

**ACHIEVING 'TOTAL PEACE' IN COLOMBIA?:
SYNERGIES BETWEEN HUMAN RIGHTS AND DEVELOPMENT**

Kayden McKenzie

George Mason University
M.S. Conflict Analysis and Resolution

University of Malta
M.A. Conflict Resolution and Mediterranean Security

2023



L-Università
ta' Malta

University of Malta Library – Electronic Thesis & Dissertations (ETD) Repository

The copyright of this thesis/dissertation belongs to the author. The author's rights in respect of this work are as defined by the Copyright Act (Chapter 415) of the Laws of Malta or as modified by any successive legislation.

Users may access this full-text thesis/dissertation and can make use of the information contained in accordance with the Copyright Act provided that the author must be properly acknowledged. Further distribution or reproduction in any format is prohibited without the prior permission of the copyright holder.

ABSTRACT

In 2016, the Colombian government and the Revolutionary Armed Forces of Colombia – People’s Army (FARC-EP) signed the historic peace accord after a decades-long armed conflict involving the government, as well as various far-right paramilitary groups and leftist guerrilla groups - the largest of which being FARC-EP. Although FARC-EP and paramilitary groups have laid down arms, other insurgency groups remain, and violence continues, especially in rural areas. Elected in 2022, President Gustavo Petro seeks to extend the peace accord and address the structural elements of the conflict in a strategy he calls ‘total peace.’ To many Colombians, Petro’s victory represents a historic opportunity to achieve social justice, especially since the peace accord has not been fully implemented. In the context of this dialogue of total peace, this dissertation examines how Colombia has historically addressed socioeconomic inequality, rights, and development in its engagement with transitional justice mechanisms and processes to achieve peace. Through a critical analysis of discourse on transitional justice, I find that Colombia has emphasized the need to promote the socioeconomic well-being to achieve peace, while incorporating language that aligns with the understanding of the right to development as an emergent international standard.

ACKNOWLEDGEMENTS

To my former and current colleagues doing amazing human rights and development work in Colombia and around the world: It is because of you that I became inspired to do this research.

To all my professors and mentors over the years: Thank you for encouraging me to continue learning and for keeping me interested and engaged in these important issues.

To my family and friends who supported me in my decision to study across the world in Malta: I feel so lucky to have you.

To my friends, classmates, and professors who made my time Malta so special: I will cherish this experience forever.

TABLE OF CONTENTS

<i>Chapter 1: Introduction</i>	<i>1</i>
1.1: Total Peace.....	1
1.2: Research Question	2
1.3: Transitional Justice.....	3
1.4: Right to Development	6
<i>Chapter 2: Literature Review</i>	<i>9</i>
2.1: Peace, Violence, and Development	10
2.2 Transitional Justice in Colombia	12
2.3: Transitional Justice and Socioeconomic Rights	16
2.4: Transitional Justice and Development.....	20
2.5: The Right to Development and Peace	22
2.6: Application to Research	26
<i>Chapter 3: Methodology</i>	<i>27</i>
3.1: Research Design	27

3.2: Data Collection	28
3.3: Data Analysis	30
3.4: Limitations and Ethics	31
3.5: Significance	31
<i>Chapter 4: Foundations of Transitional Justice in Colombia</i>	33
4.1: Peace Commission	35
4.2: Amnesty Law	37
4.3: Socioeconomic Circumstances and the Right to Development	39
4.4: Colombian Constitution	40
4.5: Regional Human Rights Instruments	44
<i>Chapter 5: Transitional Justice Before Peace</i>	50
5.1: Justice and Peace Law of 2005	52
5.2: Victims and Land Restitution Law of 2011	57
5.3: Negotiations with the FARC-EP	66
<i>Chapter 6: Transitional Justice and Peace with the FARC-EP</i>	70
6.1: The Final Agreement with the FARC-EP	72
6.2: Truth Commission Report	86
<i>Chapter 7: Conclusion</i>	95
<i>Bibliography</i>	98

ACRONYMS AND ABBREVIATIONS

AUC	United Self-Defense Forces of Colombia
CDA	Critical discourse analysis
ESC	economic, social, and cultural
DPTFs	Development Programmes with a Territorial-Based Focus
ECOMÚN	Social Economies of the Common
FARC-EP	Revolutionary Armed Forces of Colombia – People’s Army
ICC	International Criminal Court
ICG	International Crisis Group
ICTJ	International Center for Transitional Justice
JEP	Special Jurisdiction for Peace
JPL	Justice and Peace Law
OAS	Organization of American States
NGO	Non-governmental organization
UN	United Nations
USAID	United States Agency for International Development
USIP	United States Institute of Peace

CHAPTER 1: INTRODUCTION

1.1: Total Peace

In 2016, the Colombian government and the Revolutionary Armed Forces of Colombia – People’s Army (FARC-EP) signed the historic peace accord after a decades-long armed conflict involving the government, as well as various far-right paramilitary groups and leftist guerrilla groups - the largest of which being FARC-EP. Although FARC-EP and paramilitary groups have laid down arms, other insurgency groups remain, and violence continues, especially in rural areas. Elected in 2022, President Gustavo Petro seeks to extend the 2016 peace accord in a strategy known as *paz total*, or total peace,¹ a national dialogue aiming to finally end the armed conflict and overcome the structural elements that have supported it.² The total peace policy begins with the premise that nearly 15 percent of the population subsist under the sway of armed and criminal groups, which yield economic and social control.³ For many Colombians, President Petro’s victory represents a historic opportunity to achieve social justice, especially since the 2016 peace accord was not fully implemented by former President Iván Duque.⁴ Indeed, some argue that the issues of continued poverty, insecurity, and exclusion need to be addressed to

¹ Álvaro Jiménez Millán, “Colombia: Una Nueva Gramática Del Poder,” Nueva Sociedad, 2023.

² Carlos Uribe Ochoa and Beatriz Puyana Mejía, “The Armed Conflict and Peacebuilding in Colombia,” *Law and Safety* 4, no. 87 (2022): 59–68, <https://doi.org/10.32631/pb.2022.4.05>.

³ “Protecting Colombia’s Most Vulnerable on the Road to ‘Total Peace,’” Latin American Report (Brussels: International Crisis Group, 2023).

⁴ “Can Colombia Ever Have ‘Total Peace’?,” *The Economist*, February 8, 2023.

achieve sustainable peace in Colombia.⁵ Recently, there has been a shift in Colombia toward peace-building efforts that address the root causes of conflict such as inequality and lack of democracy.⁶ Development programs aim to address these root causes by improving overall well-being. Investing in communities to ensure basic human rights such as health care, running water, and education can also reduce the number of Colombians joining armed groups out of desperation from a lack of opportunities.⁷

1.2: Research Question

In the context of this shift toward total peace, I am interested in analyzing how Colombia has historically addressed socioeconomic inequality, rights, and development in its engagement with transitional justice. With the understanding that Colombia has turned to transitional justice with the goal of achieving peace, this research question asks how these transitional justice mechanisms and processes have incorporated, reflected, or promoted the right to development or the attention to socioeconomic inequalities. I argue that Colombia's engagement with transitional justice has increasingly emphasized the need to promote the socioeconomic well-being of all Colombians, while incorporating language that aligns with the understanding of the right to development.

I first define what transitional justice is, considering different definitions and understandings to frame my analysis. Then, I provide an overview of the right to development, explaining how it relates to and differs from the more general understandings of human rights and socioeconomic development. I begin the following chapter with an overview of foundational theories in the field of conflict analysis and resolution to frame the rest of the discussion with a reflection on the

⁵ Eleanor Gordon et al., "Power, Poverty and Peacebuilding: The Violence That Sustains Inequalities and Undermines Peace in Colombia," *Conflict, Security & Development* 20, no. 6 (November 1, 2020): 697–721, <https://doi.org/10.1080/14678802.2020.1848119>.

⁶ Associated Press, "Colombia, National Liberation Army Rebels to Restart Peace Talks," VOA, October 5, 2022, <https://www.voanews.com/a/colombia-national-liberation-army-rebels-to-restart-peace-talks-/6776470.html>.

⁷ Richard McColl, "Can Gustavo Petro's Plan for 'Total Peace' With Colombia's Armed Groups Succeed?," *Foreign Policy*, November 8, 2022.

relationship between peace, violence, and development. I then turn to the literature on transitional justice in Colombia, the relationship between transitional justice and both development and socioeconomic inequality, and how the right to development has been understood in different countries and contexts. Upon a review of this literature, I make a case for further exploration of my research question, as the right to development and socioeconomic circumstances have not been comprehensively analyzed in Colombia's discourse on transitional justice. To answer my research question, I lay out my methodology in the following chapter, using critical discourse analysis for the language used in Colombia's engagement with transitional justice. In the remaining chapters, I demonstrate how this engagement has included a recognition of socioeconomic challenges and concepts considered by the right to development, from the foundations of transitional justice in the 1980s until last year's release of the truth commission report. I conclude by reaffirming my argument that all these transitional justice processes have recognized socioeconomic challenges and used language that aligns with the understanding of the right to development.

1.3: Transitional Justice

As there are too many different definitions of transitional justice to consider all of them, I will highlight a few of them for the purpose of my analysis. The International Center for Transitional Justice (ICTJ) defines transitional justice as 'how societies respond to the legacies of massive and serious human rights violations.'⁸ This is one of the simpler definitions, leaving room for the various mechanisms in which societies respond to these violations, as well as the actors who are responding – whether it be communities, individuals, states, or a combination of these. However, this definition makes it clear that the purpose of transitional justice is to respond to specific, widespread human rights abuses. Without mentioning human rights abuses specifically, United

⁸ "What Is Transitional Justice?" (International Center for Transitional Justice, 2009), <https://www.ictj.org>.

States Institute of Peace (USIP) refers to transitional justice as ‘the process of acknowledging, prosecuting, compensating for and forgiving past crimes during a period of rebuilding after conflict.’⁹ USIP’s definition differs from ICTJ’s by including the link between transitional justice and post-conflict peacebuilding. In cases like Colombia, societies have turned to transitional justice mechanisms and processes before the official end of the conflict; however, the aim was to create the conditions to help bring about peace. USIP further suggests that transitional justice responds to past crimes, rather than human rights abuses, although assuming that there would be a focus on the most serious and violent crimes would provide an overlap between these two categories. Lastly, USIP lays out different measures to respond to crimes, suggesting that there are different processes that fall into transitional justice. This last point aligns with the United Nations (UN) understanding of transitional justice as the ‘processes and mechanisms associated with a society’s attempt to come to terms with a legacy of large-scale past abuses, in order to ensure accountability, serve justice and achieve reconciliation.’¹⁰ The UN definition includes what these transitional justice processes and mechanisms are aiming to do in addition to why they are established.

Expanding on this definition, the UN suggests that, in order to provide redress to victims and opportunities for the transformation of the political systems, conflicts, and other conditions that may have been at the root of the abuses, a transitional justice approach has two goals: to gain some level of justice for victims and to reinforce the possibilities for peace and democracy, and reconciliation.¹¹ In this view, transitional justice is seen as an approach to transform political

⁹ Evelyne Schmid, “TRANSITIONAL JUSTICE: Information Handbook” (United States Institute of Peace, 2008), https://www.usip.org/sites/default/files/ROL/Transitional_justice_final.pdf.

¹⁰ UN Secretary-General, “Guidance Note of the Secretary-General: United Nations Approach to Transitional Justice” (United Nations, 2010), https://digitallibrary.un.org/record/682111/files/TJ_Guidance_Note_March_2010FINAL.pdf.

¹¹ “WHAT IS TRANSITIONAL JUSTICE? A Backgrounder” (United Nations Mission in South Sudan, 2008), https://www.un.org/peacebuilding/sites/www.un.org.peacebuilding/files/documents/26_02_2008_background_note.pdf.

systems and provide justice to victims. Often a combination of elements of criminal, restorative, and social justice, transitional justice can be adapted to the unique conditions of societies undergoing either sudden or long-term transformations away from a time period when human rights violations was a normal state of affairs.¹² In this way, transitional justice can mean something different to one society as opposed to another.

These different definitions and approaches underscore the controversy of transitional justice, as well as the disagreement regarding what it is and what it is supposed to do. Understood as an international web of individuals and institutions, transitional justice as a field resulted directly from interactions among human rights activists, lawyers and legal scholars, policymakers, journalists, donors, comparative politics experts, and a wide array of other academics concerned with the political transitions from authoritarianism to democracy throughout Latin America and Eastern Europe beginning in the late 1980s.¹³ However, as the field has evolved since then, some scholars argue that transitional justice is better understood as an idea, thought, plan, or suggestion to both address violence and ensure democratic social and political change.¹⁴

Although I agree that the field of transitional justice is best understood as a movement or idea, I will be analyzing the language of actual transitional justice mechanisms and processes in Colombia. Therefore, I will focus on transitional justice as less of theoretical depiction and more of what took place, especially with its long history in Colombia. Colombia's engagement with transitional justice has roots in Belisario Betancur's administration (1982-1986), who created a Peace Commission to negotiate with guerrilla groups and passed an Amnesty Law, advocating

¹² "WHAT IS TRANSITIONAL JUSTICE? A Backgrounder."

¹³ Paige Arthur, "How 'Transitions' Reshaped Human Rights: A Conceptual History of Transitional Justice," *Human Rights Quarterly* 31, no. 2 (2009): 321–67.

¹⁴ Jamie Rowen, *Searching for Truth in the Transitional Justice Movement* (Cambridge: Cambridge University Press, 2017).

for a negotiated end to the armed conflict.¹⁵ The use of transitional justice mechanisms received renewed interest during the Alvaro Uribe government, who turned his attention to paramilitary organizations, implementing the 2005 Law of Justice and Peace alongside demobilization.¹⁶ In 2011, the Juan Manuel Santos administration passed the Victims' and Land Restitution Law, which requires the state to promote and implement the participation of victims in the peace process.¹⁷ The key aspects of the 2016 peace accord relating to transitional justice are a commission on truth and reconciliation and on missing persons, a special tribunal for determining accountability for human rights violations, protection for ex-FARC-EP fighters and community leaders, and reparations to victims.¹⁸ The peace accord emphasizes the full range of processes and mechanisms associated with transitional justice.

