre, is seen as one of the worst atrocities committed by the FARC. On the evening of January 23, 1994, the FARC massacred 35 members and wounded 17 at a community event, seeking revenge for the perceived betrayal of former EPL (Ejército Popular de Liberación) soldiers who had since demobilized in an agreement with the government (Unidad de Víctimas, 2019).

seeking to understand the work and the presence or absence of state institutions in providing nationally and internationally guaranteed rights to truth, justice, and restitution. I explicitly sought to avoid re-traumatization, centering the discussions on the interest of participants in their work, expertise, and opinions on general questions of transitional justice.

Validity and Reliability

While questions of validity and reliability are often underemphasized in anthropological research, given its more immersive, critical, and dialogical approaches, I will briefly address these issues. The question of validity gained shape and substance as I began data collection. I want to be clear in stating that my research in no way seeks to be objective. Rather, following traditions of activist and engaged scholarship, my hope is that this work was meaningful and relevant to the participants in reflecting on their work on transitional justice and to the members of CEPO in their efforts to monitor and evaluate the implementation of the Peace Accord (Hale, 2008). The meaning of this work will extend beyond the research period in the form of continued solidarity. In particular, I have committed to supporting CEPO in translating their reports and helping to circulate them in the United States. Furthermore, the experience of this research informs my continued advocacy and organizing.

Secondarily, I hope that such meaning and relevance extends to a larger world of scholars, advocates, researchers, and policy analysis in their work to

critically understand human rights and support communities seeking to implement transitional justice frameworks. The question of validity, then, must be asked in relation to the much larger and salient questions of relevance and meaning.

Reliability, on the other hand, is a more concrete issue in relation to my study. Seeking to frame my research and writing as a scholar in alliance with victimized-survivors-advocates rebuilding communities and their way of life, neither my data collection nor analysis could be conducted in the abstract isolation of a properly trained subject. The interviews were semi-structured to provide space for the interests and concerns of participants, inquiring into what questions they found most relevant. Furthermore, I have been in contact with several participants regarding the reliability of my transcriptions and my analysis. My extended stay in Colombia facilitated this collaboration, allowing me to begin data analysis concurrent to ongoing interviews and providing proximity to interviewees to revisit interviews and discuss my findings.

Analysis

The analysis of my interviews, observations, and notes were genealogical in the sense elaborated by Michel Foucault. In his 1975-1976 Lecture at the Collège de France, Foucault (2003) describes genealogy as the union of “disqualified” and “local” knowledges (p.8). In genealogy, subjugated knowledges provide the content and contours of a history of the present, allowing one to question not just the efficacy and effect of a particular discourse or social

reality, say, transitional justice, but to trace its emergence. This gives us a sense not simply of how it came to be, but rather to examine the conditions that led to its emergence (Foucault, 2012). In particular, I am interested in the complex, contradictory, and overlapping structures of governance that result in transitional justice policy and implementation.

My study engaged with human rights advocates and social leaders to elicit counter-memory as an intervention in dominant history (Foucault, 2012). More importantly though, it evokes counter-memory in that the subjects of my research, advocates and researchers, were not treated as transcendental signifiers speaking to a universal human experience. Instead, I was interested in understanding how they have been produced as subjects, both by the particularities of their individual lives and the shared (if unevenly) experience of the armed conflict as well as their perspectives on larger questions of transitional justice and their participation in its mechanisms. How have their experiences shaped the way they understand governance, the role of the Colombian state, and the political possibilities that will shape their futures?

Further, I was interested in how their own efforts for justice have not only contributed to their production as subjects, but have in turn, shaped discourse at local, national and international levels in ways that have affected structures of governance. What do these questions say about our shared (once again, unevenly) present, in the sense of structures of nation-state that have become all but

ubiquitous, and of transitional justice programs that have been or will be implemented? As a “history of the present,” a Derridian attention to “the event,” that which is unexpected and ruptures the present, was necessary as I seek to place questions of participation in transitional justice in the complexities of the present moment in Colombia (Derrida & Kamuf, 2002, p72).

Returning to genealogy, what role did subjugated knowledges have in this analysis? To which local and disqualified knowledges did I refer? In this study, Colombian scholarship, in a certain sense, is considered disqualified knowledge. In what sense? In the sense that, global north, typically English language scholarship, particularly in legal and sociological studies, seeks to establish an objective authority based on its distance from the subject(s) being studied. As such, Colombian scholars including those working at CEPO, other civil society organizations, and the Victims’ Unit, who no doubt have a direct investment in the outcome of the internal armed conflict, transitional justice processes, and Colombian governmentality in general, are seen as too implicated, too imbricated, and too motivated to produce truly objective knowledge. In fact, the widespread disqualification of this scholarship needs not to depend on such a well-established, if absurd, justification. The inertia of global northern scholarship, that is, its tendency to refer to itself as both reference and framework, is enough to create a de facto disqualification, disqualification through ignorance (a product of privilege) and assumed irrelevance.

Local knowledge is fundamental to my methodology. Participants in this study, as researchers, advocates, and victimized-survivors of the armed conflict, are producers of local knowledge, experts on their own experience and of the communities they work in. Relying on narratives of their experience, that is, on counter-memory, my work seeks to destabilize more authoritative, more well established, and ultimately more distant and unaccountable narratives that inform state discourse and other dominant knowledges. As I addressed briefly above, the initial interviews themselves influenced subsequent interviews. Recruitment of participants depended on referrals of participants themselves, one interview leading to the next.

Furthermore, the emphasis of my research questions necessarily changed through my immersion in the work of my participants and their understanding of what were key questions for transitional justice in Colombia. The destabilization of dominant knowledges thus occurs not through my individual scholarly effort but through the combined efforts of local communities and regional scholars towards the production of meaningful and relevant narratives and understandings.

Summary of Methods

Participant Observations

Phase one: I attended CEPO team meetings, developed and led CEPO research protocol development, lectured in a Human Rights Education course at

the Universidad de Antioquia on behalf of CEPO, developed and led a workshop in transitional justice for community leaders and advocates in Apartadó on behalf of CEPO, supported a CEPO's pilot study on the implementation of the Peace Accord in Urabá.

Phase two: I attended the first departmental convocation of Victims' Representatives in Cauca by the Victims' Unit, attended a public event organized by victim's organizations commemorating The National Day of Memory in Medellín, attended an official meeting between the Truth Commission and civil society organizations from Antioquia, attended *Re-tejiendo Saberes*, a workshop between representatives of state institutions tasked with addressing the needs and guaranteeing the rights of Victims (The National Police and Armed Forces, Ombudsman's Office, Attorney General's Office, Solicitor General's Office) and Victim's Representatives and the heads of women's civil society organizations organized by Lawyers Without Borders.

Interviews

Phase one: I conducted interviews with CEPO team members, collaborated in conducting interviews during CEPO's pilot study in Urabá.

Phase two: I interviewed Victims' Representatives to (municipal, departmental, and national) Victims' Councils, interviewed civil society leaders including members of Ruta Pacifica and Redpaz, and interviewed officials

working for the Victim's Unit in Medellín. Table 1, below, lists interviews, participant observations, and informal meetings for both phases.

Reflexive note-taking: A nightly discipline of reflecting on and documenting the day of participant observation, as well as compiling and transcribing the day's notes.

Table 1

Table of Methods

Interviews		
Position/ Title	Place of Interview	Date
Phase One		
Former Mayor of Brisas	Brisas, Urabá	3/18
Community President/ Victims' Representative	Brisas, Urabá	3/18
Colombian State Mediator working for the UN	Brisas, Urabá	3/18
President of Transitional Normalization Zone (ZVTN) Vereda Brisas	ZVTM Vereda Brisas, Urabá	3/18
Victimized-survivor of La Chinita Massacre (Grandmother)	La Chinita, Apartadó, Urabá	3/18
Victimized-survivor of La Chinita Massacre (Grandaughter)	La Chinita, Apartadó, Urabá	3/18
President of Community Action Board of La Chinita	La Chinita, Apartadó, Urabá	3/18

Coordinator for CEPO	Universidad de Antioquia - Medellín, Antioquia	3/18
Researcher for CEPO	Universidad de Antioquia - Medellín, Antioquia	3/18
Researcher for CEPO	Universidad de Antioquia - Medellín, Antioquia	3/18
Researcher for CEPO	Universidad de Antioquia - Medellín, Antioquia	3/18
Phase Two		
Antioquia's Departmental Victims' Mesa - National Victims' Mesa Sexual Violence Committee	Plaza Mayor - Medellín, Antioquia	4/18
President of Antioquia's Departmental Victims' Mesa	UniSabaneta- Sabineta, Antioquia	4/18
Researcher for CODHES Consultancy on Human Rights and Displacement	Teatro Tobon - Medellín, Antioquia	4/18
Medellín's Victims' Mesa - TJ committee	Museo de Antioquia - Medellín, Antioquia	4/18
Medellín's Victims' Mesa Representative - Land Restitution Committee	Medellín, Antioquia	4/18
Medellín's Victims Mesa Representative - Women's Committee	Medellín, Antioquia	4/18
Victims' Unit Official - Reparations Officer	Victims' Unit Office - Medellín	4/18
Victims' Unit Official - Transitional Justice Officer	Victims' Unit Office - Medellín	4/18
Founder and ED of Ruta Pacifica	Ruta Pacifica Office - Medellín, Antioquia	4/18
Ruta Pacifica: Urabá Representative	Ruta Pacifica Office - Medellín, Antioquia	4/18

Cauca's Departmental Mesa - National Victims' Mesa - Transitional Justice Committee	Santander de Quilichao, Cauca	4/18
Participant Observations		
Event	Place	Date
Phase One		
Workshop: Transitional Justice in Local Communities. I presented and led a discussion between advocates as requested by CEPO and local organizers.	Community Center - Apartadó, Urabá	3/18
Inclusion in Early Childhood Pedagogy Class: I lectured for two hours on transitional justice and constructivist pedagogy.	Universidad de Antioquia - Medellín, Antioquia	3/18
Three workshops I developed and offered on Methodology, Interview Protocol, and Consent for CEPO. These workshops led to the development of the pilot study and	Universidad de Antioquia - Medellín, Antioquia	3/18
Community Meeting on Electoral Organizing and Transitional justice - Observed and participated in discussion	La Chinita -Apartadó, Urabá	3/18
Phase Two		
First Departmental Meeting of Victim Leaders of Cauca - Organized by Victim's Unit	Santander de Quilichao, Cauca	2/18
Victim's Day Event - Roundtable discussion.	Teatro Tobon - Medellín, Antioquia	4/18
First Meeting of Victim's Leaders with the Truth Commission.	Plaza Botero Hotel - Medellín Antioquia	4/18

Re-tejiendo Saberes: Lawyers without Borders (Montreal) Civil Society and State Institutions. Meeting to discuss attention to Victims.	Hotel - Medellín, Antioquia	4/18
Informal Meetings		
Position/ Title	Place of Interview	
High School Student and Youth Organizer	Turbo, Urabá	3/18
Professor of Political Science at the Universidad de Antioquia	Universidad de Antioquia - Medellín, Antioquia	4/18
National Adviser for REDPAZ: a national peace Advocacy Organization.	His home in Medellín - Medellín, Antioquia	4/18
Victims' Leader - Cauca	Santander de Quilichao, Cauca	2/18
Victims' Leader - Cauca	Santander de Quilichao, Cauca	2/18
Victims' Leader - Cauca	Santander de Quilichao, Cauca	2/18
Feminist Poet and Activist	Poetry festival and her home in Medellín	4/18
Journalist working for verdadabierta.com	Cali, Valle de Cauca	2/18

Hopefully this chapter helped to situate the reader in my research experience, giving a sense of its immersion in a social world. It is from these conversations and perspectives which I have structured the following chapters. The work of CEPO frames the introduction and substance of Chapter Four,

examining the constitutional basis for participation in governance in Colombia, and its focus on the work of Municipal Peace Councils. Similarly, it is my long-standing relationships with representatives of the mesas that structured my inquiry into participation broadly and into the work of the mesas in particular. These state- formed structures, which are the foundation of victims' participation in transitional justice and subsequently, the Peace Accord, are the focus of Chapter Five. This second findings chapter, where social facts are interwoven with ethnographic reflections and the voices of interviewees, provides a structural and grounded perspective on participation in transitional justice in Colombia.

Chapter Four: The Right Of Participation and The Peace Councils

The policy of peace is a policy of the state, permanent and participatory.

(Law 434, art.1).

Introduction

In this chapter, I introduce the constitutional foundation for citizens' participation in Colombian governance. This legal innovation sets the stage for victims' participation in transitional justice discussed in the following chapters. Here, I focus on the work of a university-based collective focused on research, advocacy, and organizing for democratic participation, particularly in peace processes. Through participatory research, I supported the development of a research protocol with this collective, leading to a pilot study that helped refine the larger project and gave me some insight into the experiences of victimized-survivors in Urabá, and their participation in Municipal Peace Councils.

Participation in the Constitution of 1991

CEPO, *El Centro de Estudios Politicos*, was formed in 2008 as students in the political studies department at the Universidad de Antioquia developed a study group on the political history of Colombia focusing on the notion of participatory democracy elaborated in the Constitution of 1991. This current constitution of Colombia arose in the aftermath of another peace process with the urban youth guerrilla group M-19, which forced a recognition of the limits of the Colombian government to meet its

responsibilities to its citizens³⁹. A National Constitutional Assembly was formed, in which commissions composed of demobilized guerrilla soldiers, civil society, including representatives of ethnic and women's organizations, alongside elected officials and legal scholars, participated in the drafting and eventual ratification of a new Constitution. Declaring Colombia a pluralistic nation, and establishing a new state of social right, it was and is still seen as one of the world's most progressive constitutions.

In this new legal foundation, citizen participation is understood as crucial to address the issues productive of the recurrent national crises of legitimacy and governability. At the time of the Constitutional Assembly, this took the form of widespread corruption and clientelism of political classes due to the influx of capital from narco-trafficking organizations and international resource extraction and production (Rizo, 2011).⁴⁰ Furthermore, participation was thought to undermine a principal claim of legitimacy for guerrilla groups: the exclusion of the majority of the population from representative governance, particularly youth, labor organizations, as well as Afro-Colombian, Indigenous, and campesino communities (Rizo, 2011).

³⁹ The national impact of the Palacio de Justicia tragedy, where M-19 members entered the Supreme Court of Colombia in 1985 taking over 350 workers and justices as hostages was particularly relevant. The Colombian Armed forces and the National Police responded with a brutal siege that led to the deaths of 98 persons and the enforced disappearance of 11 others. This act, later classified a massacre by the Inter-American Commission on Human Rights, was televised nationally and included images of tanks breaking through the main entrance, becoming an international scandal (Gómez Gallego et al. 2010).