1.4: Right to Development

In the Colombian context, transitional justice aims to address human rights abuses, while promoting the rights of victims. Human rights are often categorized as first, second, and third generation. Included in the Universal Declaration of Human Rights and later codified into the two International Covenants, first and second-generation rights are civil and political rights and economic, social, and cultural (ESC) rights, respectively. Third generation rights differ in the sense that they are collective – rather than individual - rights and are based on the idea of solidarity. One of these rights is the right to development, which is the human right by which ‘all peoples are entitled to participate in, contribute to, and enjoy economic, social, cultural and political development, in which all human rights and fundamental freedoms can be fully

¹⁵ Philip J. Williams and Juanita Duque, “Transitional Justice before and after Transition: Colombia in Comparative Perspective,” *Revista de Derecho*, no. 15 (2019): 133–50, <https://doi.org/10.14482/dere.51.303.69>.

¹⁶ Williams and Duque.

¹⁷ Williams and Duque.

¹⁸ Ted Piccone, “Peace with Justice: The Colombian Experience with Transitional Justice” (Washington, D.C: Brookings, 2019), https://www.brookings.edu/wp-content/uploads/2019/06/FP_20190708_colombia.pdf.

realized.’¹⁹ In other words, development is a human right in itself and should happen in accordance with human rights principles for all, rather than simply economic growth.²⁰ The right to development is based on the idea that societies have the right to develop so that they can create an enabling environment to fully protect civil and political and ESC rights. The United Nations (UN) defines development as ‘a multidimensional undertaking to achieve a higher quality of life for all people. Economic development, social development and environmental protection are interdependent and mutually reinforcing components of sustainable development.’²¹ In other words, development is enhancing the socioeconomic well-being and livelihood of all people.

While the UN General Assembly adopted the Declaration on the Right to Development in 1986, the Vienna Declaration and Programme of Action adopted by the World Conference on Human Rights in Vienna in 1993 reaffirmed that the human person is the central subject of development, development facilitates the enjoyment of all human rights, and that development is a universal and inalienable right and an integral part of fundamental human rights.²²

More recently, the UN has further reaffirmed the right to development. In March 2017, the UN Human Rights Council appointed the first Special Rapporteur on the right to development, Mr. Saad Alfarargi, to monitor and report on issues affecting the right to development, and to contribute to the promotion, protection and fulfilment of the right to development in the context of internationally agreed upon frameworks that relate to development, including the 2030 Agenda for Sustainable Development, the Sendai Framework for Disaster Risk Reduction, the Addis Ababa Action Agenda of the Third International Conference on Financing for Development, and

¹⁹ UN General Assembly, “Declaration on the Right to Development,” December 4, 1986.

²⁰ “United Nations Special Rapporteur on the Right to Development: An Introduction to the Mandate” (Geneva: United Nations Human Rights Office of the High Commissioner, December 2017).

²¹ “Agenda for Development” (UN General Assembly, 1997), https://digitallibrary.un.org/record/245092/files/A_RES_51_240-EN.pdf?ln=en.

²² World Conference on Human Rights in Vienna, “Vienna Declaration and Programme of Action” (United Nations Human Rights Office of the High Commissioner, 1993), <https://www.ohchr.org/sites/default/files/vienna.pdf>.

the Paris Agreement on climate change, all of which were adopted in 2015.²³ Thus, as reinforced by these international frameworks, respect for human rights is central to sustainable development. Ultimately, sustainable development recognizes that eradicating poverty must go together with improving health and education, reducing inequality, and increasing economic growth. In this way, the recognition of socioeconomic inequalities and challenges is a critical aspect of the right to development. Thus, as transitional justice aims to address human rights abuses, which are linked to the right to development and socioeconomic inequalities, my research question takes these connected concepts into account. In the following chapters, I contend that the right to development has been present since the beginning of Colombia's engagement with transitional justice, as demonstrated by looking closely at the socioeconomic components of the country's transitional justice mechanisms and processes, a finding which is significant for the various actors who are interested in transitional justice.

²³ "United Nations Special Rapporteur on the Right to Development: Guidelines and Recommendations on the Practical Implementation of the Right to Development" (Geneva: United Nations Human Rights Office of the High Commissioner, July 2020), <https://www.ohchr.org/sites/default/files/OHCHR--web--planches.pdf>.

CHAPTER 2: LITERATURE REVIEW

A review of the literature on transitional justice and its relationship to socioeconomic rights and development, as well as the right to development, both inside and outside the Colombian context reveals that there is a gap in the literature on how transitional justice processes and mechanisms in Colombia address socioeconomic inequalities and the right to development.

After providing an overview of some foundational theories in the conflict analysis and resolution field, I review the literature on transitional justice in Colombia, which discusses how the various transitional justice process and mechanisms in Colombia have addressed human rights, victims' rights, land ownership, and rural development. After concluding that scholars have not focused on how transitional justice in Colombia has specifically considered the right to development and socioeconomic inequalities, I then review the literature on transitional justice and economic, social, and cultural (ESC) rights, as well as transitional justice and socioeconomic development. Recognizing that the transitional justice literature does not discuss the right to development specifically, I conclude this chapter with a review of the literature on how the right to development has been applied to different countries and contexts. Upon completion of this review, I confirm that the link between transitional justice and the right to development and socioeconomic inequalities in the Colombian context warrants further exploration and explain how I will apply this body of work to my research.

2.1: Peace, Violence, and Development

It is helpful to begin my literature review with a brief introduction to some foundational theories in the field of conflict resolution, which connects peace and violence to socioeconomic issues and development. The concepts of structural violence and negative versus positive peace are key to understanding how socioeconomic inequalities and development relate to peace and conflict. Galtung distinguishes between personal violence, which he defines as direct violence causing somatic harm, and structural violence, the indirect violence built into structure and sometimes referred to as social injustice.²⁴ With this extended concept of violence, Galtung also distinguishes between negative and positive peace, defining the absence of structural violence as positive peace or social justice.²⁵ Thus, social justice or the absence of structural violence introduces a concept of peace that involves not only the reduction of the overt use of violence but also what has been referred to as ‘vertical development.’²⁶ In other words, shaping a more peaceful society relies on not only reducing violent conflict but also addressing social injustice through development. By improving a country’s institutions so that they can better provide for citizens, development work aims to address the injustice and inequity embedded in social structures, thereby reducing structural violence. While structural violence can take on many forms, some examples include people’s lack of access to clean water, limited access to healthcare, and inability to receive a quality education. Development work aims to address these issues via solutions such as water, sanitation, and hygiene programming, as well strengthening healthcare and education systems by providing resources and training. Galtung further analyzes the relationship between peace and development by pointing out that the field of peace studies focuses on reducing direct violence and suffering when basic needs are threatened, while

²⁴ Johan Galtung, “Violence, Peace and Peace Research,” *Journal of Peace Research* 6, no. 3 (1969): 167–91.

²⁵ Galtung.

²⁶ Galtung.

development studies focuses not only meeting these needs but also developing them further.²⁷ In this way, he illustrates the cyclical nature of peace and development: once a society undergoes a reduction or absence of direct violence, it experiences negative peace, and development can occur. In Colombia, although violence certainly still occurs after peace with the FARC-EP, the reduction of physical violence made possible by the peace agreement can be viewed as an opportunity to shift toward positive peace and focus on development.

Gurr's theory of relative deprivation further connects peace and development. Gurr defines relative deprivation as the perception of a discrepancy between value expectations and value capabilities.²⁸ Members of a community experiencing little relative deprivation would perceive their expectations and capabilities as aligned, whereas community members believing that they deserve more than what they are capable of receiving within their society exemplifies greater relative deprivation. Gurr hypothesizes that the greater the scope and intensity of relative deprivation, the greater potential for violence.²⁹ If people feel like their basic needs are being met, they will perceive themselves as capable of obtaining the values they expect and will not experience enough relative deprivation to resort to violence. The services provided by development work supports people's livelihoods, which maintains a community's perception of a low discrepancy between value expectations and capabilities. Paradoxically, Colombia is a middle-income country and one of most unequal societies in the world. Thus, according to Gurr, Colombians would experience high levels of relative deprivation, which would contribute to conflict.

²⁷ Johan Galtung, *Peace by Peaceful Means: Peace and Conflict, Development and Civilization* (SAGE, 1996).

²⁸ Ted Gurr, "Relative Deprivation and the Impetus to Violence," in *Why Men Rebel* (Princeton, NJ: Princeton University Press, 1971), 22–58.

²⁹ Gurr.

2.2 Transitional Justice in Colombia

Colombia's most recent engagement with transitional justice is the comprehensive transitional justice system implemented by 2016 peace accord. Borda and Gutiérrez discuss how the acknowledgement of human rights and the conception of a transitional justice formula were at the center of Colombia's peace process with the FARC-EP, providing some examples of how respect for human rights is woven into issues throughout the peace accord.³⁰ As they primarily discuss how victims' rights are promoted by acknowledging human rights abuses and holding perpetrators accountable, their focus on violations of civil and political rights ignores ESC rights, which also impacted victims of the conflict. Thus, there is the potential for me to further explore how human rights norms are incorporated into other components in the peace accord and how transitional justice in Colombia also acknowledges both ESC rights and the right to development.

Indeed, Colombia's engagement with transitional justice long precedes the most recent peace process and has evolved over time. Triana-E et al. track the evolution of transitional justice in Colombian peace processes between 1984 and 2017, observing the relationship between the process of reintegrating former combatants and the transitional justice framework.³¹ Transitional justice in Colombia aims to build foundations for a stable and long-lasting peace by facilitating the transition of ex-combatants, while comprehensively satisfying victims' rights because it has evolved into a model that places victims at the center of the process.³² In my analysis, acknowledging the socioeconomic challenges of both ex-combatants seeking reintegration, as well as victims whose rights have been violated, is key to understanding transitional justice in

³⁰ Sandra Borda and Martha Gutiérrez, "Between Peace and Justice The Role of Human Rights Norms in Colombia's Peace Process," in *Human Rights and Conflict Resolution: Bridging the Theoretical and Practical Divide*, ed. Claudia Fuentes Julio and Paula Drummond, 1st ed. (London: Routledge, 2017), 222–43.

³¹ Sergio Triana-E, Leah Grace, and Josefin Wulkan, "Law and Order: The Evolution of Transitional Justice in Colombia from the Peace Process with the AUC (2003) to the FARC (2015)," *Iberoamericana – Nordic Journal of Latin American and Caribbean Studies*, 2022, <https://doi.org/10.16993/iberoamericana.553>.

³² Triana-E, Grace, and Wulkan.

Colombia. While victims are usually the focus in transitional justice, I am also looking at former combatants because the existence of various insurgent groups throughout the conflict created a context in which there was not a sole perpetrator for the victim group. In this way, considering the reintegration aspect of transitional justice introduces a more comprehensive perspective.

However, while it is a transitional justice process aiming to create peace, the reintegration of ex-combatants is controversial, and many Colombians believe that punishment is the only way to bring about justice. Recognizing that retributive justice can overshadow restorative, reparative, and transformative justice needs in the context of this ‘peace versus justice’ debate, Friedman et al. examine transitional justice mechanisms created by the peace accord, as well as those introduced prior, namely the Justice and Peace Law, which disarmed paramilitary groups, as well as the Law of Victims and Land Restitution, which created a series of measures to fulfill victims’ rights.³³ Assessing these transitional justice measures’ likely contribution to non-retributive justice and to ultimately building a more peaceful and just Colombia, Friedman et al. argue that debates about justice sparked victim organization and mobilization, which resulted in land restitution and economic compensation policies that reached thousands of victims and reopened discussions about land, rural areas, and social policies.³⁴ In other words, Colombia’s engagement with transitional justice has activated dialogue on how to rectify the human rights abuses toward victims. In these discussions, socioeconomic policies have been brought up, suggesting that there is a link between transitional justice and socioeconomic circumstances. Thus, in my analysis, I go beyond this suggestion by identifying the specific ways in which transitional justice mechanisms incorporate socioeconomic inequalities and the need for development.

³³ Rebekka Friedman, Nelson Camilo Sánchez, and Eric Wiebelhaus-Brahm, “Securing the Peace and Promoting Human Rights in Post-Accord Colombia: The Role of Restorative, Reparative, and Transformative Justice Dimensions,” in *As War Ends: What Colombia Can Tell Us About the Sustainability of Peace and Transitional Justice*, ed. Jacqueline H. R. DeMeritt, James Meernik, and Mauricio Uribe-López (Cambridge: Cambridge University Press, 2019), 304–23, <https://doi.org/10.1017/9781108614856.014>.

³⁴ Friedman, Sánchez, and Wiebelhaus-Brahm.

Indeed, transitional justice in Colombia provides the ability to address and improve the socioeconomic circumstances of ethnic groups. Peña-Huertas et al. argue that the Law of Victims and Land Restitution currently being implemented in Colombia provides the mechanisms to not only guarantee the restitution of the dispossessed lands that ethnic communities have lost during armed conflict, but also to strengthen property rights by providing some guarantees to transform the socioeconomic conditions of these communities and, ultimately, to act as a shield against market dynamics.³⁵ For it to have this transformative ability, I suggest that the language of the law itself likely acknowledges socioeconomic inequalities. Similarly, the public discourse surrounding the law can provide further insight into how transitional justice considers the right to development and socioeconomic inequalities. Montoya Londoño and Vallejo Mejía analyze the role of national and local Colombian newspapers in promoting institutional, developmental, and peace, and human rights agendas linked to the Law of Victims and Land Restitution by applying a transitional justice framework and promoting rural development.³⁶ The law highlights relevant themes in transitional justice and development, namely transitional justice and a market model of land-tenure, and the ability of the state to protect ESC rights through transitional justice measures.³⁷ My research question goes further by suggesting that transitional justice in Colombia highlights themes in not only the state's ability to protect ESC rights, but also the acknowledgment of the socioeconomic inequalities to promote peace, as well as the right to development.

³⁵ Rocío Del Pilar Peña-Huertas et al., "Collective Ownership and Land Restitution: A New Opportunity for Afro-Colombian Communities," *International Journal of Transitional Justice* 15, no. 1 (March 1, 2021): 230–41, <https://doi.org/10.1093/ijtj/ijaa034>.

³⁶ Catalina Montoya Londoño and Maryluz Vallejo Mejía, "Development vs Peace? The Role of Media in the Law of Victims and Land Restitution in Colombia," *Media, War & Conflict* 11, no. 3 (2018): 336–57, <https://doi.org/10.1177/1750635217710677>.

³⁷ Montoya Londoño and Vallejo Mejía.

As demonstrated by the Law of Victims and Land Restitution, land is a critical component of transitional justice in Colombia. By critically examining existing legislation and policy outcomes in Colombia concerning democratic land control, McKay argues that the UN Voluntary Guidelines on the Responsible Governance of Tenure of Land, Fisheries and Forests in the Context of National Food Security create a strong link between land rights and human rights, which can be a powerful strategy for rural social justice and democratic land control.³⁸ I further explore this right to land in relation to the right to development, as land inequality hinders development and peace in Colombia.

International development support has funded transitional justice processes and mechanisms in Colombia, demonstrating a relationship between transitional justice and development. As part of a human rights-based approach to development, international development support has come in the form of funding for reparations and other transitional justice mechanisms and processes.³⁹ Reviewing data from a 2007 pilot project of collective reparations programs in Colombia, Firchow argues that development aid should benefit entire communities, rather than just those who have suffered human rights abuses, because uneven and exclusionary development policies do not address the root causes of the conflict or promote conflict-sensitive development.⁴⁰ Although transitional justice in Colombia tends to focus on victims and ex-combatants, I will look for how these mechanisms acknowledge the development of communities. Reparations and other transitional justice mechanisms can be seen as a nexus between human rights, development, and peace, a view which is compatible with my research.

³⁸ Ben M. McKay, "Democratising Land Control: Towards Rights, Reform and Restitution in Post-Conflict Colombia," *Canadian Journal of Development Studies / Revue Canadienne d'études Du Développement* 39, no. 2 (April 3, 2018): 163–81, <https://doi.org/10.1080/02255189.2017.1364621>.

³⁹ Pamina Firchow, "Must Our Communities Bleed to Receive Social Services? Development Projects and Collective Reparations Schemes in Colombia," *Journal of Peacebuilding & Development* 8, no. 3 (2013): 50–63, <https://doi.org/10.1080/15423166.2013.863689>.

⁴⁰ Firchow.

2.3: Transitional Justice and Socioeconomic Rights

The complexity of the relationship between transitional justice and socioeconomic circumstances has also been explored by many scholars and practitioners. Miller argues that the field of transitional justice has historically ignored issues of economic inequality and development, treated these issues as background rather than central issues in transition, or reducing them to a discussion of reparations.⁴¹ The potential costs of this exclusion are an incomplete understanding of the origins of conflict, an inability to imagine structural change, and the possibility of renewed violence due to a failure to address the role of inequality in conflict.⁴² In Colombia, it is possible that transitional justice has acknowledged development and socioeconomic issues but that the analysis of this acknowledgement is incomplete.

Historically, transitional justice mechanisms have focused on physical violence or the violations of civil and political rights, such as extra-judicial killings, forced disappearances, and torture. While these civil and political rights are critical components of transitional justice, they cannot by themselves guarantee peace because the failure to address historically constructed socioeconomic inequalities is also a cause of recurrent conflict.⁴³ In this way, there is a relationship between comprehensively addressing violations of both civil and political and ESC rights and peace. Since transitional justice in Colombia is linked to peace, I suggest that ESC rights are addressed in processes and mechanisms. While Sharp points out that the need to address economic violence—including violations of ESC rights, corruption, and plunder of natural resources—in times of transition has received increased attention, the field of transitional justice has not moved far from its origins in which the transition is to a Western liberal market

⁴¹ Zinaida Miller, "Effects of Invisibility: In Search of the 'Economic' in Transitional Justice," *International Journal of Transitional Justice* 2, no. 3 (2008): 266–91, <https://doi.org/10.1093/ijtj/ijn022>.

⁴² Miller.

⁴³ Ismael Muvungi, "Sitting on Powder Kegs: Socioeconomic Rights in Transitional Societies," *International Journal of Transitional Justice* 3, no. 2 (July 1, 2009): 163–82, <https://doi.org/10.1093/ijtj/ijp010>.

democracy, despite its decades of evolution.⁴⁴ Because Colombia's transition is more focused on a transition to peace, socioeconomic issues may be addressed more outright than in other cases. If transitional justice addresses the human rights violations that pre-dated, caused, and/or contributed to the conflict, as Arbour suggests, then it will likely expose discriminatory practices and violations of socioeconomic rights.⁴⁵ In other words, if transitional justice mechanisms and processes in Colombia address the human rights violations that occurred prior to the official beginning of the conflict, then there will likely be a socioeconomic component to them.

As a mechanism of transitional justice, truth commissions in particular have a relationship with ESC rights. Laplante points out that post-conflict violence like protests often arises out of the same types of socioeconomic grievances that caused earlier periods of political violence and human rights violations, which introduces the question of how truth commissions can better contribute to longer-term processes of political and economic transformation.⁴⁶ Because truth commission reports often provide recommendations for how the country can address human rights violations, it is possible that the Colombia truth commission suggests processes for development and socioeconomic transformation. In this way, truth commissions demonstrate indivisibility between civil and political rights and ESC rights by providing documentation of how socioeconomic inequalities contribute to eruption of political violence, which challenges the truth commission to develop a reparation plan to respond to needs of victim-survivors, while maintaining a causal link with damage caused by the conflict.⁴⁷ As the 2016 peace accord in

⁴⁴ Dustin N. Sharp, ed., *Justice and Economic Violence in Transition* (New York: Springer, 2014).

⁴⁵ Louise Arbour, "Economic and Social Justice for Societies in Transition," *N.Y.U. Journal of International Law and Politics* 40, no. 1 (2007): 1–28.

⁴⁶ Lisa J. Laplante, "Transitional Justice and Peace Building: Diagnosing and Addressing the Socioeconomic Roots of Violence through a Human Rights Framework," *International Journal of Transitional Justice* 2, no. 3 (December 1, 2008): 331–55, <https://doi.org/10.1093/ijtj/ijn031>.

⁴⁷ Lisa J. Laplante, "On the Indivisibility of Rights: Truth Commissions, Reparations, and the Right to Development," *Yale Human Rights & Development Law Journal* 10 (2007): 141–77.

Colombia created a truth commission, which released a report in 2022, I look at how these documents provide insight into reparations and socioeconomic inequalities.

Reparations are another mechanism of transitional justice that relate to ESC rights and development. Going into the roles that different transitional justice mechanisms and processes can play, Szoke-Burke suggests that truth commissions can recommend reforms, reparations can remedy the failure to fulfill economic and social rights on a limited scale, and collective reparations and decentralized governance processes can empower communities to direct the course of their development and respond to socioeconomic issues that may have been ignored by previous government policies.⁴⁸ As reparations are meant to repair harm to victims, it is important to analyze how they address socioeconomic issues and development in this regard.

The range of processes, mechanisms, and institutions going beyond truth commissions and reparations further underscore the socioeconomic and developmental dimensions of transitional justice. Naming symbolic memorials, the restitution of land and other communal goods which were violently dispossessed from individuals and communities, compensation to victims and survivors, and rehabilitation and psychosocial support, Murithi suggests that the African continent's innovation and experimentation beyond the traditionally narrow civil and political focus has resulted in transitional justice being understood as involving a broad spectrum of interventions that are embedded in post-conflict reconstruction, peacebuilding, and development, while the economic and social dimensions of transitional justice processes are emerging as key drivers of sustainable transformation for societies that have experienced violations.⁴⁹ This understanding seems like a proper way to conceptualize transitional justice, acknowledging that some societies have pursued transitional justice narrowly. Considering Colombia's long history

⁴⁸ Sam Szoke-Burke, "Not Only 'Context': Why Transitional Justice Programs Can No Longer Ignore Violations of Economic and Social Rights," *Texas International Law Journal* 50, no. 3 (2015): 465–94.

⁴⁹ Tim Murithi, "Advancing Transitional Justice in Post-Conflict Societies in Africa," *African Journal of Democracy and Governance* 5, no. 3 (November 1, 2018): 103–24, <https://doi.org/10.10520/EJC-1246872a33>.

of engagement with transitional justice and the innovation and experimentation required when creating processes for the country's specific context, I am suggesting that its transitional justice processes may have social and economic dimensions and have interventions embedded in development.

As there has been increased attention on transitional justice addressing socioeconomic concerns, in countries like Colombia where transitional justice is comprehensive and heavily linked to peace, it is likely that there is a socioeconomic dimension. However, recognizing that transitional justice can be seen as mostly legalistic mechanisms and processes meant to address civil and political wrongs, some scholars prefer to differentiate it from transformative justice. Gready and Robins set out the case for a shift from transitional justice to transformative justice, arguing that transitional justice is in crisis and that transformative justice seeks to radically reform the politics, locus, and priorities of transitional justice.⁵⁰ Specifically, evaluating transitional justice in terms of its contribution to peacebuilding enables a more holistic perspective that takes into account the links between acknowledging the past and building peace for the future, while developing a model of transformative justice that supports sustainable peacebuilding requires replacing the focus on transition as an interim process to transformation. which implies long-term processes embedded in society and an adoption of psychosocial, political, economic, and legal perspectives on justice.⁵¹ In this view, transformative justice is seen as a comprehensive and holistic notion of justice, while transitional justice is narrower.

For the sake of my analysis, regardless of whether it should be renamed and reconceptualized, transitional justice has evolved past its original mandate of facilitating a transition from authoritarianism to democracy. Indeed, scholars and practitioners working in the name of

⁵⁰ Paul Gready and Simon Robins, eds., *From Transitional to Transformative Justice* (Cambridge: Cambridge University Press, 2019), <https://doi.org/10.1017/9781316676028>.

⁵¹ Wendy Lambourne, "Transitional Justice and Peacebuilding after Mass Violence," *International Journal of Transitional Justice* 3, no. 1 (March 1, 2009): 28–48, <https://doi.org/10.1093/ijtj/ijn037>.

transitional justice have anticipated some of the elements of transformative justice by providing evidence of the underlying socioeconomic links. While there is a reason to differentiate it from transitional justice, in comparison, transformative justice as a field has been limited in study, suggesting that it has not gained much traction. In response to this critique, Evans explores role of networks in operationalizing the concept of transformative justice, arguing that this cooperation makes transformative justice more of a practical reality rather than theoretical aspiration.⁵² However, since the processes and mechanisms in my analysis have been studied within the field of transitional justice, I continue to use this label, while considering the sustainable, long-term socioeconomic transformation that transformative justice seeks to achieve.

2.4: Transitional Justice and Development

Ultimately, the transformation sought by transformative justice is tied to development work, which has been addressed by transitional justice scholars. Specifically, by achieving its goals of recognizing victims, fostering civic trust, and strengthening the rule of law, transitional justice can contribute to development by legitimizing state institutions, strengthening civil society, and improving state–society relations.⁵³ On the flip side, transitional justice relies on legitimate institutions and a strong civil society to effectively respond to human rights abuses. Thus, development and transitional justice can go hand in hand. Similarly, the extent to which transitional justice can effectively respond to the economic and social aspects of injustice caused by human rights violations may also contribute to development.⁵⁴ In this way, transitional justice, socioeconomic inequalities, and development are linked. In consideration of these examples, one way of framing the relationship between transitional justice and development is in terms of

⁵² Matthew Evans, *Transformative Justice: Remediating Human Rights Violations Beyond Transition* (New York: Routledge, 2018).

⁵³ Roger Duthie, “Transitional Justice, Development, and Economic Violence,” in *Justice and Economic Violence in Transition*, ed. Dustin N. Sharp (New York, NY: Springer New York, 2014), 165–201, https://doi.org/10.1007/978-1-4614-8172-0_7.

⁵⁴ Duthie.

corrective justice, which seeks to repair specific harms to individuals or groups, and distributive justice, which seeks a fair distribution of goods, opportunities, and other outcomes.⁵⁵ Ultimately, the goal of transitional justice to address human rights abuses requires repairing harms to victims, which is demonstrative of corrective justice. On the other hand, the aim of development to enhance well-being is tied to distributive justice. However, just like transitional justice and development, corrective justice and distributive justice can complement each other. For example, repairing a harm done to victims might involve financial compensation. Therefore, in my analysis, distributive justice is a more accurate framework for the relationship between transitional justice and development.

As illustrated by their examination of truth commissions in South Africa, Liberia, Sierra Leone, and Kenya and the failure to achieve distributive justice, Selim and Murithi argue that without adequate acknowledgement of the conceptual and practical synergies between transitional justice and development, transitional justice will have limited remedial utility as a means for contributing to sustainable peace.⁵⁶ While these cases involve countries in Africa, I agree that this analysis can be applied to many low-to-middle income states emerging from conflict, including Colombia. Mani suggests that the attempt to link transitional justice to development calls for the field to step out of its original focus on accountability and include attention to institutional reform to promote the rule of law, recognizing their interdependence.⁵⁷ Until recently, development in transitional societies has not been viewed as an issue of justice, as the priority is rapid economic growth and integration into global markets, which tends to have consequences for those who are most vulnerable and often belong to the very groups that suffered

⁵⁵ Duthie.

⁵⁶ Yvette Selim and Tim Murithi, "Transitional Justice and Development," *Journal of Peacebuilding & Development* 6, no. 2 (2011): 58–72.