⁴⁰ There is little argument amongst Colombia political and historical scholars that these very conditions persist today.

The reordering of Colombia as a “democratic, pluralist, and participatory” state sought to address the crisis of its representative governance by recognizing the diverse character of its population, aligning with a global shift towards human rights norms, and making participation a “constitutional value, a fundamental principal, and a primary goal” of the Colombian State (Mosquera & Cuesta, 2015, p. 60). The constitution itself establishes the legal foundation for at least thirteen mechanisms for direct citizen participation in governance, categorized by scholars as mechanisms related to the right to information, mechanisms for “exercising control and correspondent judicial action” and mechanisms for decision making (Cogollos & Ramírez, 2007, p.9). These mechanisms include the right to *tutela*⁴¹, referendum, informed consent, plebiscite, and impeachment (Mosquera & Cuesta, 2015, p. 66). The constitution also calls for the creation of a variety of citizen’s councils, creating spaces for a wide swath of civil society to participate directly in creating and reviewing policy proposals. In the decades that followed the ratification of the new constitution over 26 laws and 29 judicial directives have established the legal foundation for over 50 mechanisms of citizen participation (Mosquera & Cuesta, 2015).

⁴¹ This direct citizen petition to the judiciary for legal remedy is often used by citizens and community groups seeking to hold municipal and departmental governments accountable for the neglect or violations of rights. For example, if the local police force refuses to file a citizen’s complaint against a police officer, a *tutela* may be filed, reviewed by a judge, resulting in a judge’s order to accept the original complaint.

Law 434 and Participatory Peace

In 1998, in accordance with the norms established under the new constitution and the peace accord signed with the M-19 guerrillas, Law 434 was passed by the Colombian Congress establishing the National Peace Council and its affiliated Departmental and Municipal Peace Councils. The role of each of these councils is to offer consultation and support to their associated level of government in all issues relating to the construction of peace and to coordinate the work of various institutions towards this end. These tasks include elaborating and proposing strategies addressing issues of peace and human rights, suggesting concrete actions to specific institutions, establishing priorities for the construction of peace and the identification of places of greatest need, and organizing and motivating citizen participation in peace processes including the creation of the Peace Councils themselves. The councils thus seek to integrate community members in the governance of peace, facilitating a direct connection between institutions of state and local organizations. They are composed of civil society representatives of women, youth, ethnic, cultural and arts, victims, media, labor, business, LGBTI, displaced persons, religious, campesino, academic, environmental, demobilized guerrilla and paramilitary soldier's organizations, as well as representatives of government institutions including the chief executive (President, Governor, or Mayor), The Attorney General's office, The Ombudsman's office, Legislators, Police and Armed Forces, Ministers, and Representatives of other institutions tasked with implementing peace processes. In

theory, these councils provide a space for direct participation of civil society in building policies for peace and giving them access to the highest levels of government, leading to greater investment by community organizations and accountability on the part of the state.

CEPO's Role in Supporting Democratic Participation

In the years following their founding in 2008, El Centro de Estudios Políticos grew from loosely organized study groups of political science students to an active collective organizing public dialogues: lectures and discussion groups at the university, public libraries, city plazas and parks. These lectures and community discussions sought to increase participation of marginalized groups in democratic processes through educating the public on the structure of the state, the Constitution, and mechanisms for participation, often by bringing this information to the communities on the literal and figurative periphery of Medellín. “We wanted to bring politics to the margins, to those people who are forgotten about in political discourses, and who don't see themselves as having anything to go with government” (CEPO Coordinator, April 18, 2018).⁴²

This work led the collective to developing strong relationships with local officials in Itagüí, a municipality neighboring Medellín, through which they were contracted to conduct an evaluation of the implementation of a national Human

⁴² All interviewees are anonymous for the purposes of this dissertation due to the ongoing political situation in Colombia.

Rights Education curriculum in the municipality's public schools. Through interviews and focus groups they found that the majority of educators were unaware of the program, and that the few who had tried to implement the curriculum felt unsupported and under-resourced. Though disillusioned with their findings, this experience recommitted them to and expanded their vision to decentralize democratic participation and support peace processes at all levels of civil society.

CEPO began participating directly in the construction of peace by helping to organize Municipal Peace Councils across Antioquia. They reached out to civil society organizations, primarily ethnic, youth, and women's organizations, encouraging them to participate in the creation of the councils. They offered workshops to educate their representatives about Law 434, the larger peace process, and their rights to create these councils as a vehicle for participating directly in all issues related to building peace. Since 2012, CEPO has helped to form Municipal Peace Councils in Itagüí, Vigía del Fuerte, and Murindo, and are currently in the process of establishing a council in Apartadó. Furthermore, under the auspices of Law 1622 of 2013⁴³, it has supported the creation of Youth Councils in Apartadó and Itagüí.

⁴³ The *Estatuto de Ciudadanía Juvenil* (Youth Citizens Statute) seeks to guarantee the rights of youth and creates mechanisms for participation, including the creation of frameworks for National, Departmental and Municipal Youth Councils. It is thus understood as part of the larger set of laws ensuring participation in Colombia.

They understand this work as central to their mission to help to construct territorial peace. The founder and general coordinator of CEPO understands this concept as an intervention on the centralization of government that has left access to services and sites of power concentrated in the largest cities, principally Bogotá and Medellín, ever deepening the divide between rural and urban communities. The construction of territorial peace, in this context, concerns addressing inequity, “to address the root causes of violence, the violence that people live every day, the construction of peace must not be simply about economic development but human development, and not simply in the capital, but in all of our territories” (CEPO Coordinator, April 18, 2018). *Territorios*, territories, takes on a particular meaning in Colombia given the intensity of the divide between the center and its margins, the metropol and the periphery. Inequity, stark across Colombia, is exacerbated by the lack of services, resources, security, and access throughout rural areas of Colombia. In fact, the ungovernability of Colombia is often ascribed to its diverse and difficult geography by more deterministic political scientists. Others, including the political scientists of CEPO, argue that the lack of meaningful social services is more of a reflection of the concentration of wealth and political power by urban elites and large rural landlords, and a willingness to use military force to suppress civil society efforts addressing inequities, than a fact of topography.

The question of peace for whom and by whom animates the work of CEPO, as they seek to facilitate democratic participation through the creation of Municipal Peace Councils. By connecting grassroots organizers from youth,

women's, ethnic, campesino, and arts organizations to local governance, CEPO seeks to diffuse the tendency towards centralization in governance including in peace processes. Participating on the councils helps community leaders to build direct relationships with elected officials and institutional officers. Beyond the stated work of the councils, to propose strategies for peace and review ongoing processes, these relationships become crucial to issues in the day-to-day life of communities. Calls for state intervention in moments where armed actors threaten communities, for example, are taken more seriously and responded to quicker when a personal relationship with the mayor or other officials can be called upon. Participation in the councils also builds leadership and strengthens relationships across civil society. Furthermore, the councils also provide local documentation of the armed conflict and its effects, expanding our understanding of violence in Colombia and helping to make clear the connections between the everyday structural injustices of racism, sexism, and poverty and the long-lasting effects of armed violence and human rights violations.

Financial and Political Limits of Participation in Peace Councils

According to *Fundación Ideas Para la Paz* (FiP), The National Peace Council now has 98 members.⁴⁴ 62 of these members are a wide range of representatives of civil society. The other 36 members are from the highest level

⁴⁴ In 2015 there was an update to Law 134 of 1994 (The Mechanisms for Citizen Participation Law) in Law 1757 of 2015 (The Promotion and Protection of The Right to Citizen Participation Law) which expanded citizen participation by extending the number of participants on various councils, provided special funds for some mechanisms, and lowered the threshold for the establishment of others.

of government including legislators, ministers, governors, the mayors of the largest cities, and the president. Since its founding in 1998, it has met more or less regularly to address issues related to peace across the country, formulating proposals and seeking to coordinate actions across government entities (FiP, 2016).

In comparison, of the 32 departments in Colombia only 18 Departmental Peace Councils have been created. 13 of those councils were created in 1998, 4 in 2001, and 1 in 2004. Of those, only 6 are currently active. Of the 1,102 municipalities in the country, 177 have created Municipal Peace Councils of which 41 are active (FiP, 2016). In their survey of Municipal Peace Councils FiP found that a lack of interest (by civil society members and/or state institutions) led to the inability to meet a quorum to create the council (FiP, 2016). In other cases, there was simply an absence of municipal or departmental support. Lastly, they found that in many municipalities other instances of participation, such as Victims' Mesas served similar functions as would a Municipal Peace Council and were thus deemed redundant by local governments. Indeed, the legal scholars of participation have argued that one of the principal obstacles to widespread citizen participation is the complex and overlapping terrain of mechanisms that produce ambiguous relationships between councils and procedures (Collogos & Ramirez, 2007; Mosquera & Cuesta 2016). This complexity leads to a sense that such councils are superfluous.

In interviews with CEPO members, the lack of consistent municipal support was understood as the greatest barrier to the creation and continued effectiveness of a municipal peace council. In an apparent paradox, the poorest municipalities in which CEPO organized peace councils, Murindo and Vigia del Fuerte, saw the Peace Councils fully funded and supported by the local government with regular participation by its institutions including their mayors. Both municipalities are near the border of Antioquia and Chocó along the Rio Atrato, have majority Afro-Colombian and indigenous populations, and have suffered long standing periods of armed conflict between guerrilla, para-military, and the Armed Forces of Colombia.

During our pilot study, CEPO's coordinator and I interviewed a former mayor of Murindó who was also an active member of the Municipal Peace Council. He, coordinating with local teachers and the current mayor, was traveling to Medellín to petition the government in supporting the Peace Council in the creation of two new school houses. "The old school building was already deteriorating, full of mold and pests, it was a dangerous place to send our children, and that was before the river took them in a flood". He continued,

How are we supposed to participate in the peace process when we don't even have a place for our children to learn to read and write? It is true that sometimes our representatives to the councils and other mechanisms lack

the basic education needed to participate and defend our interests. (Mayor, March 26, 2018)

I have heard this argument from others, that the inequities that organize access to education across Colombia, have a profound effect on political participation, as local leaders struggle with the requirements of their positions, including reading and interpreting law, leading educational campaigns, drafting public policy, and creating community archives. Representatives argue for more equitable access to education for all of their communities as a key step towards building sustainable peace processes and in particular ask for access to more specialized education in law and public policy for representatives to meet the demands of their positions.

On the other hand, in Itagüí, a municipality neighboring and directly connected through light rail public transit to Medellín, CEPO was forced to put forward its own resources to help build the Municipal Peace Council. It is telling that the poorest of municipalities often find the resources to support peace processes, while larger and wealthier cities fail to support community efforts.

It is that in the small communities, everyone depends on each other, even the mayor needs everyone's support. Not to mention that there are already so few resources that everyone hopes that by participating they will bring more resources for basic services.⁴⁵

⁴⁵ Interview with CEPO researcher.

In Apartadó, a small city which serves as a principal commercial and political center for the Urabá region, the process of establishing a Peace Council is ongoing. While CEPO has also invested their own resources and time in building the council, a shift in party rule at the municipal level has led to a lack of support and at times active resistance to the creation of the council. The question of political favor for particular mechanisms of participation is ever present. Given that such councils are a meeting place between civil society and government officials, they are often at the mercy of political parties. Political participation in Colombia is popular, though often highly influenced by vote buying and political favor. Local party representatives promise to turn out a given number of voters and are in turn dispersed party funds with which to buy those votes, along with the promise of support for local organizations. In Apartadó, civil society organizations have formed an independent peace mesa which continues to petition the local government for the creation of the council. The issue of voter manipulation and vote buying is a crucial, yet largely unexamined one in addressing the peace process in Colombia. Transitional justice depends on fair and consistent implementation by national and local governments through political transitions. Sadly, peace processes have most strongly been championed by the traditional Liberal party, resulting in a reactive stance against them by right wing parties, most prominently Uribe's Centro Democrático. The issues of funding and state support are key to questions of citizens' participation in democracy broadly and the peace process in particular.

Para-politics

The phenomena of politicians, at all levels of government, implicated in either direct support of armed groups, particularly para-military forces, or in the political and business interests that underlie the ongoing violence has become a national scandal in Colombia. The para-política scandal, as it is known, came to be a national scandal in 2006 when a computer owned by a paramilitary commander revealed pacts signed by politicians with paramilitary groups to support their campaigns through voter suppression and political violence in return for political favors and legal immunity (Verdad Abierta, 2010). Indeed, Colombian scholars and journalists have documented hundreds of laws passed by implicated politicians that directly support paramilitary interests (Muñoz Gallego, 2019). The eruption of the scandal, fed by the testimonies of paramilitary commanders and soldiers, many of whom were extradited to the United States on drug charges once they began revealing their ties to political and business elites, has led to dozens of investigations, many of which have lasted over a decade. As early as 2013, over 50 representatives to the Colombian congress had been condemned for their complicity with paramilitary forces (Verdad Abierta, 2013). In 2019, the Prosecutor General's Office announced that it would seek charges against 5,000 persons, including judges, politicians, and private business leaders under their ongoing para-politics scandal (Alsema, 2019). This figure represents a major reduction in possible cases given that the previous "Prosecutor General, Eduardo Montealegre said in 2015 that he had identified

22,130 non-combatant state officials who allegedly sponsored the AUC or indirectly took part in war crimes.” (Alsema, 2019, para. 2).⁴⁶

This corruption, endemic to the politics of the Colombian right, suggests a serious conflict of interest regarding their legally mandated support for human rights process and transitional justice mechanisms. In particular, providing platforms for participation, which elevate the voices of community members seeking to address human rights violations, including efforts for justice and accountability, reparation of damages caused by armed actors including the restitution of appropriated lands, and the full implementation of the Peace Accords which call for agrarian reform addressing issues of inequality across rural regions, is in direct contradiction to the interests of paramilitary forces and their allied political and business partners.

CEPO’s Pilot Study: La Urabá Antioqueña

Urabá is known for its extensive banana plantations and has been revealed as an admonitory example of corporate and paramilitary collaboration leading to extensive violations of human rights including targeted assassinations of labor organizers, environmentalist, and community leaders and the mass displacement

⁴⁶ Since then, these cases have been stalled. This is primarily due to new appointments to the Prosecutor General’s office and accusations against these very figures.

of communities and appropriation of lands.⁴⁷ There should be little surprise that the political and business interests leading to this generalized state of violence might produce contexts in which municipal governments would be adverse or uninterested in supporting peace processes and the promotion of civil society participation. This is particularly true in the context of programs of reparation which would include the return of stolen lands that have been incorporated into the banana plantation system, and truth processes that may seek to hold third parties, that is those who provided material and logistical support to armed groups in human rights violations, accountable.