⁵⁷ Rama Mani, "Dilemmas of Expanding Transitional Justice, or Forging the Nexus between Transitional Justice and Development," *International Journal of Transitional Justice* 2, no. 3 (2008): 253–65, <https://doi.org/10.1093/ijtj/ijn030>.

the brunt of war.⁵⁸ In this view, development is improvement of human well-being, which is tied to the recognition of socioeconomic circumstances. In this way, transitional justice, ESC rights, and development are linked.

2.5: The Right to Development and Peace

Because transitional justice is ultimately about addressing human rights abuses and there is a link between transitional justice and development, human rights and development are also connected. Indeed, the purpose of development is to create the conditions necessary for both civil and political rights and ESC rights to be respected. If communities possess the right to develop themselves, it is similar to saying that they have a right to peace, which has been mentioned in the Colombian context. The right to development is key for my thesis because it links human rights – which is the parent field of transitional justice – with development and, thus, the recognition of socioeconomic challenges.

The nature of this link began when human rights entered the development discourse. Uvin traces this genealogy, beginning with the formulation of the right to development in the human rights community to the notion of a rights-based approach to development for development practitioners.⁵⁹ It is interesting that the right to development precedes the formulation of a rights-based approach to development, as a rights-based approach to development is widely discussed in the development community, while the right to development does not receive much attention in comparison. The declaration of the right to development by the UN General Assembly in 1986 provided legal and ethical authority to developing countries' request for the international redistribution of resources and served as a counterargument against rich countries' exclusive focus on civil and political rights, and its unanimous readoption at the 1993 World Conference on

⁵⁸ Mani.

⁵⁹ Peter Uvin, "From the Right to Development to the Rights-Based Approach: How 'Human Rights' Entered Development," *Development in Practice* 17, no. 4/5 (2007): 597–606.

Human Rights in Vienna means that its advocates can claim that the right to development now reflects a global legal consensus.⁶⁰ In this way, the right to development was always seen as an alternative view to the narrow focus on civil and political rights. As a right in which its adoption was advocated for by developing countries, it should not be dismissed. However, according to most legal scholars, the right to development is a beautifully worded but operationally meaningless statement that has so rarely been invoked to promote social change on a large scale.⁶¹ I challenge this argument by suggesting that the ‘right to development’ expressed in such terms is rarer than the attention given to the intended targets of the right to development. While the right to development can be controversial in the human rights community, human rights-based approaches have been widely adopted by the development community. According to a rights-based approach, development should:

respect the dignity and individual autonomy of all those whom it claims to help, including the poorest and the most excluded, including minorities and other vulnerable groups, often discriminated against; it ought to create opportunities for their participation - opportunities that are not dependent on the whim of a benevolent outsider, but rooted in institutions and procedures.⁶²

While I understand that fundamental differences exist between the right to development and a rights-based approach to development, for the purpose of my analysis, I consider them to be two sides of the same coin, especially since the right to development precedes a rights-based approach to development. Simultaneously, I recognize and maintain the distinction between these separate approaches.

While the literature on human rights and development in Colombia does not explicitly focus on the right to development, the links between the right to development and peace have been studied in other countries and contexts. In particular, the right to development is important in the

⁶⁰ Uvin.

⁶¹ Uvin.

⁶² Uvin.

African continent's understanding of human rights. For example, Kamga examines how the African continent protects and implements the right to development to address the inequities hidden in global institutions.⁶³ Similarly, in the Colombian context, invoking the right to development could be related to the acknowledgment of socioeconomic inequalities. The right to development in relation to the environment is also important in the African context. Arguing for the interpretation of the right to development in terms of respect for the environment, Boshoff points out that the African Charter and its interpretation by the African Commission and the African Court have resulted in a revised understanding of development that is not based on economic considerations but rather as physical, mental, emotional, and social well-being for humans within a healthy environment.⁶⁴ In other words, respect for the environment is tied to human well-being. In this regard, respect for the environment is an important aspect of the right to development that is overlooked in the conception of ESC rights and could be important in the Colombian context as well.

While the African Charter explicitly acknowledges and protects the right to development, some countries in Africa further recognize the right to development at the national level. Using the Ethiopian Constitution as a case study, Abegaz argues that existing international, regional, and domestic legislation of some African countries explicitly recognizes the right to development.⁶⁵ Moreover, in Ethiopia, land is an important resource for the realization of the right to development, and the forceful denial of use of land implies a limit on the realization of the right to development.⁶⁶ As many transitional justice mechanisms in Colombia were created

⁶³ Serges Djoyou (Serges Alain Djoyou Kamga) Kamga, *The Right to Development in the African Human Rights System*, Global Africa ; 8 (New York, NY: Routledge, 2018), <https://doi.org/10.4324/9781351142489>.

⁶⁴ Elsabé Boshoff, "Rethinking the Premises Underlying the Right to Development in African Human Rights Jurisprudence," *Review of European, Comparative & International Environmental Law* 31, no. 1 (April 1, 2022): 27–37, <https://doi.org/10.1111/reel.12423>.

⁶⁵ Solomon Tekle Abegaz, "Displacement from Land as a Limit to the Realisation of the Right to Development in Ethiopia," *Journal for Juridical Science* 45, no. 1 (2020): 51–71.

⁶⁶ Abegaz.

through national legislation, it is possible that this legislation recognizes the right to development, although maybe not as explicitly, especially considering that land inequality is also important in the Colombian context. Indeed, peasants' lack of access to land is one of the root causes of the Colombian conflict, and peasants have been a vulnerable group subject to victimization by armed groups. In this way, Colombia's transitional justice processes and mechanisms could acknowledge the right to development in the effort to address the country's unequal land system in relation to victims.

The constitutions of countries outside the African continent have also invoked the right to development. Iqbal uses Pakistan as a case study to analyze the national dimension of the right to development from the standpoint of state practice, arguing that while the right to development is not explicitly recognized in Pakistan's constitution, most of its key features are compatible with the country's policies on fundamental rights.⁶⁷ Similarly, I expect features of Colombia's transitional justice mechanisms to be compatible with the right to development, rather than exclusively recognizing it.

In the Latin American context, the right to development is compatible with Indigenous beliefs and practices. Añaños Bedriñana et al. explore the dynamics of complementarity between international law and Bolivian national law.⁶⁸ Specifically, the right to development in the American Declaration on the Rights of Indigenous Peoples is a constituent element of Andean Living Well, which is connected to the rights to: one's territory, land, water, health, natural resources, care for biodiversity, a clean and healthy environment, peace, harmonious social relations, social justice, climate justice, dialogue of knowledge, solidarity among human beings,

⁶⁷ Khurshid Iqbal, *The Right to Development in International Law: The Case of Pakistan* (Taylor & Francis Group, 2009).

⁶⁸ Karen G. Añaños Bedriñana, Bernardo A. Hernández Umaña, and José A. Rodríguez Martín, "Living Well' in the Constitution of Bolivia and the American Declaration on the Rights of Indigenous Peoples: Reflections on Well-Being and the Right to Development," *International Journal of Environmental Research and Public Health* 17, no. 8 (2020), <https://doi.org/10.3390/ijerph17082870>.

and complementarity and equilibrium.⁶⁹ The 2016 peace accord in Colombia contains a specific ethnic chapter focusing on Indigenous groups, and Afro-Colombians, and representatives from these groups participated in the peace process. In my analysis, I look at how transitional justice mechanisms address these vulnerable and marginalized groups and how the right to development may complement this acknowledgement.

The right to development has also been important in post-conflict societies. Using Kosovo as a case study, Istrefi argues that the right to development is imperative in transitional societies that continue to encounter structural obstacles to development.⁷⁰ In Colombia, it is possible that the recognition of structural socioeconomic inequalities and institutional obstacles to development invoke principles of the right to development.

2.6: Application to Research

Due to a lack of focus on the right to development in the literature and the few cases in which it has been studied, its application to transitional justice and the case of Colombia can be particularly illuminating. While there is an abundance of evidence of how transitional justice has related to socioeconomic circumstances and development in particular cases, many scholars and practitioners have focused on what transitional justice should be, rather than how it has been defined or conceptualized. On this note, it is important to point out that my research is not normative; I am analyzing whether transitional justice in Colombia acknowledges principles of the right to development or pays attention to socioeconomic issues, regardless of whether it should or should not do so. Despite these controversies, my review has revealed that a gap exists in the literature and that my research question warrants further exploration.

⁶⁹ Añaños Bedriñana, Hernández Umaña, and Rodríguez Martín.

⁷⁰ Remzije Istrefi, "Accommodating the Right to Development in Kosovo: A Human Rights Perspective," *Acta Universitatis Danubius* 13, no. 2 (2017): 101–12.

CHAPTER 3: METHODOLOGY

3.1: Research Design

To explore the question of how transitional justice mechanisms have incorporated, reflected, or promoted the right to development and socioeconomic inequalities, I propose a qualitative case study of Colombia. First, I provide an overview of my research design, explaining why Colombia is a good case study for the issues of transitional justice, the right to development, and socioeconomic inequalities. Then, I provide a timeline and explain why a qualitative analysis is appropriate for my research question. In the following sections, I explain that my data collection method is a records/archival review of documents published during this timeline and that I used critical discourse analysis as a research method. After acknowledging some potential limitations and ethics questions in my research, I conclude this chapter with an explanation of the significance of my topic.

Indeed, Colombia is a fascinating case study to explore these issues. The 2016 peace accord with the FARC-EP was seen as truly historic for putting human rights at the center of the peace process and introducing comprehensive transitional justice system. However, Colombia is also unique because it is known for its long engagement with transitional justice processes. The country has implemented transitional justice mechanisms in the middle of the conflict, and transitional justice has been perceived as going hand in hand with ending the conflict. At the

same time, Colombia is also one of the most unequal societies in the world with socioeconomic inequality being at the core of conflict, and a recognition of the need for sustainable development to achieve total peace. After analyzing the data, I find that there is indeed a connection between the country's engagement with transitional justice and the recognition of the right to development and socioeconomic challenges and inequalities.

Since the foundations of Colombia's engagement with transitional justice began in the 1980s with the Betancourt administration, I begin my analysis at the start of his term in 1982 and end in 2022, the year during which the Truth Commission report was released. This time frame enables me to analyze Colombia's 40-year history of engagement with transitional justice mechanisms and processes. Because answering my research question requires looking at the language used in these processes and mechanisms, a qualitative study is appropriate to explore these issues in greater depth and to understand concepts, thoughts, and experiences.

3.2: Data Collection

My data collection method is a records/archival review of documents. Recognizing Colombia's engagement with transitional justice throughout the conflict, I began by analyzing the foundations of transitional justice in Colombia, during which the government passed Decree 2711 of 1982 to negotiate with guerrilla groups and Law 35 of 1982, an amnesty law, in hopes of ending the armed conflict. I then turned to Law 975 of 2005 (Justice and Peace Law) and Law 1448 of 2011 (Law of Victims and Land Restitution). The scope of the Justice and Peace Law is the reintegration of former paramilitary members, and the Victims' Law focuses on humanitarian aid and reparations for victims. I then reviewed the 2016 Colombia peace accord and the Truth Commission report released in 2022, as these are the main transitional justice mechanisms established after negotiating a peace agreement with the FARC-EP.

Acknowledging that these transitional justice mechanisms were implemented within a complex national and regional legal environment, I also analyzed relevant legal documents within the Organization of American States (OAS) and Inter-American human rights system, specifically the American Declaration of the Rights and Duties of Man, the OAS Charter, and the Additional Protocol to the American Convention on Human Rights in the Area of Economic, Social and Cultural Rights, as well as the Colombian Constitution. Since transitional justice can be seen as a movement with ideas being shared among various scholars, practitioners, activists, lawyers, politicians, and other actors,⁷¹ these documents are meant to provide insight into how human rights discourse at the national and regional levels could align with the specific language used in Colombian transitional justice legislation.

Similarly, I supplement my analysis by looking at the public discourse surrounding transitional justice by looking at reporting by the media and statements by Colombian government officials that have been published since transitional justice discourse began in the 1980s. For articles written before 1996, I searched the Foreign Broadcast Information Service Daily Reports database, which grants access to reports created by the U.S. intelligence community on foreign views and perspectives of historical events from thousands of monitored broadcasts and publications. For broadcasts between 1996 and 2013, I turn to the World News Connection database, which also provides information compiled from non-U.S. news sources. Using these databases, I exclusively gathered relevant articles from Colombian news sources. Furthermore, I analyzed relevant reports and statements by bodies such as the UN and non-governmental organizations (NGOs). These documents are meant to provide a non-legal perspective on discourse surrounding transitional justice and its relation to development, human rights, and socioeconomic inequality.

⁷¹ Rowen, *Searching for Truth in the Transitional Justice Movement*.

3.3: Data Analysis

While reviewing these materials, I conducted a critical discourse analysis (CDA) as a research method. CDA focuses on the relationship between discourse and other social elements, such as power, ideologies, institutions, and social identities by describing, evaluating, and seeking to explain existing realities.⁷² It was important that I analyzed the discourse in documents with an understanding of the social elements surrounding the landscape in Colombia. Thus, I conducted this analysis in the context of an increased national focus on socioeconomic circumstances as a root cause of the conflict.

In all these documents, I analyzed how economic issues are addressed, as well as how rights are named and how they are addressed even if they are not named explicitly. I am primarily interested in language that aligns with the concept of the right to development. However, recognizing that such direct language could be limited, I am also interested in discourse that acknowledges socioeconomic inequalities, which is linked to the right to development. Specifically, I searched for and coded each mention of participation and contribution, human rights, socioeconomic status, community, poverty and inequality, development and well-being, and self-determination and sovereignty. In my analysis, I looked at how these mentions categorize people and how they frame people and groups from a particular ideological, political, and cultural perspective. For example, I analyzed how these transitional justice documents use these terms to discuss ex-combatants, victims, ethnic groups, communities, and others.

⁷² Norman Fairclough, "Critical Discourse Analysis and Critical Policy Studies," *Critical Policy Studies* 7, no. 2 (July 1, 2013): 177–97, <https://doi.org/10.1080/19460171.2013.798239>.

3.4: Limitations and Ethics

The main limitation of my analysis is that most of the discourse I look at is very top-level, so it is difficult to incorporate language that the ‘average Colombian’ is using to discuss transitional justice concepts, but this is perhaps outside scope of my research question. As I mentioned when providing definitions of transitional justice, the controversy of transitional justice and the disagreements of scholars and practitioners in defining and conceptualizing it serves as another limitation. Therefore, I analyze documents that contain what are generally considered transitional justice mechanisms and processes in Colombia, while also considering that transitional justice can also be seen as a movement or idea in the Colombian context. In this way, it is unlikely that I am able to review all the discourse that may be relevant to my research question.

Similarly, because the right to development is a third generation right and is thus not enforceable under international human rights law, there is some controversy among legal scholars. In this regard, analyzing this topic can be further illuminating. However, my focus is on how both legal and non-legal documents describe concepts more so than how the law is applied. As my analysis is a review of public documents and does not rely on human subjects, I have no ethical concerns regarding this research.

3.5: Significance

The primary purpose of my research is to analyze, describe, and explain the connections among human rights, development, and peace as I find them in discourse on transitional justice. The interpretive and subjective nature of CDA as a research method allowed me to look deeply into this material, while the inclusion of different types of documents enabled me to paint the most comprehensive picture of the issue, resulting in a systematic investigation of the interpretations that I made.

I believe these documents will give an adequate insight because they are collectively seen as the main transitional justice instruments in Colombia, yet their focus and purpose vary from each other, and they were written in different years, administrations, and eras of the conflict. In this way, any trends found would reveal a common understanding of transitional justice at the national level that is reflective of the conflict itself. My research question can serve as a proxy to illuminate the root causes of the conflict, which are largely rooted in economic issues, further highlighting why this topic is important.

CHAPTER 4: FOUNDATIONS OF TRANSITIONAL JUSTICE IN COLOMBIA

The creation of a Peace Commission and implementation of an Amnesty Law by Belisario Betancur's administration (1982-1986) are the foundations for Colombia's engagement with transitional justice.⁷³ As an advisory body to the government, the Peace Commission is a non-judicial mechanism that can be seen as a foundation to the transitional justice mechanism of a truth commission. Therefore, it is useful to analyze the decree of the Peace Commission along with the Amnesty Law, as amnesties are a mechanism of transitional justice. As reported by newspapers, governmental officials also publicly discussed the Amnesty Law, while additional newspaper coverage reveals mentions of the right to development and the relationship between socioeconomic circumstances and human rights. Thus, in consideration of these measures as the foundations of Colombia's transitional justice mechanisms, I analyze how the language of both acts, as well as public discourse by the administration, acknowledges human rights, development, and socioeconomic inequality. Transitional justice as a field emerged in the early 1990s, typically characterizing the transition from authoritarianism to democracy. Because Colombia adopted a more democratic and inclusive constitution during this time, I also consider the Colombian Constitution as a foundation of the country's engagement with transitional justice. Specifically, I analyze the document's sections on human rights and how it incorporates development and consideration of socioeconomic circumstances. It is important to point out that Colombia's

⁷³ Williams and Duque, "Transitional Justice before and after Transition: Colombia in Comparative Perspective."

engagement with human rights has occurred within a regional legal environment characterized by the Inter-American human rights system and managed by the Organization of American States (OAS). Therefore, I also consider the regional human rights system to be a foundation of Colombia's engagement with transitional justice. Specifically, I turn to the American Declaration of the Rights and Duties of Man, the OAS Charter, and the Additional Protocol to the American Convention on Human Rights in the Area of Economic, Social and Cultural Rights, analyzing how these documents discuss development and socioeconomic circumstances.

An analysis of these legal documents and the discourse surrounding them reveals that human rights are consistently and clearly discussed in relation to socioeconomic circumstances. In the few occasions that the right to development is mentioned outright, it is usually discussed in relation to conflict and violence. However, development is included in human rights-focused documents, signifying connections between the two. When discussed, the concept of development is understood in different ways, suggesting a comprehensive understanding and holistic definition that goes beyond economic development, defined as not only well-being but also a way for people to prosper.

First, after analyzing *Decreto 2711 de 1982*, which created the Peace Commission, I find that the law's discourse of promoting community rights and development to improve the socioeconomic conditions of all Colombians, especially those who are most vulnerable, and to achieve peace aligns with the right to development, even though this term is not used explicitly. Similarly, in the provision of amnesty to former combatants, *Ley 35 de 1982*, reinforces the message that peace relies on economic well-being. I then supplement my analysis of these legal documents of newspaper coverage of these laws, as well as discourse on the right to development and socioeconomic circumstances of Colombians, which further promotes socioeconomic change as a means to achieve peace. Moreover, as additional foundations of transitional justice in

Colombia, I then review the Colombian Constitution, which contains discourse on the participation of people in their communities for development, while the American Declaration of the Rights and Duties of Man, the OAS Charter, and the Additional Protocol to the American Convention on Human Rights in the Area of Economic, Social and Cultural Rights within the OAS and Inter-American system contains direct mentions of the right to development.

4.1: Peace Commission

When President Belisario Betancur took office, he initiated a peace process with insurgent groups. With the goal of ending the armed conflict, *Decreto 2711 de 1982* authorized the creation of a Peace Commission to advise the administration on peacemaking. The decree begins with the acknowledgement that to achieve complete peace within the territory, it is necessary to accelerate economic development, social change, and the improvement of living conditions for Colombians, especially those who are homeless.⁷⁴ The use of the term *paz completa* (complete peace) in 1982 is like the term *paz total* (total peace), which the Colombian government is using 40 years later. Both phrases signify a recognition that Colombia is not fully at peace unless all peoples in all territories no longer experience violence, and these terms also set out a goal for the country to achieve. The decree mentions improving the living conditions of people who are unhoused. Specifically acknowledging some of the poorest and most marginalized people in society communicates an underlying recognition that the conflict has impacted the most vulnerable Colombians. In this way, complete peace cannot be attained without improving the socioeconomic circumstances of all Colombians, solidifying a connection between socioeconomic development and peace.

⁷⁴ Congreso de la República de Colombia, "Decreto 2711 de 1982" (Diario Oficial, September 19, 1982), <https://www.suin-juriscol.gov.co/viewDocument.asp?ruta=Decretos/1881504>.

Following the acknowledgement of this connection, Article 1 of the decree grants responsibility to the Peace Commission to advise the president on topics such as: providing democratic institutions with the leadership required by the development of the community, the orderly development of the economy and Colombian society, and the guardianship of community rights.⁷⁵ Community is mentioned along with both development and rights, signifying a connection between these ideas. In this manner, rights are spoken about in a communal, collective sense, rather than individual liberties. Moreover, in addition to community, development is mentioned in terms of economy and society, which presents a holistic idea of development that transcends capitalistic market-based development. A responsibility further granted by Article 1, the Peace Commission advises on the government's attention to the basic necessities of nutrition, health, education, living, employment, social security, and the poorest, most vulnerable, and unprotected segments of the population.⁷⁶ Considering the commission's ability to advise the government on social services reinforces the connection between peace and socioeconomic well-being.

The language used in *Decreto 2711 de 1982* reflects an acknowledgement that true peace cannot be attained without development and the improvement of socioeconomic circumstances. The decree also contains rights language alongside these concepts. Therefore, although the decree does not explicitly use the term of the right to development, the ideas surrounding the term are present. Specifically, the decree suggests that the government should support community rights and development to improve the socioeconomic conditions of all Colombians, especially those who are most vulnerable, to achieve peace.

⁷⁵ Congreso de la República de Colombia.

⁷⁶ Congreso de la República de Colombia.

4.2: Amnesty Law

In the attempt by the Betancur administration to begin negotiations with armed groups, *Ley 35 de 1982* set out provisions to offer amnesties. Article 8 of the law authorizes the government to organize and carry out rehabilitation programs, land endowment, rural housing, credit, education, health, and job creation, so that those who are granted amnesty by this law are incorporated into a peaceful life, under the protection of the institutions, as well as all the people living within the regions subjected to violence.⁷⁷ By authorizing the government to grant social services to ex-combatants, the law is not just about amnesty but also reintegration. Reintegration requires action by the government to ensure socioeconomic well-being. This socioeconomic well-being includes not only ex-combatants but also people who are subjected to confrontation by armed groups. Overall, this law further reinforces the message that peace relies on economic well-being, which is the responsibility of the government to promote.

President Becantur reaffirms this point in a letter to the Peace Commission stating that the Colombian government has opened paths to create jobs and opportunities so that those who were fighting can return to civilian life and that the new measures benefit only those who were engaged in guerrilla warfare but also at the people living in areas affected by violence, in order to attain the development of all areas and all inhabitants.⁷⁸ In this way, Becantur emphasizes the development of all peoples, not just those who are being granted amnesty after joining an armed group. This language promotes unity in the achievement of peace. Similarly, the Peace Commission jointly signed a communique with the FARC that emphasized economic and social changes.⁷⁹ This further reflects peace being contingent on improving socioeconomic well-being.

⁷⁷ Congreso de la República de Colombia, "Ley 35 de 1982," November 19, 1982, <https://bapp.com.co/documento/ley-35-de-1982/>.

⁷⁸ "Text of Becantur Letter to Peace Commission," *El Tiempo*, February 5, 1983.

⁷⁹ "Text of Becantur Letter to Peace Commission."

This letter is an example of newspaper coverage during this time which reveals how government officials publicly discussed the Amnesty Law. For instance, ministers gave public statements on the Amnesty law. Specifically, the justice minister points out that it will be easier for the rebels to turn themselves in because they now have the added incentive that the government will help them to improve their socioeconomic situation.⁸⁰ In this way, socioeconomic changes incentivize combatants to take responsibility, which is a necessary action on the path toward peace. Expanding on this point, the foreign minister states that:

Colombians who have strayed onto the paths of subversion may recover legal status and contribute, along with all the rest of us, to making Colombia a country that is increasingly developed and more promising for all.⁸¹

This point suggests that even those involved in subversion can contribute to the development of Colombia, benefitting all communities and peoples. This mention of everyday Colombians who have been impacted by violence demonstrates the importance of all actors in the peace process. Peace does not only require negotiating with armed groups but also all Colombians uniting to develop the economy and society and promote socioeconomic well-being.

Newspapers also published dialogue from non-governmental actors. For instance, leaders of Colombian socialist groups made public comments about the amnesty process. Their statement mentions that the peasant population requires complete protection and the adoption of socioeconomic measures in violent regions.⁸² This language aligns with the government's message promoting socioeconomic change to achieve peace. Moreover, socioeconomic measures are mentioned immediately following security, demonstrating the importance of this change. The use of the word peasant is particularly significant because it acknowledges that rural Colombians specifically have been impacted by violence.

⁸⁰ "Ministers Comment on New Amnesty Decree," *Bogota Domestic Service*, February 19, 1982.

⁸¹ "Ministers Comment on New Amnesty Decree."

⁸² "Socialists Urge Truce, Joint Party With M-19," *Paris AFP*, November 14, 1982.

4.3: Socioeconomic Circumstances and the Right to Development

Additional newspaper coverage during this time reveals other mentions of the socioeconomic circumstances of Colombians, as well as the country's right to development. The media primarily reported on President Betancur's dialogue surrounding these topics, revealing a link between the discussion of human rights and the right to development with socioeconomic conditions and peace.

However, a few years prior to the election of Becantur, the Colombia Human Rights Forum issued a final declaration stating that the violation of human rights:

stems basically from economic and social causes evidenced in the concentration of wealth and production goods in the hands of the few, the degradation of the living conditions of Colombians, the enrichment of certain persons through illegal businesses and the corruption and immorality that results in social tensions and popular protests.⁸³

In this way, human rights abuses – which transitional justice aims to address – are rooted in socioeconomic problems. The commission goes further on to say that the eradication of the corruption and immorality that cause human rights violations cannot be achieved by implementing a repressive apparatus that rejects the fair demands stemming from the difficult economic and social situations that people live in.⁸⁴ The causes of human rights violations lie in corruption, and the goal is to ultimately end this corruption. However, the response at the time, which existed in the form of repression by the state, ignores the demands of the people. Recognizing the difficult socioeconomic circumstances acknowledges that these demands are reasonable.

President Betancur uses the term 'right to development' around the time of the passage of the Amnesty law and the Peace Commission decree, although it is not mentioned in the context of the Colombian conflict specifically. In a response to a letter from the Soviet Union, Becantur

⁸³ "Human Rights Forum Issues Final Declaration," *El Espectador*, April 2, 1979.

⁸⁴ "Human Rights Forum Issues Final Declaration."

mentions problems that disrupt ‘the simple, precarious survival of countries like Colombia that lack the material, political or technological strength to exercise our people’s legitimate right to development.’⁸⁵ Acknowledging that Colombia is a developing country trying to survive, conflict – in terms of the cold war – prevents the country from exercising its right to development.

Betancur clarifies this point by stating that the arms race:

looms over countries of medium or no development more violently and ominously than nuclear war itself, since it involves the conversion into weapons of resources that could contribute greatly not just to development itself in technical terms, but to saving billions of people from hunger and lack of shelter.⁸⁶

Violence prevents development, which is defined in terms of well-being. Resources used for conflict could be going toward providing food and housing to people. The right to development is also acknowledged in the years following the passage of the amnesty law. Betancur makes a statement that the Baker Plan ‘proposed by the United States to alleviate developing countries’ foreign debt, acknowledges Latin America’s right to development.’⁸⁷ In this way, there is a relationship between development work in terms of foreign aid and human rights in terms of the right to development. Thus, this newspaper coverage during the time of Betancur’s administration reveals that the topic of human rights is discussed in terms of socioeconomic circumstances, while the right to development is discussed in relation to conflict and violence.

4.4: Colombian Constitution

Colombia rewrote its constitution in 1991, during the emergence of the transitional justice field. Because transitional justice was originally understood as the transition from authoritarianism to democracy, the constitution can thus be considered a foundation of transitional justice in the country. While Colombia already had democratic institutions, the new

⁸⁵ “Betancur’s Response,” *Bogota Domestic Service*, September 14, 1982.