With CEPO, we interviewed community members in Apartadó, including survivors of La Chinita Massacre who spoke to a generalized sense among community members that the government at all levels was unaccountable to their rights and concerns. “They are all just interested in what helps them. They come by and make promises, ask for our vote, maybe leave a few pesos, but they never come back, and things never change or get better” (Grandmother, March 28,

⁴⁷ The notorious Chiquita scandal is but one prominent example of the nexus between capital interests and paramilitary violence. The United Fruit Company, directly implicated in the CIA overthrow of the democratically elected government of the president of Guatemala, Jacobo Arbenz, in 1954, leading to the genocide of Mayan communities, later changed its name to Chiquita Banana. Chiquita had significant interests in Urabá, Colombia’s chief banana growing region since the 1990s, coinciding with the explosion of armed violence in the region. Through this period, the AUC, grew in strength and size in Urabá, leading to the systematic murder of union workers and community leaders along with the mass displacement of tens of thousands of persons, and the illegal acquisition of land then subcontracted to the banana industry. In subsequent legal investigations by Colombian prosecutors, Chiquita admitted to making over 1.7 million dollars of payments to the AUC for “security” between 1997 and 2004, the height of AUC violence in the region (Torres & Vidal 2011). In 2018, Colombian prosecutors filed charges against 13 employees of Chiquita banana for their support of the paramilitary death squads (Semana 2018). Subsidiaries contracting with Chiquita continue to operate in the region and are accused of having ties with the current paramilitary forces, the Autodefensas Gaitanistas de Colombia (AGC), which continue murdering leaders and displacing communities.

2018). They felt that both the national and local government was simply too removed from their lives and concerns. “They don’t really know what happens here, worse, they don’t care” (Grandmother, March 28, 2018).

What little support found its way into their communities was dispersed through individual indemnities, small lump sums that sought to acknowledge and minimally compensate victims of human rights violations for damages incurred (Victims Unit, 2019). Registration as a victim, a prerequisite to individual reparation, was often thought to make one vulnerable to targeting by armed groups through a generalized notion that victims were allied with guerrilla groups, or were a threat to armed organizations of any affiliation by seeking justice, accountability, and a direct repatriation of land or other resources from the groups themselves. “Registration, signals you, it makes you vulnerable” (Granddaughter March 28, 2018). Just as troubling, interviewees reported a widespread sense that corruption plagued the reparations process. “Those that come here are *transmitidores*, they ask for money promising that they will get you registered and that you will get your reparation. It never works that way” (Grandmother, March 28, 2018).⁴⁸ Some asserted that despite having attempted to register as a victim several times their applications were not accepted or processed. Indeed, they claimed that access to individual reparations was tied to one’s political party affiliation or personal relationship with local officials.

⁴⁸ May be translated to transmitter or intermediary.

CEPO, having long been involved in electoral politics,⁴⁹ both as a way to support candidates and parties in line with their political vision and often as a source of revenue, decided, in long conversations following our pilot study, to run their own candidate for the mayor of Apartadó. They blamed the stalling of the establishment of the Municipal Peace Council directly on the then recently elected mayor. They also interpreted the widespread mistrust of community members of the peace process generally as a reflection of the corruption of the local government, comparing the opinions and experiences of residents of Apartadó with those of Murindo and Vigia del Fuerte. Seeking to balance empirical⁵⁰ research and electoral organizing, CEPO team members understand, is a delicate balance. Yet, they argued, given the lack of state support through direct funding of smaller scale efforts such as theirs, they are left with little option than to seek funds through electoral organizing for political parties aligned with their vision. They, like many Colombians, believe that the political system is indeed rife with corruption, but seek through their aspirations to participate directly in local governance to bring transparency and accountability to state power at a crucial time in the peace process. “It is what we have left, not only supporting government, but becoming government” (CEPO Coordinator, April 18, 2018).

⁴⁹ The postponement of CEPO’s complete investigation on the state of the implementation of the peace accord was a result of the loss of a Green Party candidate to the Colombian Senate. Having organized for this candidate for months, they were refused a complete payment for their work following the loss. The candidate’s campaign argued that given their loss they neither had the funds nor the obligation to pay CEPO. The lack of funds resulted in the inability to move forward with a complete investigation as planned for the time being.

⁵⁰ See Methodology for an explanation of CEPO’s understanding of “the empirical”.

This chapter has highlighted many of the structural and bureaucratic limits to effective participation as mandated under Colombian law. In closing, I summarize some of these findings. Regarding logistical and financial obstacles, lack of the required political support for the creation and maintenance of Peace councils and the dependency of the creation of Municipal Peace Councils on the authorization of local mayors, in particular locations, stifles the efforts of civil society. The lack of municipal support in the form of physical and financial resources at times limits the ability of civil society to form Municipal Peace Councils as well as limits the ability of individual members to participate. Supports include the availability of a secure site to hold meetings and access to basic technology including computers and cellular phones. Once established, representatives of Peace Councils complain about the personal cost of participation, noting the lack of any subsidy for transportation or time, leading to a financial burden and lost wages, for already marginalized communities. Furthermore, confusion as to the diversity of possible mechanisms for participation left some community members unsure of how to address a particular issue, or where to start to get involved with local government. Scholars have documented how overlapping laws and institutions lead to bureaucratic confusion as well, complexifying communication and coordination with community groups.

Participation in peace processes in general and Peace Councils in particular has political consequences. The consequences can be particularly grave given the violence and corruption that surrounds Colombian politics. Interviewees stated that participation, or even simply registering as a victim of the armed

conflict, a prerequisite for reparations and some forms of participation, marks you as a potential guerrilla sympathizer, leading to targeting by official and paramilitary forces. There were widespread concerns about corruption by political parties and individuals taking advantage of victimized-survivors. The corruption of political parties is understood as systematic and de facto. Many assume that politicians and their parties are power-hungry and use transitional justice as a way of advancing their careers over addressing past and actual violence. There is also a generalized suspicion by some victimized-survivors that some victims' organizations, or at least some individuals within them, stand to gain personally from their work.

Chapter Five: Mesas De Participación Efectiva

Introduction

In the previous chapter, I introduced the constitutional basis of citizen participation in Colombia, noting its historical context including its emergence from peace processes, civil society's role in its drafting, and the central and diffused role that participation has in the document. From there, I introduced the work of CEPO, and in particular, their support for the establishment of Peace Councils, an early but important mechanism for citizens', including victims', participation in the construction of peace. Lastly, in conversation with interviewees, I offered an understanding of the limits of participation in local governance and in particular in transitional justice mechanisms. These limits are grounded in the experiences of local leaders and community members in the Urabá region of Antioquia. In particular, they reflect the frustrations and suspicions of victimized-survivors of the armed conflict. These feelings often arise from personal experience with local, regional, or national institutions and they describe a pattern of hope and disappointment in relation to legal and policy advances that fail to produce significant improvements to daily life. I ended that chapter with a summary of findings, a descriptive list of the limits of participation as described by my interviewees.

In this chapter, I describe the experiences of persons intimately involved with transitional justice: victimized-survivors of the armed conflict who have

become deeply involved in organizing and advocacy, leading to their participation in a more recent, but now central, mechanism of participation, Las Mesas de Victimas. I begin with my notes from a participant observation of an important event, the first department-wide meeting of representatives of the mesas in Cauca, Colombia, one of the departments hardest hit by the armed conflict. Through this short narrative, I provide an example of what participation itself feels like, from the perspective of many of the leaders I spoke with. From this vignette, I return to law, giving a detailed description of Law 1448 (Victims' Law), a key statute in the legal definition of a Victim, and a foundation to current structures of transitional justice. Indeed, much of the current Peace Accord relies and builds upon structures of participation established under Law 1448. I then turn to an extended description of an interview with a representative to the national mesa, a leader with extensive and varied experience organizing, advocating for, and now representing victims with a national and international platform. This description takes time to describe the context of her life before, during, and after a life altering episode of violence. My interviewee insisted that I understand this larger context, precisely to be able to glimpse the loss she experienced, and to understand how it continues to shape her life and work, including the challenges she faces as a representative to the national mesa.

Lastly, I take time to review some limits and difficulties to participation in transitional justice as described by the various representatives I interviewed. In this summary of findings, I refer back to the participant observations and

interviews present in this chapter, highlighting the critique of effective and meaningful participation that they offer. I end with an examination of the gravest hinderance to victims' participation in Colombia - the mass and systematic murder of human rights defenders and community leaders. This chapter and the last serve the purpose of answering my first two sets of research questions regarding an examination of laws and institutional structures for participation and the experiences of representatives and community members in the implementation of these mechanisms.

The First Departmental Meeting of Victims' Representatives of Cauca

We awoke to the familiar sounds of the Colombian countryside: roosters crowing, a myriad of insects buzzing, a stereo blasting cumbia in the distance. I had arrived the night before and was immediately offered dinner, joined by people eager to eat and talk as we looked out on the verdant moonlit valley. The conversation turned on shared and divergent experiences of the armed conflict, the ways in which it has intimately affected their lives, weaving a grounded understanding of how national and local politics contributed to their life history in complex and problematic ways (or sometimes not at all). My bunkmates were social leaders and human rights defenders, delegates to their local mesas de victimas, almost exclusively from rural communities across Cauca. They were gathered here in a finca outside of Santander de Quilichao for the "First Departmental Meeting of Victim's Representatives of Cauca." Some, from the

more remote communities on the Pacific Coast or the small mountain villages of the Western Andean Cordillera, had traveled for days by foot, boat, and bus to tell their stories of the armed conflict and to represent the needs and concerns of their communities.

Regional breakout groups of the approximately fifty participants, organized the morning's discussions with volunteers writing down the issues they had come to discuss: the needs of demobilized FARC soldiers, the lack of health clinics and schools, cocaine production and the need for state supported crop substitution, disappeared persons and the search for their remains, mass displacement from armed groups fueled by mining and narco-traffic, the ongoing threats to and murders of leaders just like themselves. The discussions were heated as participants argued for the needs most relevant to their community, even as they tried to find common ground to propose meaningful interventions. The stakes felt high as this was, for many, the first time they were meeting with national level government officials. In the wake of the signing of the Peace Accord, they had led campaigns in their communities, educating others on the commitments of the government to ensure a just transition away from the armed conflict. As they fought to spread hope, they also took on the weight of their responsibility to represent others and to help bring tangible positive change.

Just as the morning discussion groups were closing and the participants were beginning to establish a methodology to determine which issues would be

prioritized in their report to the government, national representatives of the Victims' Unit arrived. They brought lunch with them, insisting that everyone break as a special surprise was on its way. A couple of hours later, Frank Pearl, an economist and politician who was a principal negotiator of the Peace Accord, arrived. He spoke at length to the historical context and significance of the signing of the accords, the promise of peace, the commitment of the government to address the root causes of the conflict, and the crucial role that victims would play in the process. The representatives listened politely, but jumped at the opportunity to ask questions: "Why are you talking about the end of the conflict when people in my community are still being threatened and killed?" "What about the cases of harassment and rape of women committed by the armed forces?" "Why is my community having to feed and shelter demobilized FARC soldiers, where is the state support?" Frank Pearl listened carefully and responded candidly acknowledging the questions and claims of representatives and stating that there is so much to do and that he was personally committed to seeing the accords meaningfully implemented.

The staff of the Victims' Unit anxiously stepped in to dismiss Mr. Pearl and set the agenda for the rest of the meeting. Their roles, the staff announced to the representatives, would be crucial in the months to come. Their leadership would come to constitute the foundation of state interventions to ensure a peaceful end to the armed conflict. The success of the peace process rested on their shoulders. Therefore, the rest of the meeting would be leadership training.

Realizing that their agenda had just been hijacked, many of the representatives left. The ones that stayed, listened to a series of powerpoint presentations and participated in small group discussions on what qualities constitute a great leader. They were asked to think of a leader they admired and write down words that described them. Lastly, everyone was to lay down on butcher paper and have their outline drawn to then write in adjectives describing leadership qualities. One by one everyone presented their chalk outline, stories of the leaders they admired were interrupted in the name of everyone having a chance to present. Their moving narratives of personal inspiration, symbols of resistance, and concrete practices for organizing and advocacy were reduced to a string of adjectives. Photos of participants were taken for the Victims' Unit's website. The event ended without documentation of the concerns representatives had come to share. The symbolism was dense in the air, particularly in regards to the chalk outlines, though perhaps not in the way that the Victims' Unit organizers had intended.

The leaders I spoke with as the event wrapped up all expressed a similar sentiment, "this is how all of our meetings go. They only get us together to take our picture, all they want is to show that we were here and that something is happening." (Excerpt from Field Notes, 2/21/18)

Addressing my second research question regarding the experiences of participants in transitional justice mechanisms, this vignette points to several key

issues that I return to later in this chapter: top-down decision making regarding the agenda of meetings, the inability of representatives to participate directly in the implementation of policy on issues affecting their communities, and their sense that many mechanisms for participation are geared towards generating positive media over actually addressing concrete issues. The symbolism of the chalk outline for victimized-survivors and social leaders, if not already, will become clear in Chapter Six.

Victims' Law 1448

The confluence of legal efforts to expand democratic participation as impelled by the Constitution of 1991 and social movements' efforts towards the development and implementation of peace processes in Colombia produced a new standard for transitional justice in Colombia under 2011's Victims and Restitution of Lands Law 1448.⁵¹ This measure is still seen as a rare example of an attempt to implement transitional justice, guaranteeing rights to victims of human rights violations, during an ongoing armed conflict. Furthermore, by formally including all victims of the armed conflict and making the creation of participatory mechanisms mandatory, Law 1448, both built upon and expanded the right to

⁵¹ This, of course, is in no way a complete description of the development of participatory mechanisms for peace or for victims' involvement. In particular, Law 387 of 1997 on the rights of Internally Displaced Persons, created a framework for participation upon which Laws 1448 was built and expanded upon. Furthermore, the so-called Justice and Peace Law, itself a transitional justice framework for paramilitary demobilization, included several participatory provisions for victims. These provisions were largely related to victim's participation in truth tribunals, and processes for the creation of historical memory and symbolic reparation.

participation and peace enshrined in the Constitution and developed through the two decades of jurisprudence (de Waardtm & Weber, 2019).

Within Colombia, the law is broad in its scope and was crucial in several key acknowledgments. Article 1 of the Law states that its objective is to:

...establish a conjunct of judicial, administrative, social, economic, individual and collective measures to benefit victims... in a transitional justice framework that makes possible the enjoyment of their rights to truth, justice, and reparation with the guarantee of non-repetition,⁵² in a way which recognizes and dignifies their condition as victims through the materialization of their constitutional rights. (Ley 1448, art. 1)

It recognized an on-going armed conflict, something the previous president, Álvaro Uribe had refused to do,⁵³ referring instead to internal criminal and terrorist actions that demanded a militarized police response. Under this state of affairs, a negotiated end to the conflict was impossible as there was no understanding of the rights or bargaining capacity of other armed actors. In

⁵² The addition of the right to non-repetition is particularly notable, addressing critiques of previous transitional justice processes that have been mired by ongoing violence. Sadly, this novel legal standard has yet to be implemented in a meaningful way.