⁸⁶ “Betancur’s Response.”

⁸⁷ “Betancur Terms Baker Plan ‘Good News,’” *Madrid EFE*, November 29, 1985.

constitution was meant to be more inclusive and democratic in shaping a new Colombia, even though the conflict still raged on.

The preamble, setting out the purpose of the constitution, aims to guarantee Colombians ‘life, peaceful coexistence, work, justice, equality, understanding, freedom, and peace within a legal, democratic, and participatory framework that may guarantee a just political, economic, and social order.’⁸⁸ Economic issues are acknowledged in the preamble of the most important document in the country. In this way, economic and social order is tied to ideas of peace, freedom, democracy, and justice. The next section is on fundamental principles, in which Article 2 states that the goals of the state are to ‘serve the community, promote the general prosperity... [and] facilitate participation by everyone in the decisions that affect them and in the economic, political, administrative, and cultural life of the nation.’⁸⁹ This is an expansion on the notion of participation from the preamble. Participation in development is a part of the right to development. The duties of the state are promoting this participation, as well as human rights, for its people, suggesting a connection between these responsibilities.

After the preamble and fundamental principles, the next section of the constitution lists the rights, guarantees, and duties, further underlining the importance of human rights in the document. In Chapter I on fundamental rights, Article 13 claims that the state ‘shall especially protect those individuals who on account of their economic, physical, or mental condition are in obviously vulnerable circumstances and shall sanction the abuses or ill-treatment perpetrated against them.’⁹⁰ In other words, economic vulnerability is on the same level as physical and mental harm, and it is the responsibility of the state to protect economically vulnerable individuals. According to Article 16, all Colombians are entitled to the unrestricted development

⁸⁸ Comparative Constitutions Project, trans., “Political Constitution of Colombia” (Oxford University Press, 1991), constituteproject.org.

⁸⁹ Comparative Constitutions Project.

⁹⁰ Comparative Constitutions Project.

of their identity.⁹¹ This language corresponds to that of the right to development, but it is stated in different terms and focuses on the individual level than a community level.

In Chapter II, which covers social, economic, and cultural rights, Article 57 grants the right of workers to participate in the management of enterprises.⁹² This language of participation also aligns with the right to development, but this participation is in relation to economic development. Article 58 grants the right to property, stating that the social dimension of property implies obligations, and, thus, an ecological dimension is inherent to it.⁹³ Respect for the environment is a part of the right to development. Acknowledging the social dimension to property implies a recognition of socioeconomic circumstances. Similarly, Article 64 states that it is the state's duty to promote the access of agricultural workers to landed property, as well as education, health, housing, social security, credit, communications, and technical and management assistance services to improve the incomes and quality of life of peasants.⁹⁴ The specific mention of peasants and the state's responsibility to provide them with services demonstrates a recognition of their socioeconomic hardships and inequalities. According to Article 65, the state must 'give priority to the integral development of agricultural, animal husbandry, fishing, forestry, and agroindustrial activities as well as to the building of physical infrastructural projects and to land improvement.'⁹⁵ The term 'integral development' is used in the section on economic, social, and cultural rights, suggesting a connection between development and rights. The development of these specific activities is specifically in regard to economic development. Lastly, Article 68 grants members of ethnic groups the right to education that that respects and develops their cultural identity.⁹⁶ In this understanding, development is

⁹¹ Comparative Constitutions Project.

⁹² Comparative Constitutions Project.

⁹³ Comparative Constitutions Project.

⁹⁴ Comparative Constitutions Project.

⁹⁵ Comparative Constitutions Project.

⁹⁶ Comparative Constitutions Project.

related to identity and culture, which is facilitated by education. Education further provides opportunities to promote overall well-being, which includes the improvement of socioeconomic circumstances.

Chapter III lays out collective rights and the environment. According to Article 79, every individual has the right to enjoy a healthy environment, and the community's participation is guaranteed in the decisions that may affect it.⁹⁷ Similarly, the right to development includes the right to live in a healthy environment, especially for communities whose socioeconomic well-being and development relies on land and natural resources. Moreover, the theme of community participation is used again. The community's participation in decisions that may affect it implies that people are tasked with their own development. In Article 80, the use of natural resources shall guarantee sustainable development.⁹⁸ Sustainable development is the development of communities while also respecting the environment. In Chapter II, Article 93 states that the rights and duties mentioned in this constitution shall be interpreted in accordance with international human rights treaties ratified by Colombia.⁹⁹ This is a direct acknowledgment of the international human rights system and Colombia's participation in it. The last chapter of this section lays out duties and obligations. According to Article 95, the exercise of rights also implies responsibilities.¹⁰⁰ Every individual is obliged to participate in the country's political, civic, and community life, strive toward achieving and maintaining peace, collaborate toward the good functioning of the administration of justice, and protect the country's cultural and natural resources to preserve a healthy environment. Rights such as the right to development imply the duty of people to participate in their communities for development. The mention of environment and peace also suggests a connection to development.

⁹⁷ Comparative Constitutions Project.

⁹⁸ Comparative Constitutions Project.

⁹⁹ Comparative Constitutions Project.

¹⁰⁰ Comparative Constitutions Project.

4.5: Regional Human Rights Instruments

Colombia has recognized the jurisdiction of the Inter-American Commission on Human Rights since 1985. The Organization of American States (OAS) and Inter-American human rights system can also thus be considered a foundation of transitional justice in Colombia, as the country's transitional justice mechanisms developed within this regional legal environment.

As a foundational human rights document for the OAS and Inter-American system, the American Declaration of the Rights and Duties of Man was adopted in Bogotá in 1948. The document begins with the acknowledgment that the principal aim of juridical and political institutions is the protection of the essential rights of man and the creation of circumstances that will permit him to achieve spiritual and material progress and attain happiness.¹⁰¹ There is a socioeconomic component to spiritual and material progress, and achieving this progress is tied to the development of the individual. The preamble then states that as 'spiritual development is the supreme end of human existence and the highest expression thereof, it is the duty of man to serve that end with all his strength and resources.'¹⁰² Similar to the ideas behind the right to development, this foundational human rights document suggests that development is the best an individual can do when given the opportunity to fully exercise their resources, implying a natural, human state of progress that external factors inhibit. The duty of man to develop to his fullest capacity implies rights as well. In chapter one on rights, Article XIII states that every person has the right to 'participate in the benefits that result from intellectual progress, especially scientific discoveries.'¹⁰³ Expanding on the notion of progress suggests development of the community at the individual level. Because the right to development was originally about developing countries reaping economic benefits, it is important that these benefits trickle down to everyone. In chapter

¹⁰¹ "American Declaration of the Rights and Duties of Man" (Ninth International Conference of American States, 1948), <https://www.cidh.oas.org/basicos/english/basic2.american%20declaration.htm>.

¹⁰² "American Declaration of the Rights and Duties of Man."

¹⁰³ "American Declaration of the Rights and Duties of Man."

two on duties, Article XXIX states that ‘it is the duty of the individual so to conduct himself in relation to others that each and every one may fully form and develop his personality.’¹⁰⁴ People have the duty to others so that everyone can develop individually, and the right to development implies obligations to each other. According to Article XXXVII, ‘it is the duty of every person to work, as far as his capacity and possibilities permit, in order to obtain the means of livelihood or to benefit his community.’¹⁰⁵ Work is not about individual success, but rather, a duty to livelihood and the community. This communal view of work aligns with the right to development as a third-generation group right.

In the same year as the Declaration, the Organization of American States (OAS) was established by the OAS Charter, which is the foundational document of the organization. The charter begins with the statement that the mission of the hemisphere is to offer man ‘a favorable environment for the development of his personality.’¹⁰⁶ As the first sentence in the document, the use of the term ‘man’ suggests that the establishment of OAS is ultimately about the people. At this individual level, development relies on the environment provided to him by the state and the region, and OAS aims to facilitate the conditions for development, thereby incorporating language which aligns with that of the right to development. The preamble continues with the recognition that OAS is founded on the principles of individual liberty and social justice based on respect for the essential rights of man, as well as welfare and contribution to progress.¹⁰⁷ In this way, social justice and liberty are linked, as the OAS does not just focus on the respect for civil and political rights but also socioeconomic rights. The mention of welfare and the contribution to progress are different terms regarding the development of personality and human well-being,

¹⁰⁴ “American Declaration of the Rights and Duties of Man.”

¹⁰⁵ “American Declaration of the Rights and Duties of Man.”

¹⁰⁶ “Charter of the Organization of American States” (Third Special Inter-American Conference, 1948), <https://www.cidh.oas.org/basicos/english/basic22.charter%20oas.htm#:~:text=The%20American%20States%20establish%20by,territorial%20integrity%2C%20and%20their%20independence.>

¹⁰⁷ “Charter of the Organization of American States.”

which are both aligned to the right to development. Article 2 proclaims that some of the essential purposes of the OAS are to promote economic, social, and cultural development; eradicate extreme poverty, which constitutes an obstacle to the democratic development of people; and limit conventional weapons to devote the largest number of resources to the economic and social development of member states.¹⁰⁸ Different types of development are mentioned, including socioeconomic, at different levels, namely individual and member state, suggesting a comprehensive understanding of development that transcends just economic growth and includes human well-being. One of these types is democratic development, which suggests that development is ultimately about the participation of all people, a theme which is also present in the right to development. By pointing out that poverty prevents development and must be eradicated suggests a recognition that poverty is a major issue that the region faces. Article 3 reaffirms the principle that social justice and social security are foundations of lasting peace.¹⁰⁹ This recognition suggests that promoting socioeconomic well-being ultimately contributes to peace, an important link when thinking about transitional justice. Moreover, the inclusion of social justice alongside social security suggests that some form of economic redistribution is implied. In the chapter on fundamental rights and duties of states, Article 17 grants each state ‘the right to develop its cultural, political, and economic life freely and naturally. In this free development, the State shall respect the rights of the individual.’¹¹⁰ This is a direct mention of the right to development at the state level. However, development of the state requires respect for individual rights. A term that is also used in the Colombian Constitution, integral development is the entire focus of Chapter VII. In Article 30, member states pledge to ensure international social justice and integral development for their peoples, both of which are conditions essential to peace

¹⁰⁸ “Charter of the Organization of American States.”

¹⁰⁹ “Charter of the Organization of American States.”

¹¹⁰ “Charter of the Organization of American States.”

and security, defining integral development as encompassing the economic, social, educational, cultural, scientific, and technological fields.¹¹¹ Tied together, social justice and development for all people is essential for peace. Integral development is a holistic definition of development, which encompasses economic and social development. According to Article 32, member states shall contribute to integral development in accordance with their resources and capabilities.¹¹² The right to development is concerned with developing countries working toward acquiring the resources and capabilities necessary to provide an environment in which all human rights can be fully realized. This article recognizes that countries like Colombia have struggled to create this environment due to their developing status. Article 33 states that development ‘should constitute an integral and continuous process for the establishment of a more just economic and social order that will make possible and contribute to the fulfillment of the individual.’¹¹³ This article tasks the state with development, which involves creating a socioeconomic order so that every individual can prosper. In Article 34, the member states agree that the basic objectives of integral development are: equality of opportunity, elimination of extreme poverty, equitable distribution of wealth and income, and the full participation of people in decisions relating to their own development.¹¹⁴ While the full participation of all members of society in development is key, the state should help facilitate equal opportunity, poverty alleviation, and other socioeconomic improvements. According to Article 45, based on the conviction that the full realization of aspirations can only be achieved within a just social order, along with economic development and true peace, the member states agree on the principle that all human beings have a right to material well-being and to spiritual development under circumstances of economic security, the encouragement of all efforts for the purpose of the development and progress of the community,

¹¹¹ “Charter of the Organization of American States.”

¹¹² “Charter of the Organization of American States.”

¹¹³ “Charter of the Organization of American States.”

¹¹⁴ “Charter of the Organization of American States.”

and the recognition of organizations such as labor unions, cooperatives, cultural, professional, business, neighborhood, and community associations to the development process.¹¹⁵ This article directly mentions the right to development, stating that all humans have right to ‘spiritual development,’ which is tied to holistic well-being; however, this right relies on having economic security. By mentioning these organizations, development at community level and contribution of civil society to development is crucial, underlining the relationship between individual and communal rights.

The western hemisphere has also adopted specific regional human rights instruments. The Additional Protocol to the American Convention on Human Rights in the Area of Economic, Social and Cultural Rights (Protocol of San Salvador) was adopted in San Salvador in 1988. The preamble states that the ideal of human beings enjoying freedom from fear and want can only be achieved if conditions are created whereby everyone may enjoy economic, social, and cultural (ESC) rights as well as civil and political rights.¹¹⁶ Creating the conditions in which everyone can enjoy all their rights is the concept of the right to development. Expanding upon this point, the preamble continues with the message that it is essential that fundamental ESC rights be reaffirmed, developed, and protected on the basis of the right of its peoples to development, self-determination, and the free disposal of their wealth and natural resources.¹¹⁷ In this way, there is a direct mention of the right to development in a regional human rights document. Given the Protocol’s focus on ESC rights, people having the right to development is the reason why these rights need to be affirmed and protected. Additional reasons are the rights to self-determination and wealth and natural resources, suggesting a democratic and economic component. In Article 1,

¹¹⁵ “Charter of the Organization of American States.”

¹¹⁶ “Additional Protocol to the American Convention on Human Rights in the Area of Economic, Social and Cultural Rights ‘Protocol of San Salvador’” (Eighteenth Regular Session of the General Assembly, 1988), <https://www.oas.org/juridico/english/treaties/a-52.html>.

¹¹⁷ “Additional Protocol to the American Convention on Human Rights in the Area of Economic, Social and Cultural Rights ‘Protocol of San Salvador.’”

state parties are obligated to adopt the necessary measures to the extent allowed by their available resources that take into account their degree of development to achieve the full observance of the rights recognized in the Protocol.¹¹⁸ While development is necessary to achieve the full enactment of human rights, the ability of the state to adopt human rights measures takes the country's development into consideration.