⁵³ In 2007 the Colombian Senate passed Law 157, which was vetoed by then President Uribe. This “Ley de Víctimas” was objected to by the executive in part because he believed that reparation was unfeasible but also because it acknowledged the internal armed conflict (Acuña, 2012).

acknowledging the armed conflict, Law 1448 invoked the rights to International Humanitarian Law (IHL),⁵⁴ and the state's responsibilities under it.

Secondly, it recognized the existence of victims of the armed conflict. This produced the legal category of Victim, assuring individual and collective rights to protection, reparation, truth, and justice as well as effective participation (Ley 1448). It also recognized that one could be a victim of either state, guerrilla or paramilitary violence. Until then, the state, as well as other armed groups, regularly denied the existence of victims of their actions, referring instead to victims of individual criminal actions or simply, the collateral damages of war. This generalized a state of suspicion by armed actors of those who claimed status as victim, raising the specter of their collaboration with other groups.

The law defines a Victim as a person or collective that has suffered a violation of International Humanitarian or Human Rights Law on or since 1985 (Ley 1448, art. 3). Intimate partners and first degree family members of persons who have been subject to extrajudicial execution or enforced disappearance are also included (Ley 1448, art. 3). To be eligible for land restitution, the violation resulting in territorial dispossession must have occurred on or after 1991 (Ley 1448, art. 3). Members of guerrilla or paramilitary groups are ineligible to register as victims unless they were minors at the time of their demobilization (Ley 1448,

⁵⁴ International Humanitarian Law, based in the Geneva Protocols, emerged following the devastation of global war in the mid-20th century. It sets international standards for the protection of non-combatant civilians as well as establishes limits to the waging of war and other conflicts. The Colombian government's acknowledgment of an internal armed conflict is key to human rights advocate's invocation of IHL in asserting the need for protection and reparation. For an introduction to IHL see: www.icrc.org.

art. 3, para. 2). Under the law, all victims must first register with the “Special Administrative Unit for the Assistance and Integral Reparation of Victims,” an entity established under Law 1448. Registration entails presenting a formal declaration of the violation and supporting evidence to the unit (Ley 1448, art. 154-156). This process explicitly overturns the precedent that a perpetrator be identified and convicted before a victim may be registered and for rights be granted to that victim.⁵⁵ Once registered, all victims are entitled to a range of social services including education, mental and physical healthcare, preferential rights to government employment, job training, and housing subsidies, and rights to legal counsel to seek damages (Summers, 2012, p. 227).

Mesas for Victims' Participation

The accessible and effective participation of the victims, as designated by this law, in the design, implementation, execution, and evaluation of governance is guaranteed at the national, departmental, municipal, and district level. (Ley 1448, art. 193)⁵⁶

In addition to legally defining the status of a Victim, Law 1448 established the Victims' Unit, an institution tasked with coordinating all assistance and

⁵⁵A precedent established by the “Peace and Justice Law” (Law 975 of 2005). This law ostensibly demobilized members of the nation’s largest paramilitary umbrella group the AUC. Advocates and scholars contend that this demobilization was at best incomplete, instead resulting in the fracturing of paramilitary factions while maintaining relations to the political and business interests that financed and supported their violent work.

⁵⁶ My translation. Original text: “Se garantizará la participación oportuna y efectiva de las víctimas de las que trata la presente ley, en los espacios de diseño, implementación, ejecución y evaluación de la política a nivel nacional, departamental, municipal y distrital.”

reparations measures guaranteed by the state and creating mechanisms for “effective participation” of victims in these processes (Victims’ Unit, 2019). Towards this effort and under the direction of Law 1448, the Victims Unit supports the creation and coordination of the *Mesas de Participación Efectiva de Víctimas*.⁵⁷ The law defines the creation of mesas at the national, departmental and municipal level. Coordinating with the Victims Unit, the national and departmental Ombudsman Offices (*Defensoria*) and the municipal Solicitor’s Offices (*Personería*) are tasked with supporting the establishment of these mesas and functioning as their Technical Secretaries (Berrío, 2014). They maintain a registry of state recognized Associations of Victims,⁵⁸ from which candidates may be endorsed for locally regulated elections to the mesas. Representatives to the mesas must also be registered in the National Victim’s Registry. Thus, all participants in the mesas, are both victims of the armed conflict, and leaders in their local communities and victim’s organizations.

The mesas have 24 to 26 seats, a requirement of the law meant to provide a wide diversity of representatives. Many of the seats are reserved based on *hechos vicizantes* and *sectores victamizados* (de Waardtm & Weber, 2019).⁵⁹

⁵⁷ Effective Participation Councils of Victims

⁵⁸ These associations are civil society organizations of victims, many established before the passing of Law 1448, that educate and organize victims of the armed conflict and of human right’s violations on their legal rights and to advocate for their interests.

⁵⁹ *Hechos vicizantes* (victimizing acts): victimized survivors of particular human rights abuses such as gendered and sexualized violence, forcible displacement, the enforced disappearance of a family member. *Sectores victamizados* (victimized sectors of society), that is vulnerable populations, based on ability, age, gender, ethnicity, sexual orientation.

Representatives elected to the mesas serve for two years, up to two terms.

Following their term, popular representatives often move on to serve at the departmental and national level mesas.

Each at its own level; municipal, departmental and national, the mesas share common purpose and function. They are first and foremost a space for representatives of victims' associations to discuss and propose programs for the education, accompaniment, and reparation of victims. Ideally, the mesas serve as a mechanism for the everyday and exceptional concerns of victims, rural or urban, to be integrated into social and political discourse. It has served as a mechanism by which the failures of state institutions have been documented and publicized, communities and agencies have been made aware of the emergence and expansion of armed groups and human rights violations and where the daily struggles of poverty, racial and gendered targeting, and lack of infrastructure have been understood as both reason for and exacerbated by the armed conflict. The documentation of progress, or lack thereof, in the implementation of processes of reparation, is a legally mandated function of the mesas, and has resulted in the creation of a large archive of documents and reports describing the ongoing state of affairs in the construction of peace across the country. The mesas have been most successful in producing educational campaigns raising awareness of transitional justice broadly, and the peace accords specifically, demystifying, to a degree, the complexities of government institutions, and disseminating information about victims' rights.

Each mesa, according to the law, must also produce an annual Work Plan, detailing its meetings, the focus of their work for each period, the activities they plan on conducting, and a detailed schedule for their development. Lastly, the law stipulates that each mesa, through its existence, serves as a site for the “effective participation” of victims, creating a space for victims of various backgrounds, experiences, and locations to come together, share, and organize. The question of how effective such participation is, of what it is effective, and of how that effectiveness is to be evaluated is not addressed in the law. The mesas are, in fact, explicitly not decision-making spaces. They have no power over state agencies or programs, and exist simply to provide a space for discussion, documentation, and the development of proposals.

The mesas though, do have the right and obligation to elect representatives to specific bodies that are endowed with a degree of decision-making power over transitional justice policy and its implementation. The national Mesa elects representatives from its members to serve on The Directive Counsel for the Special Administrative Unit for Stolen Lands, The Executive Committee for Attention and Reparation, The Commission for Accompaniment and Monitoring, and the Directive Counsel for the Center of Historic Memory.⁶⁰ Each of these bodies brings together politicians and officials across government institutions to design and implement transitional justice processes. At the departmental and

⁶⁰ Consejo Directivo de la Unidad Administrativa Especial de Restitución de Tierras Despojadas, the Comité Ejecutivo de Atención y Reparación, the Comisión de Seguimiento y Monitoreo, and the Consejo Directivo del Centro de Memoria Histórica

municipal level these, and other related functions, are coordinated through the Comités Territoriales de Justicia Transicional (TJCs).⁶¹ Legally, these committees are understood as having the “maximum responsibility for the coordination, application and design of public policy in the department, municipality or district, presided over by the governor or mayor respective to victim’s rights” (Victims Unit, 2012, p.7). They are charged with developing a Plan of Action under each government’s annual Development Plan for the implementation of transitional justice, particularly all issues related to guaranteeing “attention, assistance y and integral reparation to victims” (Victims Unit, 2012, p. 7).

Like the Peace Councils created by Law 434, the transitional justice Territorial Committees bring together a wide representation of government officials and politicians.⁶² As such, they represent a key nexus for victims’ representatives, the perspectives and concerns compiled through the mesas, and the various institutions of government tasked with ensuring access to transitional justice for victims of the armed conflict. These Transitional Justice Committees, in effect, are the executors of transitional justice programs, being one of the few institutional bodies empowered with a budget, and the capacity to coordinate government actions.

⁶¹ Transitional Justice Territorial Committees

⁶² Participation by the governor or mayor, their secretary, the secretaries of Planning, Health, Education, the regional commander of the Armed Forces, the commander of the regional Police Force, the regional director of Bienestar (Social Services), a representative of the Public Ministry, a delegate of the Victims Unit, and two representatives of the mesas are required under law (Victims Unit, 2012). In practice, these meetings rarely have all required members.

Interview with Yanela⁶³

It was, as usual, a hot day in Medellín when we met at a Plaza Mayor in Medellín. I was catching Yanela between meetings. She was coming from a television interview and had a few hours to talk before a fundraising meeting seeking to secure funds for a water pump and filter for a community of displaced persons in Riosucio, Chocó. I sat in the breezy shade of a large tree as she stepped out of her ride, a large black SUV with bullet proof glass and two armed guards. This was the highest level of the government's *Protocolo de Protección* for social leaders under threat by armed groups.⁶⁴ Lesser degrees of protection include a state funded cell phone with the local and national police on speed dial, or a bulletproof vest to wear when leaders leave their home. Other leaders have told me about their ambivalence towards these measures. The lesser measures are a joke they say, "What will a cell phone that doesn't work outside of the cities and towns do where I live? Particularly, when there isn't trust in the police's willingness or ability to respond to threats of violence". The armed guards often build personal relationships with the leaders, granting a degree of trust but it also creates a distance between the leader and their communities. "How does it look for me to ride around in a fancy car with armed men? It makes me look like the very people we are working against" (Cauca's Departmental Representative, April

⁶³ Pseudonym. Representative on Antioquia's Departmental Mesa and the National Mesa.

⁶⁴ This "Protocol of Protection" is one of the governments programs to protect participants in transitional justice and other social leaders. The limits and problematics of this program are addressed in this and the next chapter.

18, 2018). Various leaders have communicated that it leaves them with a sense of isolation, of disconnection from the communities they represent, and that it opens the possibility for closer surveillance of their work. If participating in transitional justice leads to persecution by armed groups, which then requires that leaders resort to protection schemes that cast suspicion on them for the communities they represent, is there effective representation through participation?

After a few friendly greetings, the guards asked to see and photograph my ID before walking away a short distance to keep watch during our interview. Sitting down under the tree we shared updates on mutual acquaintances and went through the interview protocol but before we got into the questions. Yanela interrupted, “I want to tell you about where I grew up. I want you to know that I live through my memories”. She described a childhood filled with beauty and wonder: a home built on a small island between two rivers surrounded by sandy beaches, trees filled with coconuts and guavas, easy fishing right down from her doorstep, a large community-run farm with corn, sugar cane, and plantain. She was raised by her mother and grandparents, the elders of their village, in the *casa madre*. Lost in her memories, she described a safe, loving, and egalitarian community where children played into the night without fear, families shared what each house produced and no one went without food and shelter, and conflicts were resolved through caring mediation by the larger community.

Yanela reflects on the joy and privilege of this childhood, “This was a dream, my dream, that I woke up from to confront the armed conflict that had been destroying other’s lives for decades”. Armed groups began to make regular appearances in her community, each demanding support, and threatening reprisal for supporting others. Over time the FARC established a command center nearby and gained control of the area. They began visiting the *caserio*, demanding that the families sell them food.⁶⁵ This drew Yanela’s community into what is known as *la zona gris*, the gray zone, an apparent, if forced, participation in the conflict through material support for an armed group. This gray zone is a key problematically named by victimized-survivors and their advocates in participating in transitional justice programs which often assume a clean division between victim and perpetrator.

One day, two soldiers found Yanela alone in her home and sexually assaulted her. Her mother found out and, against the protests of the rest of the family, went and complained to the FARC commander. Days later, several soldiers, including those involved in Yanela’s rape returned, attacked her home, murdered her mother and uncle, and displaced the rest of her family. Over the next few years, the displacement led her and her family from a military camp of hundreds, to a refugee camp with thousands of others, to an apartment in Apartadó, the local city. There, she began working as a domestic worker and met

⁶⁵ A collection of homes forming a community but too small to be considered a village. These types of residences for communal living are common throughout rural Colombia.

a man who became her husband and together they had two children. She felt like her life was finally coming together. Yet, through these years, she began to feel the weight of the trauma she had experienced, as it came to affect all of her closest relationships, including with her husband and young children. She was living in a routine, but without a sense of presence, joy, or hope. “Gone were the days of my childhood, of joy, of being a strong outspoken girl. I lost my voice through those days of violence. I lost my will to live”.

It was in 2003 that a friend approached her, “They are starting to organize victims of the conflict and some people are being given homes” (Yanela, April 4, 2018). Though Yanela had no desire to participate in victims’ organizing, she was tired of living with her mother-in-law and agreed to go. “Well, I left there without a new place to live but that initial meeting changed my life. From that day I started receiving care from a psychologist at the hospital in Apartadó”. The psychologist visits were scheduled for every eight days, but she insisted on going every day. “It was through those visits that I began to heal, began to understand that everything that had happened to me was not my fault. It was this experience that started me off organizing with victims”.

She began by working at a food bank and organizing the delivery of food to displaced persons and resettlement camps in Riosucio. Her organizing led her to Medellín, as she continued to pursue support for the communities of Chocó, all the while working several administrative jobs in factories and as a domestic

worker in private homes. It was in this period that the threats began. Calls telling her that what happened to her mother could happen to her. Calls stating the figure of the small sum it would take to have her murdered in Medellín or in Apartadó.

Instead of backing away, she redoubled her efforts, seeking the support of Ruta Pacífica, a national women's organization addressing the armed conflict, to start her own women's organizing and advocacy victim's organization in Rio Sucio, Chocó in 2011. Her mother's image became the symbol of the organization, seeking to educate women on their rights as victims of the armed conflict in transitional justice mechanisms and in creating grassroots projects to address issues of everyday violence. In 2013, she was invited to travel to Spain to highlight the plight of women and survivors of gendered and sexual violence under the armed conflict. Through this experience, local organizations nominated her to run for seats on the local, departmental, and national Mesas de Víctimas. She won the slot for each of the mesas, becoming one of two national representatives for victims of sexual and gendered violence on the national Mesa. She has held these seats for over two terms. Yanela has taken this as a platform to advocate for the needs of her community while communicating to the nation and the international community the forms of violence that she and her community face. The threats against her life continue for her outspoken advocacy but she states, "I can't keep quiet, because at this point if I do, I become an accomplice to the violence".

It was this work, her hard-earned expertise in the armed conflict and in victims' organizing, that had led us to the interview, and eventually, to my questions about participation in transitional justice. Given her constant organizing and her position on mesas at three levels of government, her understanding of transitional justice and of victims' participation is broad and grounded in lived experience.

Critiques of Participation by Representatives to the Mesas

Yanela's narrative rests, as so many other personal stories in Colombia do, between the particular and the general. It tells her story, or at least a very brief version of it. It also tells the story of her family, of her community, and of many in her region affected by FARC presence and violence in the 1990s. Yet, if we blur the details, the armed group involved or the region, the story becomes a much broader one.⁶⁶ It is a story of sexual violence, endemic in this armed conflict. It is a story of forced displacement, shared with almost 8 million other Colombians, according to official figures.⁶⁷ It is also a story of a victimized-survivor finding support through the efforts of victims' organizing and finding personal meaning in participating in the work of transitional justice.

⁶⁶ The Unidad de Víctimas has registered 8,944,137 individual victims of the armed conflict (Unidad de Víctimas, 2020). The true figure of the number of people subject to a human rights violation is much higher, given the widespread hesitancy and inability of victimized-survivors to register. Though Yanela was subject to violence at the hands of the FARC, a guerrilla group, it is important to reiterate that the vast majority of the gravest violations of human rights occurred at the hands of paramilitary forces (Centro Nacional de Memoria Histórica 2018).

⁶⁷ The U.N. Refugee Agency under the Human Rights Council, placed the total number of internally displaced persons in Colombia at 7,671,124 in 2018, the last year figures were published. (UNHCR 2018) This doesn't include Colombians who have left the country as refugees, asylees, or other emigrants.

In the course of my research, I interviewed five different representatives serving on municipal, departmental, and national mesas across Antioquia. Among these five were a member of the Transitional Justice Committee for Medellín's Mesa, the president of Antioquia's Departmental Mesa, and a representative to the National Mesa serving on the Gender and Sexual Violence Committee. The resonances among their stories were astounding. They were all forcibly displaced persons, fleeing violence from more rural parts of the country. They were all incredibly dedicated to their work organizing victimized-survivors, despite the significant personal and financial burdens incurred from their work. Perhaps most relevant to this dissertation, they shared similar critiques of work of the mesas, and the limits to effective participation. I also interviewed two directors of the Victims' Unit in Medellín, who echoed the concerns of the representatives.⁶⁸

The critiques they offered of the work of the mesas, echoed that of those organizing and working with the Peace Councils. Many named spotty participation by state officials in convening or attending meetings, or inadequate coordination. "Officials often miss important meetings, and when they do come, they fail to invite us representatives. Other times, they call me with less than a few hours notice to show up to a meeting across town or even in another city" (Medellín's Municipal Mesa Representative, April 10, 2018). They also echoed the experiences of representatives from the workshop in Cauca, stating that there

⁶⁸ This does not include many other informal conversations with representatives to mesas, including my participation in the First Departmental Meeting of Representatives in Cauca.

is support for public facing work but institutions never have resources available for reparations or development projects. “We can educate our people about their rights, run campaigns, hold workshops, hand out flyers, but how do we look when nothing happens and we can only share our frustrations”(Medellín’s Municipal Mesa Representative, April 10, 2018). They discussed the complexities of navigating a fractured state often at odds with its own goals. “We would work together for months with the Ombudsman’s Office and the Victims’ Unit, making plans for the security of our community, but then after months of ignoring us, a general shows up and tells us our plans are inoperable. End of story” (Medellín’s Municipal Mesa Representative, April 10, 2018). These limitations to participation are essential to grasp the ambivalence of the state’s approach to transitional justice. They represent the real limits of political will across state institutions and are alone enough to collapse efforts for transitional justice.

Yet, compounding these bureaucratic limitations are personal ones, themselves structural and widespread. Nearly all of the representatives I interviewed named personal challenges in their work. They made clear the links between their personal circumstances and the broader politics of war, peace, and transitional justice. “They are killing us with the issue of our subsistence. You have to understand that the great majority of us are women, and almost all of us are the heads of our households. This is my job 24 hours a day, 7 days a week. My phone never stops. Yet for all this, I get paid 82,000 pesos a month. How are we supposed to feed our families?” (Medellín’s Municipal Mesa Representative,

April 10, 2018).⁶⁹ The issue of basic livelihood was prominent amongst all of the representatives I interviewed. Many were in a position of financial precarity before their forced displacement, others, despite some resources, have struggled since leaving their families and places of birth. Regardless, they were unified in stating that the meager stipend afforded to them by the mesas was inadequate in supporting themselves and their families.

The work itself presents a burden in terms of time and cost as active representatives become key figures in civil society connecting state institutions, non-profit organizations, and victims' groups across Medellín and Antioquia. "Being on the mesa means staying connected with civil society groups and institutions. I travel daily across the city and often to the territories.⁷⁰ The stipend doesn't even cover my transportation costs."⁷¹ "This year, seven representatives left the mesa [before the end of their term] because of their economic situation" (Medellín's Municipal Mesa Representative, April 10, 2018). "We have a very powerful mesa. This is a way they keep us in our place.(Medellín's Municipal Mesa Representative, April 10, 2018).

Others named a struggle with officials who dumped work on them but refused to offer support, for example, dropping off hundreds of pages of drafted

⁶⁹ Approximately \$26.

⁷⁰ Territories, in Colombia, refers to rural areas, often implying Afro-Colombian and Indigenous communities. The use of the term territory suggests a particular politics of cultural and political autonomy.

⁷¹ Representative to Medellín's Municipal Mesa.

transitional justice policy and telling them to offer detailed commentary and community response in a limited time frame. “Hardly any leaders in these processes have a higher education, high school at best. The Victims’ Unit sometimes say they will support our studies, but the money never materializes. How are we supposed to work to support our families, study, and be leaders at the same time? Impossible” (Antioquia’s Departmental Mesa Representative, April 7, 2018). “I was a school teacher, but from a very rural area. I had never studied law, now I go to university, work, and do my work on the Mesa. I don’t know how I manage but if I wasn’t studying law, I couldn’t be an effective representative” (Antioquia’s Departmental Mesa Representative, April 7, 2018).

Lastly, many named the psychological burden they carry. “This work gives us direction and focuses our energy, but we still don’t have the kinds of physiological support we need for what we lived through” (Antioquia’s Departmental Mesa Representative, April 7, 2018). “Sometimes I wake up in the middle of the night, drenched in sweat, other times I don’t sleep at all. The pressure of it all feels like too much sometimes, and the threats don’t stop” (Medellín’s Municipal Mesa Representative, April 10, 2018). Here too the state fails to create the conditions necessary for a permanent and effective participation by victimized-survivors.

The Brazilian anthropologist, Silvia Monroy Álvarez (2013), in her study of violence and community responses in Urabá, names a generalized state of

“permanent present” (p. 7).⁷² She says that her study “is about violence and some of its effects, that are also its causes” that is the “propensity, tendency, inclination, or predisposition to live life in its actuality” (p. 7). This orientation, both temporal and cosmological, she claims, is product of the struggle for survival, and reproduces the need for short term solutions to dire problems. “They [the community members she worked with] do not return to a historic past, nor an anticipated future, organized and directed, rather they are focused on the possibilities and hopelessness of the present” (p. 7). This state of distress and precarity, made quotidian, is both a result of and reason for the conflict. People, under these conditions, struggle to imagine and work for collective change become mired in violence, often contributing to its reproduction in the daily compromises that survival requires.

Against a larger state narrative of transition, the optimism of change and more peaceful futures against a violent and turbulent past, many of my interviewees’ reflections both refute and echo Álvarez’s understanding. Caught in the ambivalence of their experience, they name the necessity of hope, of the possibilities for social transformation that they work for. Indeed, many offer testimony to the improvements they have already contributed to and witnessed. “The Accords have made a difference. Violence is not what it used to be, I can now cross the river and visit my grandchildren, I can now farm my family’s land.

⁷² She names her study an anthropography, rather than an ethnography, seeking to focus and name the particular and refute any attempt to render universal any of her observations .

Things are getting better here and that helps to continue working” (Brisas Community President, March 26, 2018). Yet the pressures of organizing and participating in peace processes are relentless. Representatives and leaders all name the multiple pressures they endure: their efforts for connection with a larger society that at times suspects them for their participation, questioning their possible allegiances to armed groups or their self-interest; the burden of past and ongoing traumas that haunt their everyday; the quotidian struggles of economic precarity, racism, and sexism; and the never ending threats against their lives and the unknowability of the origin or seriousness of those threats. In each of these cases, the state has a responsibility. To ensure effective and ongoing participation of victimized-survivors in transitional justice, the state must support their work materially and discursively. It must be unified in ending decades-long counter-insurgency tactics and discourses that cast suspicion on those organizing for peace and justice. It must provide for the education, mental and physical health of participants, and daily subsistence of those participating in transitional justice. Most minimally, it must secure the basic right to non-repetition, the right to participate in politics and governance, the right to name past harm without that work making one a target for future violence. These responsibilities are basic and necessary, without meeting them, not only is the work of transitional justice compromised, but participants are condemned to the conditions of a permanent present.

Conclusion

In the last two chapters I have outlined two important mechanisms for community and victims' participation in transitional justice including their legal and bureaucratic frameworks, Peace Councils and the mesas. Through weaving in the experiences and perspectives of my interviewees, many who occupy multiple positions as scholars, advocates, and researchers, as well as victimized-survivors and participants of transitional justice, I have offered a genealogical and grounded critique of these mechanisms focused on their effects of local and marginalized communities.⁷³ Analysis of political economy, the logic of counter-insurgency, and the fabric of Colombian governmentally, have been woven in as necessary to give context and explicate the critiques of my interviewees.

The next chapter, my conclusion, may seem to introduce new substantive social facts: the current landscape of violence, state responses, the state of the peace accord. Yet, my intention, in addition to giving context to the actuality of participation in Colombian transitional justice, is that these social facts are themselves an intervention in overly optimistic or teleological approaches to human rights. They, like much of the facts I present in this work, are abrupt. They represent a contradiction to and a departure from the linear narratives of progress reproduced by the state. They serve as an interruption to legalist understandings of

⁷³ It is genealogical in that it draws from a combination of local knowledge and critical scholarship. It is grounded in that these knowledges are drawn from the past and ongoing experiences of those living under a country at war, victimized-survivors, advocates, organizers, researches, and social leaders. Each of the persons I talked to during my time in Colombia occupied several of these positions.

transitional justice that focus on the structure of law and longstanding debates that tend to animate the discourse. They make plain that what is at stake is not simply the success of a legal and bureaucratic instrument of governance and human rights, but the lives of people and the fabric of society. This is what is at stake. This is what demands our attention and must animate our understanding and solidarity.

Chapter Six: Conclusion

“The victim who is able to articulate the situation of the victim has ceased to be a victim: he or she has become a threat.” (Baldwin, 2011, p. 134)

*“Nos están matando.”*⁷⁴

While in the previous section I have outlined some of the institutional, bureaucratic, and structural limits to meaningful and transformative participation, I have only made passing mention to the true catastrophe of the Peace Process: the widespread systematic murder of social leaders and human rights defenders. Over a hundred social leaders and human rights defenders have been murdered each year for their political participation since the signing of the Peace Accord in 2016. The official tally varies by institution depending on methodology. The United Nations Office of the High Commissioner for Human Rights in Colombia places the figure at over 400 since the signing of the Peace Accord in 2016, though they acknowledge their limited ability to track and confirm cases and note a particular slowdown in their counting in 2020 due to the COVID 19 pandemic (Human Rights Watch, 2021).⁷⁵ Colombia’s Ombudsman’s office lists 712 documented killings while Somos Defensores and Indepaz, Colombian human rights

⁷⁴ “They are killing us.” Both a quote from an interview with a representative to a mesa, and a widespread rallying call amongst social leaders.

⁷⁵ The pandemic has been devastating to the already overburdened Colombian healthcare system, resulting in widespread infection and death. The quarantine, mandated nationally, is understood as having contributed to the increased assassination of human rights defenders and social leaders through the restriction of their movement. This restriction facilitated their targeting by armed groups who either evaded or were ignored by state forces policing the quarantine.

organizations tracking the murders, have documented 600 and 971 cases respectively (Human Rights Watch, 2021; Indepaz, 2020).⁷⁶ While the total number of deaths in Colombia related to the armed conflict has decreased significantly since the signing of the Peace Accord and the demobilization of the FARC, the numbers of targeted assassinations of social leaders and human rights defenders has steadily grown.

Despite statements made by some officials in the Duque administration asserting that these killings are unrelated to political participation, each of the organizations above have, through their own research, confirmed that the murdered person was a social leader or human rights defender and was targeted for their work.⁷⁷ The OHCHR provided Human Rights Watch with a categorization of leaders murdered since 2016. The main categories included trade unionists, campesino leaders, Afro-Colombian and Indigenous leaders (who were disproportionately represented among those targeted).⁷⁸ The report does not address overlapping categories but makes clear that by far the greatest number of leaders assassinated were defenders of human rights actively involved in

⁷⁶ The first three figures were compiled in an early 2021 report from Human Rights Watch in which they communicated directly with this organization: OHCHR. (<https://www.ohchr.org/en/countries/lacregion/pages/coindex.aspx>), Defensoria del Pueblo (<https://www.defensoria.gov.co/es/>), Somos Defensores (<https://somosdefensores.org>). Indepaz, The Institute for the Study of Development and Peace, maintains a daily register of murders reported by civil society organizations. The comprehensiveness of this method explains their higher number and points to the even greater number of killings that go unreported.

⁷⁷ See below for elaboration of these statements and other state responses.

⁷⁸ “According to OHCHR, approximately 16 percent of all the human rights defenders killed since 2016 were Indigenous leaders. Only 4.4 percent of Colombia’s population is estimated to be Indigenous.” (Human Rights Watch, 2021, p. 25).