Thus, upon the review of these documents which collectively make up the foundations of transitional justice in Colombia, I contend that the concept of the right to development and the recognition of difficult socioeconomic circumstances have been consistently linked to human rights and peace in public discourse. While this link has been more explicit in some cases compared to others, my analysis reveals a holistic conception of development that is understood as a way for people to prosper.

¹¹⁸ "Additional Protocol to the American Convention on Human Rights in the Area of Economic, Social and Cultural Rights 'Protocol of San Salvador.'"

CHAPTER 5: TRANSITIONAL JUSTICE BEFORE PEACE

After Colombia's initial engagement with transitional justice via amnesty and reinsertion programs in the 1980s, the country turned to a transitional justice framework and reintegration process beginning in 2003 with the United Self-Defense Forces of Colombia (AUC), a far-right paramilitary and drug trafficking group.¹¹⁹ Both the Alvaro Uribe (2002-2010) and Juan Manuel Santos (2010-2018) administrations adopted legislation with transitional justice components.

First, I analyze the Justice and Peace Law, which was passed in 2005 by the Colombian Congress during the Uribe administration after making peace with the AUC. Providing a legal framework for the reintegration of members of former insurgent groups into society, the law contains socioeconomic components to reintegration, as well as victims' rights and reparations. Specifically, the reparations process takes the socioeconomic circumstances of the indicted or accused person into account, along with the economic harm and human rights violations done to the victim. There is also a development component to repairing harm, as former combatants must contribute to the communities that they are reentering to achieve sustainability. Public discourse on the law by both government and non-government actors further reveals a development component in the reform of institutions, emphasizing that transitional justice is a long-term endeavor that requires investment to ensure sustainability.

¹¹⁹ Triana-E, Grace, and Wulkan, "Law and Order: The Evolution of Transitional Justice in Colombia from the Peace Process with the AUC (2003) to the FARC (2015)."

I then analyze the Victims and Land Restitution Law, adopted in 2011 by the Santos administration, which is focused on restoring the rights of victims through a transitional justice framework. Through this framework, the individual and collective social and economic measures to compensate victims can be seen as a mechanism to restore human rights. The comprehensive reparation measures and holistic assistance provided to victims aligns with the right to development, providing opportunities for victims to rebuild their life projects, thereby enhancing socioeconomic well-being and supporting people's livelihoods. In this way, development repairs harm while moving toward peace, which is the link between the past and present that transitional justice seeks to address. Public discourse on the law by government actors suggests a complementarity between facilitating land restitution for victims and fighting impunity as a goal of transitional justice, while discourse by the FARC-EP reveals an understanding of transitional justice that relies on these socioeconomic components of the conflict. Furthermore, NGO reporting on the law highlights a perspective of transitional justice that is compatible with inclusive, sustainable development that respects the human rights of all people. While these specific perspectives emphasize different aspects of transitional justice, they all focus on the conditions which are necessary to bring about peace.

I conclude this chapter with an analysis of public discourse on transitional justice in regard to the negotiations between the Colombian government and the FARC, which began shortly after the adoption of the Victims Law. With a resolution to the conflict on the horizon, discourse from both government and non-government actors during this time suggests that transitional justice is meant to address not only physical violence but also socioeconomic injustices, as a consideration of wider socioeconomic harms to victims would ultimately help achieve more sustainable peace.

5.1: Justice and Peace Law of 2005

During the Uribe administration, after making peace with the AUC, the Colombian Congress passed Law No. 975 of 2005, referred to as the Justice and Peace Law (JPL), which provided the legal framework to facilitate the reintegration of demobilized members of paramilitary groups into society. The JPL's focus on reintegration, victims' rights, and reparations acknowledges the socioeconomic components of compensating victims for the reparation of harm, as well as demobilized members reentering society. Before going into the legal framework, the law first defines terms and lays out principles. In Chapter I on principles and definitions, Article 5 defines victims as those who have individually or collectively suffered direct harm including emotional suffering, financial loss, or infringement of fundamental rights, as a result of crimes committed by illegal armed groups.¹²⁰ Through the mention of financial loss, the socioeconomic status of Colombians is recognized by pointing out that there is an economic component to harm suffered. Moreover, the infringement of fundamental rights implies that victimization applies to all human rights violated, which includes economic, social, and cultural rights. Reparation is a mechanism aimed to repair the harm done to victims. Defining reparation, Article 8 states that 'collective reparation should be geared to the psychosocial rebuilding of the populations affected by the violence... established especially for the communities affected by the occurrence of acts of systematic violence.'¹²¹ This focus on the community level aligns with the concept behind collective or group rights, which involves socioeconomic rights and the right to development. Moreover, reparation is defined as psychosocial rebuilding, which suggests a socioeconomic component to repairing harm to victims, as it requires an investment of resources into the improvement of their well-being.

¹²⁰ Congress of Colombia, "Law No. 975" (Queen's University Belfast, 2005), <https://reparations.qub.ac.uk/assets/uploads/law-975-ingls-1.pdf>.

¹²¹ Congress of Colombia.

After laying the baseline by defining victims and reparations, the JPL goes into the process for investigating and prosecuting former AUC members for their crimes. In Chapter III on procedural principles, Article 15 establishes the National Prosecutorial Unit for Justice and Peace to investigate the circumstances of criminal conduct, the living and social conditions of the indicted or accused person, and the harm caused to the victims, such as emotional suffering, financial loss or substantial infringement of fundamental rights.¹²² This consideration of living and social conditions takes the socioeconomic circumstances of the indicted or accused person into account, along with the harm – which includes economic harm and human rights violations – done to the victim.

In Chapter IV of the JPL, which grants the right to reparation for victims, Article 44 states that reparation for victims entails the duties of restitution, compensation, rehabilitation, and satisfaction.¹²³ As compensation is considered an act of reparation, there is an obvious socioeconomic component to repairing harm, while these other duties entail a recognition of the socioeconomic injustices of victims. For instance, Article 46 defines restitution as actions aiming to return the victim to his or her situation prior to the violation of rights, which include return to his or her place of residence and the return of property.¹²⁴ While property is included in this understanding of restitution, land inequality has also been a structural issue in Colombia for decades, implying a socioeconomic component. During the conflict, property rights were violated, and dispossession of land occurred, suggesting that there is a human rights element to restitution as well. In its provision of care to victims, rehabilitation also acknowledges socioeconomic circumstances. According to Article 47, rehabilitation includes medical and psychological care for the victims, as the social services that the government provides to the

¹²² Congress of Colombia.

¹²³ Congress of Colombia.

¹²⁴ Congress of Colombia.

victims are part of rehabilitation and reparation.¹²⁵ While the inclusion of rehabilitation suggests that there is a social component to reparation, there is also an economic component in terms of funding rehabilitative services.

The reintegration of demobilized AUC members into civilian life also has a socioeconomic component. In the last chapter of the JPL, according to Article 66, the government shall:

link the demobilized persons to productive projects or training or education programs so as to facilitate their access to productive employment [and] seek their support for entering adequate psychological care programs that facilitate their social reinsertion and their adaptation to normal day-to-day life.¹²⁶

The reintegration of demobilized former combatants acknowledges the reality of socioeconomic considerations, as it is the government's responsibility to ensure that these demobilized individuals have jobs, training, and education to properly reenter civilian life. The use of the term productive employment suggests that these former combatants must contribute to the communities that they are reentering in order to achieve sustainability.

Public statements by government officials provide greater insight into their interpretation of the JPL. For instance, in an interview with *El Espectador*, the Colombian Reintegration Adviser Frank Pearl speaks to the development aspect of reintegration and how it contributes to peace. When asked about delivering land that was once used by people with criminal connections to now-demobilized AUC members, Pearl responds that these assets and properties are now being used for social development projects in which victims, community people, and demobilized people are all working together to leave behind and progress past violence and crime.¹²⁷ In this view, development projects are a way to reconcile with past violence and move toward a peaceful future, which is a goal of transitional justice. When asked whether the FARC-EP will end up in

¹²⁵ Congress of Colombia.

¹²⁶ Congress of Colombia.

¹²⁷ "Reintegration Adviser Says Released FARC Members Will Not Rearm," *El Espectador*, June 23, 2007.

the same programs for the demobilized AUC, Pearl replies that everyone is able to access services that the government provides to all citizens, as the system for demobilized people is based on the effort to do community work and a willingness to repair harm to the victims, rather than a system of privilege.¹²⁸ According to Pearl, demobilized people are doing work to improve the community, suggesting that development is a way to repair harm to victims and presenting an image of unity in which all Colombians are working toward peace.

The Colombian government further discusses the developmental aspects of the JPL in a submission of a stocktaking document on peace and justice to the Review Conference of the Rome Statute, during which the Assembly of States Parties the International Criminal Court (ICC) met in Kampala, Uganda in 2010. While Colombia has implemented national judicial mechanisms and processes in pursuit of transitional justice, the country accepts the jurisdiction of the ICC, which is a complementary court of last resort that investigates and prosecutes individuals charged with the international crimes of genocide, war crimes, crimes against humanity, and aggression. Moreover, the Chief Prosecutor of the ICC at the time visited Colombia to keep the implementation of the JPL moving in the right direction. Thus, this discourse at the international level, reveals how Colombia speaks about transitional justice with other state actors. For instance, a description of the characteristics of the JPL emphasizes that rather than entrusting transitional justice processes to international courts or mixed courts, the Colombian judicial branch carries out the proceedings, which strengthens the capacity of local institutions and brings justice closer to the affected communities.¹²⁹ In this way, Colombia views transitional justice as a process that builds local institutions so that they can better serve communities, an important element of development work. Indeed, development involves

¹²⁸ "Reintegration Adviser Says Released FARC Members Will Not Rearm."

¹²⁹ Republic of Colombia, "Justice and Peace Law: An Experience of Truth, Justice and Reparation" (Review Conference of the Rome Statute, June 1, 2010), https://asp.icc-cpi.int/sites/asp/files/asp_docs/RC2010/Stocktaking/RC-ST-PJ-M.1-ENG.pdf.

investment into these communities. For instance, Colombia put resources into the reparations process. Highlighting that there are no budgetary limitations for reparations, the transitional justice process in Colombia required the creation of a new institutions and the corresponding assignment of budgetary and human resources to enforce victims' rights and facilitate the procedures for the restitution of assets and property.¹³⁰ Ultimately, this improvement of institutions and enhancement of resources enables communities to better guarantee the rights of victims.

Reports by non-governmental organizations (NGOs) grant insight into the discourse of transitional justice by non-state actors. In a policy brief discussing transitional justice in Colombia after the adoption of JPL, Uprimny and Saffon suggest that a successful transition requires dismantling large economic structures, especially the unequal system of land ownership caused by the conflict, as well as the economic ties between paramilitary groups and elites.¹³¹ In other words, the transition in transitional justice must be away from economic inequality and illicit economic activities and toward one that is more just and equal. However, NGOs have expressed concern that the Uribe administration instead prioritizes a quick fix removal of paramilitaries from the conflict, which risks leaving paramilitary economic and power structures largely untouched.¹³² Without further reforms, former combatants will be forced back into these economic structures.¹³³ Through this discourse, transitional justice is viewed as a process that requires the dismantling of economic structures, which takes time, rather than a way to simply remove paramilitaries from the conflict. In this way, transitional justice requires societal development. In the implementation of the JPL, the international community has played a

¹³⁰ Republic of Colombia.

¹³¹ Rodrigo Uprimny and Maria Paula Saffon, "Uses and Abuses of Transitional Justice Discourse in Colombia," Policy Brief, Selected Briefs from the Seminar Law in Peace Negotiations (Bogotá: PRIO, 2007).

¹³² "Colombia: Towards Peace and Justice?" Latin America Report (Bogotá/Brussels: International Crisis Group, March 14, 2006).

¹³³ "Colombia: Towards Peace and Justice?"

development role. While Colombia's middle-income economy is unlike most countries emerging from civil war, the country does not have adequate resources to implement the JPL and provide proper reparations, thereby looking to international and foreign donors for technical assistance which has been mainly focused on strengthening key institutions.¹³⁴ Despite this assistance, three years after the passage of the JPL, institutions lack resources, which 'suggests lack of faith in, and commitment to, transitional justice, as does the introduction of short-term relief measures for victims via the state-funded administrative reparations program.'¹³⁵ This criticism further suggests that transitional justice should focus on long-term reforms, which require adequate resources, rather than short-term relief. Otherwise, it will be seen as a failure.

When looking at the language of the JPL, I find that transitional justice acknowledges the socioeconomic components of harm to victims, as well as compensation for reparation of this harm. Meanwhile, the JPL's discussion on the reintegration of demobilized individuals further acknowledges the socioeconomic requirements to properly reentering society. Public government discourse on the projects undertaken by former combatants and the improvement of institutions to provide services more effectively to victims further reveals the developmental aspect of the JPL. This developmental aspect is supplemented by NGO reporting, which suggests that transitional justice's need for long-term reform requires adequate resources.

5.2: Victims and Land Restitution Law of 2011

Colombia's engagement with transitional justice was reignited with the election of the Juan Manuel Santos administration. Following the Uribe administration and prior to beginning the peace process with the FARC-EP, the Santos administration (2010-2018) adopted Law No. 1448 of 2011, referred to as the Victims and Land Restitution Law (Victims Law), which aims to

¹³⁴ "Colombia: Towards Peace and Justice?"

¹³⁵ "CORRECTING COURSE: VICTIMS AND THE JUSTICE AND PEACE LAW IN COLOMBIA," Latin America Report (Bogotá/Brussels: International Crisis Group, October 30, 2008).

provide recognition and compensation to victims of the conflict. Differing from the JPL, which focuses on paramilitaries and provides somewhat specific conditions for those who are considered victims, the Victims Law expands the definition of victims to include those who have suffered from violence resulting from the conflict and provides a process of land restitution for those who have been dispossessed and displaced. In this way, more Colombians who have suffered from different forms of harm by the various perpetrators involved in the conflict are acknowledged by the Victims Law. Thus, while there are socioeconomic and development components to both the Victims Law and the JPL, these considerations are more explicit in the Victims Law.