Colombian participatory organizations. The largest single group, with 130 cases of the 412 documented by the OHCHR), was members of Neighborhood Action Committees, another state legislated and coordinated mechanism of social organization and political participation that functions across the country towards the “defense of human rights” (Human Rights Watch, 2021; Somos Defensores, 2019).⁷⁹ While this Human Rights Watch report using OHCHR data only documents 10 cases of “Victims’ Rights Activists,” interviews with leaders, as well as other reports, evidence the systematic targeting and killing of these activists. Indeed, given that positions on Victims’ Mesas are elected to specific terms of service and often overlap with other leadership roles, there is a lack of information and general undercounting of the murder of these representatives.⁸⁰ Yet, by all accounts, those involved in transitional justice in general, and in the implementation of the Peace Accord in particular, have paid heavily for their activism. Over half of the murders occurred in areas with Territorial Development Programs, initiatives created by the government addressing the requirements of Rural Reform and Reparation in the Peace Accords (Human Rights Watch, 2020,

⁷⁹ The Neighborhood Action Committees (*Juntas de Action Comunal*) have a long international history originating in the anti-colonial struggles of the mid twentieth century. They emerged in Colombia in the ashes of La Violencia to address the lack of state presence and effective governance in rural areas following the civil war. They were first supported by the Colombian state in 1958 with Law 19, and have more recently been revived and re-invested in through Law 743 of 2002 and Decree 2350 of 2003 (Somos Defensores, 2019). Many of my interviewees have also served on these committees.

⁸⁰ Many prominent cases though have been documented. To give just two examples, I note the murders of Jonny Castro, who served on a municipal Victim’s Mesa in the department of Nariño, and of Jorge Solano of the municipal Victim’s Mesa of Ocaña en North Santander, both killed in November of 2020 (Radio Nacional, 2020) (Unidad de Victimas, 2020). Indeed, this chapter could easily be filled with the names of past representatives of Mesas who were murdered for their work.

p. 27).⁸¹ Municipalities with active or planned programs of coca substitution are also disproportionately represented by cases of murdered leaders. In general, rural areas, particularly those with the presence of armed groups and with active illegal economies account for the great majority of assassinations (Human Rights Watch, 2020; Indepaz, 2021; Somos Defensores, 2020). Also over represented are areas that were formally occupied by FARC guerrilla forces that have since demobilized.

All of this is to say, that it is precisely those areas most of concern to transitional justice programs, those upon which the success of these efforts depends on leadership from and collaboration with local communities, that are seeing the greatest number of targeted killings with the intention to silence dissent, suppress organizing, and minimize political participation. The deaths, of course, represent only a fraction of violent acts conducted by armed groups meant to scare civil society into compliance, and these acts are increasing in scale. In 2020 alone, the Ombudsman office registered 972 violent acts against social leaders and human rights defenders of which 182 were assassinations, another 51 were attempted assassinations and 607 were serious threats. Other acts included kidnapping, arbitrary detention, forced displacement, and other unnamed acts (González Gaitán, 2020).

⁸¹ PDET: Programas de Desarrollo con Enfoque Territorial

State Response

In contrast to killings in decades past, this most recent surge in the murder of Colombian leaders has not been ignored by the national and international press, foreign states, or international human rights organizations or NGOs. Indeed, the ever-growing array of transitional justice frameworks and the push towards diplomatic ends of the civil war, have come in large part from the efforts of Colombian social movements and international pressure. Yet, much like the structures of participation available to the Colombian citizenry and the transitional justice programs in place, the state's response to the systematic murder of leaders has been both overly complex, fragmented, and ultimately ineffectual.

The 2021 Human Rights Watch report, entitled "Left Undefended," outlined fifteen different mechanisms and committees created by the government to address the murders and protect leaders, the majority of which were created under the Duque administration. They conclude that these programs have been ineffectual for a variety of reasons, including inadequate implementation, lack of funding, tepid official participation, or untimely programming and responses. Often the announced programs are far reaching and broad in scope only to be severely limited geographically or in actual planning and implementation. The large number of programs create confusion, a duplication of efforts, and contribute to poor coordination between agencies, who are often unaware of each other's work.

There are transitional justice committees, security committees, prevention subcommittees, sessions of the Inter-Agency Commission for Rapid Response to Early Warnings, meetings of the Program of Early Action.... We talk a lot but implement little,” an official from the Human Rights Ombudsperson’s Office told Human Rights Watch. (Human Rights Watch, 2021, p. 68)

Social leaders are left to figure out what mechanism or committee might best serve their needs, often in moments of great distress following threats, assassination attempts, and acts of forced displacement. Local communities often lack trust in these mechanisms and not only due to their obtuse complexity and ineffectiveness. The Duque administration, in particular, has contributed to this suspicion by failing to call to order committees or hold scheduled meetings regarding mechanisms to address the murders. They have appointed officials who are seen as oppositional to the peace process and are unreliable in their posts. For example, in 2019, Duque appointed General Leonardo Barrero as director of the Timely Action Plan for Prevention and the Protection of Human Rights Defenders, Community and Social Leaders and Journalists (PAO) despite his publicly acknowledged involvement in covering up extrajudicial executions committed by the military and then seeking to interfere with ongoing investigations (Human Rights Watch, 2021).

Also egregious has been the continual denial of the murders. The Minister of Defense, Guillermo Botero, from 2018 to 2019, stated that in regards to social protest, “detrás de eso siempre hay mafias organizadas. ¡Pero mafias de verdad, mafias supranacionales!” (Verdad Abierta, 2018, para. 1).⁸² His predecessor, Luis Carlos Villegas, also appointed by President Duque, stated, to national and international infamy, that “La inmensa mayoría de muertes de líderes sociales se deben a peleas de vecinos, faldas y por rentas ilícitas” (Verdad Abierta, 2018, para. 2).⁸³ While these statements in no way represent the entirety of the Colombian state, they do represent a particular approach to political dissent and social movements that has long been held by sectors of the government and business elite: that all resistance to their interests represents a form of unacceptable subversion, an internal enemy.⁸⁴ This concept serves to mark, stigmatize, and judge any Colombian. The communist, the leftist, the social leader, the defender of human rights, the labor organizer, the student, he who has nothing to lose because of their condition of poverty, is labeled an internal enemy and an enemy must be pursued and eliminated (Torres Vásquez, et al., 2020).⁸⁵

The parallels in the dysfunction of mechanisms of protection for social leaders and human rights defenders with those for political participation,

⁸² Behind all that there are always organized mafias. Real mafias, international mafias!

⁸³ The vast majority of the deaths of social leaders are due to fights between neighbors, due to sexual jealousy and illegal activities.

⁸⁴ Indeed, they were denounced by other state official and institutions at the time.

⁸⁵ My translation.

particularly concerning victims' mesas and peace processes, are not simply notable. In essence, they are the same failures occurring in the implementation of transitional justice. Rural reform, land restitution, reparation, processes of truth and justice all rely on robust and safe participation by those left most vulnerable by the armed conflict. Victimized survivors must be able to name their experiences, gather and organize with others, and claim what is due to them through effective participation as outlined in the Peace Accord. The complex, fractured and ambivalent stance of the state, in regards to the protection of social leaders and defenders of human rights are a part of a larger failure in the implementation of transitional justice.

The Political Economy of War and Peace

This new genocide of social leaders has another recent historical analog in Colombia's history of violence - the targeted assassination of members of Union Patriótica (UP) in the 1990s (Centro Nacional de Memoria Histórica, 2018; Karl, 2019). The UP was a political party formed a decade earlier through three ultimately failed peace processes involving the FARC. Despite the collapse of these efforts to negotiate a lasting peace, the UP emerged as an "alternative path," offering Colombians a viable third party in opposition to the traditional Liberal and Conservative parties dominated respectively by urban and rural elites (Centro Nacional de Memoria Histórica, 2018). This non-violent political party won unprecedented victories for the Colombian left but its movement was eroded and

ultimately ended through the murder of over four thousand of its members by the Armed Forces of Colombia and allied paramilitary groups (Centro Nacional de Memoria Histórica, 2018). This systematic killing served to escalate the civil war, driving many former guerrilla soldiers back into the armed conflict. At stake, for political elites and capitalist forces, was the balance of power in Colombia. In the face of mass social mobilization and an emergent non-violent political force, violence was dispersed from key sites of conflict between armed groups, coming to inhabit an ever-increasing portion of the Colombian landscape.

The paramilitary forces behind many of the murders of the UP found financial and political support, including through legal avenues, in the 1990s. With the official and unofficial support of the state, they extended their actions in a territorial struggle for control of land. Deals were made with narco-trafficking cartels to secure land for coca production. National and multinational agricultural corporations supported their war on local communities in a scarcely hidden bid to expand their own territorial holdings. Various forms of mining including gold and coal, as well as petroleum and coal extraction depended on the terrorization of campesino, Indigenous, and Afro-Colombian communities to gain access to remote areas. Even large multi-national development projects building mega dams and commercial ports exercised their interests through paramilitary violence. In the last and first decade of the twentieth century, their mass and brutal campaign of violence, dwarfed the numbers of human rights violations attributed to other armed groups including the Armed Forces of Colombia and the various guerrilla

organizations. Through massacres, rape, torture, dismemberment, forced disappearance, and targeted assassination, paramilitary violence drove mass displacement, making Colombia the country with the greatest number of internally displaced people. This violence existed alongside and in response to a history of social mobilization and legal reform that created ever greater opportunities for claims to land and resources.

The Uribe-backed demobilization of the AUC, the largest paramilitary umbrella organization, introduced new frameworks for transitional justice, including the introduction of the legal category for victims and entitlement to specific rights. Yet, it did little to stem paramilitary violence, instead fracturing their organization and providing new opportunities for mergers and collaborations with narco-trafficking cartels. It was not until the signing of the Peace Accord with the FARC in 2016, followed by the agreed to demobilization of the great majority of active guerrilla soldiers, that Colombia has had a significant lull in the number of massacres, newly forcibly displaced persons, and total number of deaths due to the armed conflict. Since the signing of the Peace Accord, mass displacement has lost priority as the main strategy of economic development. National and international attention was instead on transitional justice in Colombia. Claims to land restitution by victims of forced displacement and petitions for the granting of communal territories of Afro-Colombian and Indigenous communities increased. New numbers of victimized survivors of the armed conflict came out of the shadows to register themselves as victims, claim

restitution and reparation, participate in promised development projects, and seek justice. Their bravery, encouraged by promises of safety, rights, and transformation by the state, has been met with a new wave of violence. The systematic killing of human rights defenders and social leaders outlined above threatens to unravel the gains made by the Peace Process, plunging the country back into unrestrained violence. In 2020, the UN documented 66 massacres in Colombia, resulting in the deaths of 255 persons (UN News, 2020). Urabá, Bajo Cauca, el Chocó, among other regions have seen armed conflict between the military, paramilitary, guerrilla, and narco-cartels resume, to the terror of local communities. “Colombia has never had a state of post-conflict, we can only talk about a state of post-agreement” (Antioquia’s Departmental Mesa Representative, April 7, 2018). And yet, the state of the Accord and its implementation, some four and a half years later, is still not guaranteed.

State of the Peace Accord

The Kroc Institute released an official report in August of 2020 documenting the state of the implementation of the 2016 Peace Accord. It offers a point-by-point analysis, revealing the failures of the Colombian state to secure peace and pursue meaningful transitional justice. Below I summarize the findings of the report relevant to this dissertation beginning with Point 1 on Rural Reform.

Four years in, about half of the PDET (Territorial Development Plans) and PATR (Action Plans for Regional Development) have been written, though no

meaningful progress has been made towards their implementation (Kroc, 2020). The Peace Accord also provided a framework for the distribution of over 12 million hectares in 12 years to landless farmers as well as Indigenous and Afro-Colombian communities. While 30% of this land has been secured in a land trust, no land has yet to be granted (Kroc, 2020). This not only represents a lack of concrete progress towards rural reform, but must be considered against the fact that 98% of murders of social leaders have occurred in municipalities marked for such efforts (Human Rights Watch, 2021). Areas marked for programs for the substitution of illegal crops under Point 4 for the Peace Accord also contain a disproportionate number of social leaders murdered. The Kroc Institute (2020) report documents that only 6% of these programs have been implemented.

In regards to Point 2 on Political Participation, a key part of the Accord, and the main focus of this dissertation, the Kroc Institute found that the government had initiated less than half of the programs stipulated in the accord. Of these, no major legislation required to implement participation has passed in the Colombian congress. These failed projects included the Special Transitory Peace Voting Districts, which would have created 16 special seats in the House of Representatives for representatives of victims' organizations (Kroc, 2020). The report also notes the failure of the state to provide adequate technical or financial support for the proper functioning of national and territorial peace councils (Kroc, 2020).

Without doubt, the most successful part of the Peace Accord, occurred under point 3, addressing the “end of the conflict.” The UNHCR recognized the demobilization of 13,202 FARC combatants by 2019 of which 12,940 participated in state reincorporation programs (Kroc, 2020). These persons represent the vast majority of FARC forces, effectively ending the existence of a national FARC guerrilla force. Yet the promises made to these ex-combatants have yet to be fulfilled with just under half of programs for land access and development projects directed towards their well-being having been completed. More worrisome, and in line with the larger issues outlined in this dissertation, safety for their participation has not been secured. Since the time of their demobilization to the end of 2020, 244 ex-FARC combatants have been murdered according to the UN verification mission (UN News, 2020).

Point 5, concerning the Victims of the armed conflict, has seen mixed results. This includes the creation of the Comprehensive System for Truth, Justice, Reparation and Non-Recurrence (SIVJRNR) and of 22 Casas de la Verdad across the country offering education on human rights and taking testimony of victims of the armed conflict (Kroc, 2020). Cases prosecuting perpetrators of human rights violations are ongoing, though without the investigation or prosecution of third party intellectual authors of the acts. This makes the addressing of the underlying causes of the human rights violations impossible, and does nothing to transform the conditions that perpetrate violence today. Notably, no programs related to the

guarantee of non-repetition under this Point have been completed, and those that have commenced are deemed minimal (Kroc, 2020).

Questions of Ambivalence

This report, of course, only confirms what leaders, including those I've interviewed, have been saying about the failures of the implementation of the accord. They say that much has been proposed, though little has been done. Those efforts are often confusing and contradictory. That they are holding up their end of the deal, to talk to their community, to organize, to document, to propose, and to plan. They give testimony, not only to the crime to which they were subjected, but to the conditions of their lives that create the context for the armed conflict.

Almost always this comes at great risk and cost. They sometimes become marked as troublemakers, as leftists, as guerrilla sympathizers or collaborators. They come under the watch of armed groups, tracked for their activities and the threat it represents to their interests. Often, the outcome is worse, another headline, another statistic; more meaningfully, another absence in the community, another family member missing, grieved. And yet, for others, another reason to step up, to speak out, to organize, and to participate.

The state, on the other hand, risks little and gains much. Talks are initiated, committees are formed, plans are sometimes drafted, but the real work of financing and implementing community development programs has yet to begin. At the state's behest, coca farmers have enrolled in programs for the substitution

of their crops, but rather than receiving the technical and material support needed to transition their farms, they are subject to ongoing state fumigations and left to defend themselves against the violence of cartels.⁸⁶ Victims' rights leaders are made to gather for workshops, trainings, and photo ops. Through this participation they become another kind of number, a tally of projects initiated, efforts underway, proof of the good use of international funding and of the good will of the Colombian state.

These processes, of course, are necessary for participatory transitional justice. For TJ to strive to be bottom up, to incorporate the voices of victims, to take seriously the realities on the ground, vulnerable people must participate. They witness, they organize, they document, they plan, and they work. Of course, this labor has always been present and does not depend on the state, or on international bodies, or on law. Indeed, social movements in Colombia not only preceded the creation of transitional justice frameworks, they called them into being and gave them shape through mass mobilization, protest, and political pressure.

Through participation, the Colombian state and its most powerful stakeholders have found a way to channel civil society energy into a Kafkaesque maze of bureaucratic procedure. Commissions are made, at times convened and at other times not. Methodology is drafted. Timelines are set, then extended, only to

⁸⁶ Yet another example of how, time and time again, a state institution beings work in good faith only to have their actions undermined and contradicted by another.

be extended again or indeterminately postponed. Officials join and civil society groups are asked to participate. Or sometimes not. In particularly successful commissions, plans are drafted and circulated but then rarely implemented. Implementation itself, when initiated, is partial, scattered, underfunded and insufficient. This is the story of participation in Colombian governance. Since the beginning of the implementation of national transitional justice programs such as the Peace and Justice, the 2011 Victims' law, and the 2016 Peace Accords, it may be said that this story is being echoed, channeling energy, effort, and resources into bureaucracy that allows for long lists of efforts underway and actions taken but does little to change either the conditions of violence that permeate the everyday or the political economy that underlies this violence.

Through the last few chapters, I have attempted to not only present a sense of what participation in transitional justice in Colombia looks like, how it is structured, and how it is experienced by some community and victims' representatives, but to highlight a thread of internal conflict I am naming ambivalence. These simultaneous and contradictory experiences, structures, bureaucracies, positions, and goals in relation to transitional justice run through state institutions, officials, civil society, social movements, and participants themselves. Indeed, how does one understand rule of law in the context of a conflicted democracy, let alone in the context of efforts towards transitional

justice through an ongoing conflict?⁸⁷ While the application of law is always uneven, more so in countries with high levels of social inequality and social division, Colombia is remarkable in the gap between the letter of human rights and transitional justice law and its application. Political participation by civil society, and most importantly, by victimized-survivors, has helped propel the creation of a dense tapestry of legal structures for truth, justice, and social transformation. Yet, the interests of national and international capital and political elites, funneled through majoritarian discourse, produce the conditions for the vitiation of these legal frameworks, and an ongoing state of violence and exploitation.

Critical scholarship has addressed these tensions within the larger field of human rights, naming fundamental ambivalences in the formulation of rights based discourse and its application. When Rancière asks, “Who is the subject of human rights?”, concluding that it cannot be an essential universal figure such as “Man” or “Citizen,” but rather that these are political categories that are contested and under continual recreation, I am drawn to reflect on a more particular question: Who is the victim as subject of rights in Colombian transitional justice? (Golder, 2015, p. 90). Indeed, individuals, scholars, social movements, and now Colombian law, has redefined this subject countless times, with consequential effects in terms of organizing, politics, policy, and jurisprudence. The subject of

⁸⁷ If rule of law assumes the equal application of law across the body politic, then the notion of a conflicted democracy itself acknowledges the failure to meet this standard.

rights, a victim of the Colombian civil war, or otherwise, is inherently in an ambivalent position. To seek to ground the category in a concept of humanity, or conversely through a reductive binary of perpetrator and victim, is inherently and unavoidably exclusionary. As we ask, What is left behind in the defining of the human, historically, and in our present?, so must we ask, What is at stake in our conception of the victim, and who does it leave out? Conversely, we must see the potential of the mutability of these categories. Who may emerge as a subject to claim rights? How can such an emergence fundamentally alter rights discourse, and the structures through which claims are made and addressed?

Additionally, we must, as scholars of transitional justice, take seriously the Foucauldian questions of subject formation. In claiming rights as victims, how are the subjects of participation produced? What logics, particularly those of counter-insurgency and capitalism, inform this production? Who once again is left out? What effect does participation, made available to such subjects, have on the larger politics of, for example, social movements? These questions in turn must also be asked of the state and its strategies of governance. If the state sees peace and development through essentially capitalist, extractivist, and neoliberal forms, what forms of participation are left to those critical of how these very values produce and reproduce armed conflict and mass violence?

The research presented in this dissertation does not answer these questions, though they have informed my inquiry. Instead, my hope is that by

offering a perspective on the structures of participation in transitional justice in Colombia, and focusing on the experiences of victimized-survivors of the armed conflict and victim's representatives in such participation, I have contributed to a conversation with others willing to address difficult questions. By focusing on the ambivalent nature of transitional justice, in the history of Colombia and past accords, in the posture and efforts of the state, and most importantly by listening to the perspectives and experiences of participants, I hope to belie both the hopeful optimism that sees the work of peace and justice in Colombia as complete and the deterministic pessimism that nothing can ever change. On the contrary, the state of violence and the work of peace and justice in Colombia is always in flux, subject to the political pressures that we all collectively place on it. This is our responsibility.

REFERENCES

- Amnesty International. (2014). *A land title is not enough: Ensuring sustainable land restitution in Colombia*. www.amnesty.nl/sites/default/files/publicland_restiution_eng.pdf
- Alcalá, P. R., & Uribe, M. V. (2016). Constructing memory amidst war: The Historical Memory Group of Colombia. *International Journal of Transitional Justice*, 10(1), 6-24.
- Alsema, A. (2019, May 22). *Parapolitics scandal*. Colombia Reports. <http://colombiareports.com/parapolitics/>
- Alsema, A. (2019, September 8). *Colombia had more than 39,000 terrorism support cases in 2015. Only 4,800 suspects are left*. Colombia Reports. <https://colombiareports.com/colombia-had-more-than-39000-terrorism-support-cases-in-2015-only-4800-suspects-are-left/>
- Alston, P. (2009). *Report of the Special Rapporteur on extrajudicial, summary or arbitrary executions: Mission to Colombia*. United Nations Office of the High Commissioner for Human Rights. <https://www.ohchr.org/en/issues/executions/pages/srexecutionsindex.aspx>
- Aoláin N., & Campbell, C. (2005). The Paradox of transition in conflicted democracies. *Human Rights Quarterly*, 27, 172–213. <https://www.jstor.org/stable/20069783>

Bergquist, C. W., Peñaranda, R., & Sánchez, G. G. (2001). *Violence in Colombia, 1990-2000: Waging war and negotiating peace*. SR Books.

Brodzinsky, S., Schoening, M., & Betancourt, I. (2012). *Throwing stones at the moon: Narratives from Colombians displaced by violence*. McSweeney's Books.

Bowen, G. A. (2009). Document analysis as a qualitative research method. *Qualitative Research Journal*, 9(2), 27-40.

<https://doi.org/10.3316/QRJ0902027>

Brown, W. (2017). *Undoing the demos: Neoliberalism's stealth revolution*. Zone Books.

Shenk, T. (2017, April 2). *Booked #3: What exactly is neoliberalism?*.

Dissent. [https://www.dissentmagazine.org/blog/booked-3-](https://www.dissentmagazine.org/blog/booked-3-what-exactly-is-neoliberalism-wendy-brown-undoing-the-demos)

[what-exactly-is-neoliberalism-wendy-brown-undoing-the-demos](https://www.dissentmagazine.org/blog/booked-3-what-exactly-is-neoliberalism-wendy-brown-undoing-the-demos)

Cuéllar, A. (2017). *La ilusión de la justicia transicional: Perspectivas críticas desde América Latina y Sudáfrica*. Universidad de los Andes, Colombia.

González Gaitán, J. A. (2020, February 19). *En 2020, 182 líderes y defensores de DDHH fueron asesinados: Defensoría*. Caracol Radio.

https://caracol.com.co/radio/2021/02/19/judicial1613774650_835058.html

- Centro Nacional de Memoria Histórica. (2012). *Justicia y paz ¿Verdad judicial o verdad histórica?* <http://www.centrodememoriahistorica.gov.co/justicia-y-paz>
- Centro Nacional de Memoria Histórica. (2014). *Justicia y paz: Tierra y territorios en las versiones de los paramilitares*. http://www.centrodememoriahistorica.gov.co/descargas/informes2012/justicia_tierras.pdf
- Centro Nacional de Memoria Histórica. (2015) *Aniquilar la diferencia: Lesbianas, gays, bisexuales y transgeneristas en el marco del conflicto armado colombiano*. <http://www.centrodememoriahistorica.gov.co/descargas/informes2015/aniquilar-la-diferencia/aniquilar-la-diferencia.pdf>
- Centro Nacional de Memoria Histórica (2016). *BASTA YA! Colombia: Memories of war and dignity*. <http://centrodememoriahistorica.gov.co/descargas/informes2016/basta-ya-ingles/BASTA-YA-ingles.pdf>
- Centro Nacional de Memoria Histórica (2017). *La guerra inscrita en el cuerpo: Informe nacional sobre violencia sexual en el conflicto armado*. <http://www.centrodememoriahistorica.gov.co/informes/informes-2017/la-guerra-inscrita-en-el-cuerpo>
- Centro Nacional de Memoria Histórica (2018). *Todo pasó frente a nuestros ojos: El genocidio de la Unión Patriótica 1984-2002*. Bogotá. <https://>

centrodememoriahistorica.gov.co/wp-content/uploads/2020/10/Todo-paso-frente-a-nuestros.pdf

Céspedes-Báez, L. (2012). Colombia's victims law and the liability of corporations for human rights violations. *Estudios Socio-Jurídicos*, 14(1), 177-213.

Chari, S., & Donner, H. (2010). Ethnographies of activism: A critical introduction. *Cultural Dynamics*, 22(2), 75–85.

<https://doi.org/10.1177/0921374010380887>

Chatterji, A. P., Buluswar, S., Kaur, M., Das, V., & Pillay, N. (2016). *Conflicted democracies and gendered violence: The right to heal, internal conflict and social upheaval in India*. Zubaan Books.

Cotoi, C. (2011). Neoliberalism: A Foucauldian perspective. *International Review of Social Research*, 1(2), 109–124.

Departamento Administrativo Nacional de Estadística (2011), *La visibilización estadística de los grupos étnicos colombianos*. http://www.dane.gov.co/files/censo2005/etnia/sys/visibilidad_estadistica_etnicos

Daly, E. (2002). Transformative justice: Charting a path to reconciliation. *International Legal Perspectives*. 12(1-2), 73–183.

Derrida, J., & Kamuf, P. (2002). *Without alibi*. Stanford University Press.

- El Tiempo. (2017, April 26). “Gran mayoría de entidades públicas están en alto riesgo de corrupción”. El Tiempo. <http://www.eltiempo.com/politica/partidos-politicos/informe-de-2017-de-transparencia-por-colombia-sobre-la-corrupcion-81676>
- Finucane, B. (2010). Enforced disappearance as a crime under international law: A neglected origin in the laws of war. *Yale Journal of International Law*, 35(1). 171-195. <https://digitalcommons.law.yale.edu/yjil/vol35/iss1/5>
- Foucault, M. (2003). *Society must be defended: Lectures at the Collège de France, 1975-76*. Picador.
- Foucault, M. (2007). *Security, territory, population: Lectures at the Collège de France, 1977-78*. Palgrave Macmillan.
- Foucault, M. (2008). *The birth of biopolitics: Lectures at the Collège de France, 1978-79*. Palgrave Macmillan.
- Foucault, M. (2012). *Language, counter-memory, practice: Selected essays and interviews*. Cornell University Press.
- Franco Restrepo, V. L. (2009). *Orden contrainsurgente y dominación*. Siglo del Hombre Editores.

- Gillen, J. (2013, September 22). *State, 'paramilitaries' responsible for most of Colombia's human rights violations*. Colombia Reports.
<http://colombiareports.com/state-paramilitaries-humanrights-violations/>
- Gillen, J. (2015, January 7). *Understanding the causes of Colombia's conflict: Inequality*. Colombia Reports. <https://colombiareports.com/understanding-colombias-conflict-inequality/>
- Golder, B. (2015). *Foucault and the politics of rights*. Stanford University Press.
- Guevara, C. & Sánchez, D. (2017) *¡Agúzate! Que nos están matando*. Programa Somos Defensores. <https://somosdefensores.org/images/informe-semestral-enero-junio-2017-SIADDHH.pdf>
- Hale, C. A. (2008). *Engaging contradictions: Theory, politics, and methods of activist scholarship*. University of California Press.
- Hilton, A. L. (2011). Introduction: Towards an Anthropology of Transitional Justice. In A. L. Hilton (Ed.). *Transitional justice: Global mechanisms and local realities after genocide and mass violence* (pp. 1 - 14). Rutgers University Press.
- Human Rights Watch. (2001). *The "sixth division": Military-paramilitary ties and U.S. Policy in Colombia*. <https://www.hrw.org/reports/2001/colombia/>

- Human Rights Watch. (2013). *The risk of returning home: Violence and threats against displaced people reclaiming land in Colombia*.
<https://www.hrw.org/report/2013/09/17/risk-returning-home/violence-and-threats-against-displaced-people-reclaiming-land>
- Human Rights Watch. (2014). *World report 2014: Colombia*.
<https://www.hrw.org/world-report/2014/country-chapters/colombia>
- Human Rights Watch. (2015). *World report 2015: Colombia*.
<https://www.hrw.org/world-report/2015/country-chapters/colombia>
- Human Rights Watch. (2021). *Left undefended: Killings of rights defenders in Colombia's remote communities*. <https://www.hrw.org/report/2021/02/10/left-undefended/killings-rights-defenders-colombias-remote-communities>
- International Center for Transitional Justice. (2015). *Estudio sobre la implementación del programa de reparación individual en Colombia*.
<https://www.ictj.org/es/publication/estudio-programa-reparacion-individual-colombia>
- Indepaz (2020). *Informe Especial: Registro de líderes y personas defensoras de DDHH asesinadas*. Indepaz. <http://www.indepaz.org.co/wp-content/uploads/2020/07/Informe-Especial-Asesinato-lideres-sociales-Nov2016-Jul2020-Indepaz.pdf>

Kirsch, S. (2018). *Engaged anthropology: Politics beyond the text*. University of California Press.

KROC (2017). *Informe sobre el estado efectivo de implementación del acuerdo de oaz en Colombia*. KROC Institute.
https://kroc.nd.edu/assets/257593/informe_kroc.pdf

KROC (2020). *Point by Point: The Status of peace agreement implementation in Colombia three years after the signing of the Final Agreement in Colombia*. KROC Institute. <http://peaceaccords.nd.edu/wp-content/uploads/2020/09/Report-4-Point-by-Point.pdf>

Ley 1448. (2011). http://www.secretariasenado.gov.co/senado/basedoc/ley_1448_2011.html

Leech, G. (2011). *The FARC: The longest insurgency*. Zed Books.

Martínez Sánchez, W. A. (2016). *La extinción de dominio en el posconflicto colombiano: Lecciones aprendidas de Justicia y Paz*. Oficina de las Naciones Unidas contra la Droga y el Delito.
https://www.unodc.org/documents/colombia/2017MarzoLa_extincion_de_dominio_en_el_posconflicto_colombiano_2016.pdf

McEvoy, K., & McGregor, L. (2008). *Transitional justice from below: Grassroots activism and the struggle for change*. Hart Publishers.

- Mibenge, C. S. (2013). *Sex and international tribunals: The erasure of gender from the war narrative*. University of Pennsylvania Press.
- Mohanty, C. T. (1988). Under western eyes: Feminist scholarship and colonial discourses. *Feminist Review*, (30), 61–88. <http://doi.org/10.2307/1395054>
- Molano, A. B. (2015). Fragmentos de la historia del conflicto armado (1920-2010). *Espacio Critico*. <http://corteidh.or.cr/tablas/33246.pdf>
- Paschel, T. S. (2016). *Becoming Black political subjects: Movements and ethno-racial rights in Colombia and Brazil*. Princeton University Press.
- Palacios, M. (2006). *Between legitimacy and violence: a history of Colombia, 1875-2002*. Duke University Press.
- Pérez, J. & Valenzuela, S. (2017). *Infografía: La justicia no avanza mucho en casos de líderes asesinados. ¡Pacifista!*.
<http://pacifista.co/infografía-avance-justicia-lideres-asesinados-jose-jair-cortes-tumaco/>
- Radio Nacional. (2020). Asesinado representante de la Mesa de Víctimas en Linares, Nariño. <https://www.radionacional.co/noticia/regiones/asesinado-representante-de-la-mesa-de-victimas-linares-narino>
- Restrepo, E. (2004). Biopolítica y Alteridad: dilemas de la Etnización de las Colombias Negras. In E. Restrepo, & A. Rojas (Eds.), *Conflicto e*

(in)visibilidad: Retos en los estudios de la gente negra en Colombia (pp. 271 - 300). Editorial Universidad del Cauca.

Restrepo, E. (2011). Modernidad y diferencia. *Tabula Rasa*, (14), 125-154.
<http://www.scielo.org.co/pdf/tara/n14/n14a06.pdf>

Rowen, J. R. (2016). “We don’t believe in transitional justice:” Peace and the politics of legal ideas in Colombia. *Law & Social Inquiry*, 42(3), 622-647. <https://doi.org/10.1111/lsi.12262>

Rúa Delgado, C. (2015). Los momentos de la justicia transicional en Colombia. *Revista De Derecho*, (43). <http://rcientificas.uninorte.edu.co/index.php/derecho/article/view/6270/6745>

Saffron, M.P. & Uprimny, R. (2007). *Uses and abuses of transitional justice in Colombia*. DeJusticia. https://www.dejusticia.org/wp-content/uploads/2017/04/fi_name_recurso_59.pdf

Sánchez Gómez, O. A. (2008). *Las violencias contra las mujeres en una sociedad en guerra*. Ruta Pacifica. <http://www.rutapacifica.org.co/descargas/publicaciones/lasviolencias.pdf>

Sandvik, K. B., & Lemaitre, J. (2015). From IDPs to victims in Colombia: a Bottom-up reading of law in post-conflict transitions. In M. Saul, & J. A. Sweeney (Eds.) *International Law and Post-Conflict Reconstruction Policy* (pp. 251-271). Routledge.

- Santos, J. M. (2012). *Ley de Víctimas y Restitución de Tierras y Decretos Reglamentarios*. Ministerio del Interior. <http://portalterritorial.gov.co/apcafiles/40743db9e8588852c19cb285e420affe/ley-de-victimas-1448-y-decretos.pdf>
- Segura, R., & Mechoulam, D. (2017). *Made in Havana: How Colombia and the FARC decided to end the war*. International Peace Institute. <https://www.ipinst.org/wp-content/uploads/2017/02/IPI-Rpt-Made-in-Havana.pdf>
- Semper, F. (2006). Los derechos de los pueblos indígenas de Colombia en la jurisprudencia de la Corte Constitucional. *Anuario de Derecho Constitucional Latinoamericano*. 761-778. Fundación Konrad-Adenauer. http://www.kas.de/wf/doc/kas_5587-1442-4-30.pdf?120116182857
- Shaw, R., Waldorf, L., & Hazan, P. (2010). *Localizing transitional justice: Interventions and priorities after mass violence*. Stanford University Press.
- Somos Defensores. (2019). *Entre la Paz y la Guerra: Agresiones contra líderes y lideresas comunales en Colombia*. https://somosdefensores.org/wp-content/uploads/2019/09/Informe-comunales_final.pdf
- Stringer, R. (2014). *Knowing victims: Feminism, agency and victim Politics in neoliberal Times*. Routledge.

- Summers, N. (2012). Colombia's victims law: Transitional justice in a time of violent conflict? *Harvard Human Rights Journal*, 25, 219-237.
- Tate, W. (2007). *Counting the Dead: The culture and politics of human rights activism in Colombia*. University of California Press.
- Tate, W. (2015). *Drugs, Thugs, and Diplomats: U.S. policymaking in Colombia*. Stanford University Press.
- Teitel, R. G. (2000). *Transitional justice*. Oxford University Press.
- Teitel, R. G. (2003). Transitional justice genealogy. *Harvard Human Rights Journal*, 16, 69-94.
- Torres, M.P. (2017, October 27). *ELN*. InSight Crime.
<https://www.insightcrime.org/colombia-organized-crime-news/eln-profile/>
- Torres Vásquez, H., Huertas Días, O., & Ruíz Gómez, G. I. (2020). Homicidios en persona protegida: ¿Una forma de terrorismo de estado democrático en Colombia?. *Utopía Y Praxis Latinoamericana*, 25(1), 165-182. <https://produccioncientificaluz.org/index.php/utopia/article/view/34167>
- Troyan, B. (2015). *Cauca's Indigenous movement in Southwestern Colombia: Land, violence, and ethnic identity*. Lexington Books.

- Tuhiwai, S. P. (2021). *Decolonizing methodologies: Research and Indigenous peoples*. Zed Books.
- United Nations General Assembly. (1978). *Resolution 33/173 Disappeared Persons*. <http://www.un.org/documents/ga/res/33/ares33r173.pdf>
- United Nations General Assembly. (1998). *Rome statute of the International Criminal Court*. <http://www.refworld.org/docid/3ae6b3a84.html>
- United Nations Human Rights Council. (2016). *The global report 2016*. <http://reporting.unhcr.org/sites/default/files/gr2016/pdf>
[Book_GR_2016_ENGLISH_complete.pdf](http://reporting.unhcr.org/sites/default/files/gr2016/pdf)
- United Nations Mission in Colombia. (2017). *The UN mission finalizes activities of neutralization of the FARC-EP Armament*. from <https://unmc.unmissions.org/en/un-mission-finalizes-activities-neutralization-farc-ep-armament>
- UN News. (2020, December 15). *UN documents 375 killings in Colombia in 2020, urges Government action*. <https://news.un.org/en/story/2020/12/1080082>
- Unidad de Víctimas. (2019). *El último disparo*. <https://www.unidadvictimas.gov.co/es/historias-de-vida/el-ultimo-disparo/45607>

- Unidad de Víctimas. (2020). *Mesa de Víctimas de Ocaña despide a Jorge Solano*. <https://www.unidadvictimas.gov.co/es/participacion/mesa-de-victimas-de-ocana-despide-jorge-solano/59455>
- van Nievelt, M. A. (2016). Transitional justice in ongoing conflict: Colombia's integrative approach to peace and justice. *Cornell International Affairs Review*, 1(2).
<http://www.inquiriesjournal.com/a?id=1416>
- Verdad Abierta. (2012, June 20). *The roots of the El Naya massacre*.
<https://www.verdadabierta.com/component/content/article/>
- Verdad Abierta. (2018, September 15). *MinDefensa y líderes sociales: de lios de faldas a 'subvenciones' de narcos*.
<https://verdadabierta.com/mindefensa-lideres-sociales-lios-faldas-subvenciones-narcos/4071>
- Zembylas, M. (2016). Foucault and Human Rights: Seeking the Renewal of Human Rights Education. *Journal of Philosophy of Education*, 50(3), 384–397. <https://doi.org/10.1111/1467-9752.12148>

Appendix A

Timeline

MARCH 2018

1st and 2nd weeks: First round of interviews with CEPO team members. Finalize preparation for site visits.

3rd and 4th weeks: Site visits to the municipalities of Dabeiba, Remedios, Anorí, Ituango y Vigía del fuerte.

APRIL 2018

1st and 2nd weeks: Second round of interviews with CEPO team members. Support in compilation, transcription, and translation of CEPO's interviews from site visits.

3rd and 4th weeks: Conduct interviews with members of institutional bodies and social movement leaders. Continue to support in compilation, transcription, and translation of CEPO's interviews from site visits.

Appendix B

Sample Questions for Semi-Structured Interviews

Entrevista con miembros del CEPO *Interviews with CEPO team members*

Fecha: _____

No. _____

Donde naciste? Donde fuiste criado?
Where you born? Where were you raised?

Que estas estudiando/ enseñando en la Universidad de Antioquia?
What are you studying/teaching at the Universidad de Antioquia?

Porque decidiste estudiar/ trabajar en esta disciplina?
Why did you decide to study/ work in this discipline?

Cuales son tus primeros recuerdos del conflicto armado en Colombia, tal vez tus primeros tres recuerdos?
What are your first memories of the armed conflict in Colombia, perhaps your first three memories?

Cual fue la primera vez que oíste tus padres hablar del conflicto?
When did you first hear your parents talk about the conflict?

De lo que has estudiado y de lo que recuerdas, que es el conflicto armado?
From what you have studies and from what you remember, what is this armed conflict?

Que piensas son algunas de las causas del conflicto?
What do you think are some of the causes of the conflict?

Como crees que esta avanzando el Acuerdo de Paz?
How do you think the implementation of the Peace Accord in general is progressing?

Quien son las victimas del conflicto armado?
Who are the victims of the armed conflict?

Cual es el papel de víctimas en el Acuerdo de Paz?
What is the role of victims in the Peace Accord?

Cual es el papel del gobierno en e Acuerdo de Paz?
 What is the role of the government in the Peace Accord?

Que deberes tiene el gobierno a las víctimas del conflicto armado?
 What obligations dos the government have to victims of the the armed conflict?

Piensas que el Acuerdo cumple con normas nacionales y internacionales?
 Do you think the Accord conforms to national and international norms?

Cual es el papel del CEPO en el proceso de paz?
 What is CEPO's role in the peace process?

Como crees que esta avanzando el Acuerdo de Paz en los municipios que vamos a visitar?
 How do you think the implementation of the Peace Accord is progressing in the communities we are visiting?

Como están participando las victimas en la implementación del Acuerdo?
 How are victims participating in the implementation of the Accord?

Que piensas que vas a ver en estas visitas? Como piensa que el Acuerdo de Paz ha afectado la vida en estos municipios?
 What do you think you will see on these visits? How do you think the Peace Accord has affected life in these communities?

Como ves la situación de derechos humanos y seguridad en estos municipios?
 How do you understand the state of human rights and security in these municipalities?

Que piensas que vas a aprender en estas visitas?
 What do you think you will learn on these visits?

Hay algunas preguntas que tu crees son esenciales para las entrevistas que vas hacer in estas visitas?
 Are there any questions that you think are essential for the interviews you will conduct on these visits?

Que entiendes del concepto de Justicia Transicional?
 What do you understand by Transitional Justice?

Este concepto aplica a el Acuerdo de Paz? Aplica a otras leyes de Colombia? Sirve de alguna forma para enfrentar los problemas que ha dejado el conflicto?
 Does this concept apply to the Peace Accord? Does it apply to other Colombian laws? Is it in some way useful to address the problems that the conflict has produced?

Entrevista con Instituciones
Interviews with Institutions

Fecha: _____

No. _____

Cual es tu posición en esta institución?

What is your position within this institution?

De que se trata tu trabajo? Cual son tus tareas cotidianas?

What does your work involve? What are some of your daily tasks?

Porque decidiste tomar esta posición? De hacer este trabajo?

Why did you decide to take this position? To do this work?

Cuales son tus primeros recuerdos de el conflicto armado en Colombia, tal vez tus primeros tres recuerdos?

What are your first memories of the armed conflict in Colombia, perhaps your first three memories?

De lo que has estudiado y de lo que recuerdas, que es el conflicto armado?

From what you have studied and from what you remember, what is this armed conflict?

Que piensas son algunas de las causas del conflicto?

What do you think are some of the causes of the conflict?

Como crees que esta avanzando el Acuerdo de Paz?

How do you think the implementation of the Peace Accord in general is progressing?

Cual es el papel de esta institución en la implementación de el Acuerdo de Paz?

What is the role of this institution in the implementation of the Peace Accord?

De que se trata el monitoreo y verificación de la implementación del Acuerdo de Paz?

What is involved in monitoring and verifying of the implementation of the Peace Accord?

Quienes son las víctimas del conflicto armado?

Who are the victims of the armed conflict?

Cual es el papel de víctimas en el Acuerdo de Paz?

What is the role of victims in the Peace Accord?

Como están participando las victims en la implementación del Acuerdo?

How are victims participating in the implementation of the Accord?

Cual es el papel del gobierno en e Acuerdo de Paz?

What is the role of the government in the Peace Accord?

Que obligaciones tiene el gobierno a las víctimas del conflicto armado?

What obligations dos the government have to victims of the the armed conflict?

Como crees que esta avanzando el Acuerdo de Paz en los municipios mas afectados por el conflicto?

How do you think the implementation of the Peace Accord is progressing in the communities most affected by the conflict?

Como ves la situación de derechos humanos y seguridad en estos municipios?

How do you understand the state of human rights and security in these municipalities?

Que representa la implementación exitosa del Acuerdo de Paz? Como afectaría a la vida en las comunidades afectadas por el conflicto armado?

What does the successful implementation of the Peace Accord represent? What would this look like in communities affected by the armed conflict?

Que entiendes del concepto de Justicia Transicional?

What do you understand by Transitional Justice?

Este concepto aplica a el Acuerdo de Paz? Aplica a otras leyes de Colombia? Sirve de alguna forma para enfrentar los problemas que ha dejado el conflicto?

Does this concept apply to the Peace Accord? Does it apply to other Colombian laws? Is it in some way useful to address the problems that the conflict has produced?

Piensas que el Acuerdo cumple con normas nacionales y internacionales?

Do you think the Accord conforms to national and international norms?