Laying out the purpose and scope, the Victims Law establishes both individual and collective social and economic measures within a transitional justice framework so that the status of victims is recognized and dignified through the materialization of their constitutional rights.¹³⁶ In other words, the individual and collective social and economic measures to benefit victims is conducted within the framework of transitional justice, which recognizes their human rights. In this way, socioeconomic measures, transitional justice, and broader human rights are linked with respect to victims of the conflict. On this note, the law continues with a definition of transitional justice. According to Article 8, transitional justice is understood as the different judicial or extrajudicial processes and mechanisms associated with society's attempts to ensure that those who are responsible for violations are held accountable and that necessary institutional reforms are carried out for non-repetition and the dismantling of illegal armed structures, with the aim of achieving national reconciliation and lasting and sustainable peace.¹³⁷ While ensuring accountability for human rights violations is necessary to this understanding, it is important to

¹³⁶ Congress of the Republic of Colombia, "Law 1448 of 2011" (Queen's University Belfast, June 10, 2011), <https://reparations.qub.ac.uk/assets/uploads/Victims-Law-1448-2011.pdf>.

¹³⁷ Congress of the Republic of Colombia.

note that institutional reforms are also a part of transitional justice. A major criticism of the JPL was that it failed to enact these reforms. Because institutional reform can be understood as improving institutions so that they can better function for people, there is a developmental component to the notion of transitional justice put forth by the Victims Law. As society is the actor that is attempting to hold people responsible, it also suggests an involvement of all individuals and collectives in this process. In this case, the transition is understood as one toward future reconciliation and peace. Article 9 then lays out the transitional tools to facilitate such a transition. Specifically, attention, assistance, and reparation are aimed to help victims overcome suffering and to respond to and overcome the violations of their rights.¹³⁸ As these tools often have an implicit socioeconomic component to them, socioeconomic measures can be seen as a mechanism to restore human rights. However, sometimes transitional tools and measures should be applied differentially depending on the individual or community. Laying out this principle of differential approach, Article 13 recognizes that special guarantees and protection measures should be offered to groups exposed to the greatest risk of violations, such as women, young people, children, the elderly, persons with disabilities, peasants, social leaders, members of trade unions, human rights defenders, and victims of forced displacement.¹³⁹ The specific mention of peasants and trade union members alongside these other vulnerable groups recognizes that there is a socioeconomic component to marginalization and victimization. In addition to the duty of the state to implement care, assistance, and reparation measures for victims, Article 14 suggests that it is also the duty of civil society and the private sector to show solidarity and respect for victims and to support the reparation processes and the active participation of victims.¹⁴⁰ This support by civil society and the private sector has a socioeconomic component, as it might involve providing

¹³⁸ Congress of the Republic of Colombia.

¹³⁹ Congress of the Republic of Colombia.

¹⁴⁰ Congress of the Republic of Colombia.

employment or social services. Meanwhile, the active participation of victims suggest that they are participating in their own development, which is a principle of the right to development. Similarly, the principle of progressivity introduced by Article 17 obliges the state to create the conditions for the effective enjoyment of human rights, recognizing a minimum or essential satisfaction of these rights that the state must guarantee and gradually increase.¹⁴¹ Processes that lead to the enjoyment of human rights and the gradual increase of satisfaction rely on development by the state. This concept aligns with the right of development, as it involves guaranteeing the conditions in which all rights can be respected. While this principle applies to all people, there are also specific rights for victims, one of which is the right to reparation. Granting victims the right to full reparation, Article 25 provides that the ‘cost or disbursements incurred by the State in providing assistance services shall in no case be deducted from the administrative or judicial compensation to which the victims are entitled.’¹⁴² In other words, there is not a cost limit on the comprehensive reparation measures and holistic assistance provided to victims. Granting additional rights to victims, Article 28 mentions the right to take part in institutional and community dialogue; the right to benefit from affirmative actions taken by the state; the right to seek and receive humanitarian attention; the right to participate in the formulation, implementation and monitoring of the public policy of prevention, care, and reparation; and the right to restitution of land if it has been dispossessed.¹⁴³ These rights further reflect the support of the participation of victims in their development, while the mention of land and humanitarian care suggests a specific socioeconomic component to victims’ rights as well.

The law also mentions victims’ rights in judicial proceedings. Article 44 states that victims who lack resources to cover court proceedings shall be subject to measures to access criminal

¹⁴¹ Congress of the Republic of Colombia.

¹⁴² Congress of the Republic of Colombia.

¹⁴³ Congress of the Republic of Colombia.

proceedings.¹⁴⁴ In this way, taking victims' socioeconomic status into account helps them access justice so that their lack of resources not limit them. Similarly, victims have the right to humanitarian assistance. Article 47 states that victims shall receive humanitarian aid in 'helping, assisting, protecting and attending to their needs for food, personal hygiene, handling of supplies, kitchen utensils, emergency medical and psychological care, emergency transport and temporary housing in dignified conditions.'¹⁴⁵ This aid is meant to ensure that basic needs of victims of met, suggesting a socioeconomic component to caring for victims and overall transitional justice. Additionally, the law provides victim assistance, which Article 46 defines as the economic, social and fiscal measures, programs, and resources which are 'aimed at re-establishing the effective exercise of victims' rights, providing them with the conditions to lead a dignified life and guaranteeing their incorporation into social, economic and political life.'¹⁴⁶ Victim assistance involves socioeconomic measures, as these are required to reestablish victims' rights, while a dignified life and the incorporation into social and economic society is an important component. Different victims might require different types of assistance. For instance, according to Article 60, assistance for victims of forced displacement is complemented by the public policy of prevention and socioeconomic stabilization, while employment programs are part of transitional humanitarian aid.¹⁴⁷ In this view, employment is considered a basic need, while socioeconomic stabilization is required to ensure the well-being of this category of victims so that they can return to their communities.

Building on the processes to create the effective enjoyment of human rights, the Victims Law lays out the measures for land restitution as a means of reparation to victims who have been dispossessed of and displaced from their land. According to Article 72, the person who had been

¹⁴⁴ Congress of the Republic of Colombia.

¹⁴⁵ Congress of the Republic of Colombia.

¹⁴⁶ Congress of the Republic of Colombia.

¹⁴⁷ Congress of the Republic of Colombia.

exercising his economic exploitation during the plundering or abandonment has the right to ownership of vacant property, while in cases where restitution is not possible, this person will be offered the alternatives of either the equivalent access to land of similar characteristics and conditions in another location or cash compensation.¹⁴⁸ In this way, land is presented as a source of livelihood that was taken away from many people due to the conflict. As cash compensation is presented as an alternative in a situation in which restitution is not possible, land also contributes to socioeconomic well-being. Victims can also receive administrative compensation. According to Article 134, the Colombian government, through the Administrative Unit for Victim Care and Reparation, will implement a program to promote an investment of the resources that victims receive as administrative compensation to rebuild their life projects through technical or vocational training, creation or strengthening of productive enterprises or assets, and acquisition or improvement of housing.¹⁴⁹ In this way, the administrative compensation offered to victims provides opportunities for them to invest in themselves and take charge of their development. Rebuilding their life projects offers ways to enhance socioeconomic well-being. Rehabilitation is a reparation measure for victims. Defining rehabilitation as a set of legal, medical, psychological, and social strategies, plans, programs, and actions aimed at restoring the physical and psychosocial conditions of victims, Article 135 provides that the rehabilitation program include measures that enable the victims to perform in their family, cultural, labor, and social environments and to exercise their rights and freedoms.¹⁵⁰ The ability to successfully perform in labor and social environments suggests a socioeconomic component to this provision, especially in a way in which victims can exercise their human rights, which includes socioeconomic rights. In guaranteeing victims the right to non-repetition, Article 149 provides for ‘strengthening the

¹⁴⁸ Congress of the Republic of Colombia.

¹⁴⁹ Congress of the Republic of Colombia.

¹⁵⁰ Congress of the Republic of Colombia.

effective participation of vulnerable and/or vulnerable populations in their community, social and political settings, in order to contribute to the exercise and effective enjoyment of their cultural rights.¹⁵¹ Promoting the participation of marginalized groups in their community aligns with the concept of the right to development, in which people participate in their own development so that they can fully exercise and enjoy their rights. Expanding upon this concept, Article 150 provides that the state dismantle the economic and political structures that have benefited and sustained the illegal armed groups.¹⁵² In this way, it is recognized that the current socioeconomic structures have enabled illegal armed groups, and, thus, the state should act. Ultimately, promoting the participation of marginalized groups and dismantling economic structures are meant to guarantee non-repetition and move toward peace. Other repair measures include collective reparation. Indeed, Article 151 discusses the implementation of a collective reparation program, which considers the rights violations of social and political groups and organizations, as well as communities determined by the legal, political, or social recognition of the collective or the culture, area, or territory in which they live.¹⁵³

The National System of Comprehensive Care and Reparation for Victims provides the institutional framework for the care and reparation of victims. Article 174 specifically lays out the functions of territorial entities, which shall possess the necessary resources and budgetary allocations to design and implement comprehensive reparation programs for victims, guaranteeing the efficient and timely provision of health services, education, drinking water and basic sanitation.¹⁵⁴ Granting these responsibilities to entities at a more local level enables these territories to facilitate the participation of people in their own development. Designing and implementing their own programs implies the recognition that each territory has different needs;

¹⁵¹ Congress of the Republic of Colombia.

¹⁵² Congress of the Republic of Colombia.

¹⁵³ Congress of the Republic of Colombia.

¹⁵⁴ Congress of the Republic of Colombia.

these needs are not just at the national level. By being granted economic resources, the territorial entities provide basic needs to victims. Accompanying the overall system, the National Plan for Comprehensive Care and Reparation for Victims will include objectives to ‘design and adopt measures that guarantee victims’ access to comprehensive urban and rural development plans, programs and projects, offering them the necessary means to repair the damage suffered, avoiding revictimization.’¹⁵⁵ In this way, development is a way to prevent revictimization. Specifically, development is necessary to repair harm while moving toward peace, to promote overall well-being, and to support people’s livelihoods, all of which is the link between past and present that defines transitional justice.

Newspaper coverage of government officials’ public statements discusses the fight against impunity, suggesting that ensuring accountability for crimes is a natural focus of transitional justice in Colombia, especially given the criticism that the Justice and Peace Law of 2005 resulted in impunity for paramilitary groups. In an interview with *El Pais*, Senator Roy Barreras affirms that the Victims Law will not result in impunity because serious cases will be tried and sentenced, justice and truth for victims are guaranteed, and a transition path for eventual future demobilizations will be opened up so that violent Colombians can return to society.¹⁵⁶ In this view, the fight against impunity and the reintegration of former combatants are complementary. Reentering society has a socioeconomic and developmental component to it, as it requires some sort of rebuilding at the community level. Similarly, in an interview with *El Espectador*, when asked whether land restitution is an implementation of post-conflict measures during war, Prosecutor General Montealegre responds that in the discussion about transitional justice without a transition, the Office of the Prosecutor General needs to create a

¹⁵⁵ Congress of the Republic of Colombia.

¹⁵⁶ “Article Lays Out Content of Peace Framework Law,” *El Pais*, June 19, 2012.

special unit for land restitution, while contributing to the fight against impunity.¹⁵⁷ In other words, the Colombian government, through the Prosecutor General, can contribute to transitional justice through fighting impunity, while facilitating land restitution for victims, reinforcing the complementarity between these two areas of focus.

As the actors on the other side of the peace process, FARC-EP leaders also gave public statements regarding land restitution. Discussing poverty and other human development indicators in Colombia with Caracol Television, FARC-EP leader Marquez highlighted that:

8 million hectares have been forcibly taken from their owners and that inequality in rural areas is even more pronounced than in other parts of the country... the land restitution process that the government has launched an act of deceit, as the receivers of land deeds will be forced to sell them out of an inability to make them productive.¹⁵⁸

In this critique of government policy, the FARC-EP suggests that the land restitution law is not giving sufficient attention to poverty and inequality, especially in rural areas. Thus, the FARC-EP's understanding of transitional justice relies on these socioeconomic components of the conflict.

Further highlighting an understanding of transitional justice that relies on the socioeconomic components of the conflict, NGO reports on the Victims Law provide additional interpretations of land restitution in relation to transitional justice in Colombia. For instance, contrasting the land restitution process against Colombia's extractivist and exclusionary model of economic development that continues to reproduce the conditions leading to human rights violations, a report by Transnational Institute suggests that 'the implementation of social, political and economic justice is also crucial if a solid foundation for peace is to be constructed.'¹⁵⁹ In this

¹⁵⁷ "New Prosecutor General 'Does Not Believe in' Drug Legalization," *El Espectador*, March 25, 2012.

¹⁵⁸ "FARC Leader Marquez Says Peace Requires Resolving Conflict Origins," *Caracol Television*, October 18, 2012.

¹⁵⁹ Paula Martínez Cortés, "The Victims and Land Restitution Law in Colombia in Context: An Analysis of the Contradictions between the Agrarian Model and Compensation for the Victims" (Amsterdam: Transnational Institute, December 2013), <https://www.tni.org/en/publication/the-victims-and-land-restitution-law-in-colombia-in-context>.

view, transitional justice is not compatible with Colombia's economic development model, which reproduces the socioeconomic conditions that violate human rights and ultimately undermine peace. Expanding upon this argument, the report presents two mutually exclusive perspectives of land restitution, in which the first perspective seeks only to enable the accumulation of wealth rather than guarantee the development of farmers' territories, while the second perspective aims to empower historically marginalized farmers as fundamental social, cultural, economic, and political actors in the construction of an inclusive agrarian model as a fundamental step toward solving the inequitable land distribution constituting the root of the conflict.¹⁶⁰ Underlying these differing perspectives is the distinction between economic development that exploits rural communities, which has been occurring in Colombia for hundreds of years, and a holistic concept of development which aims to include and empower all individuals and communities. This second perspective aligns with the right to development, suggesting that land restitution should implement these principles. In this view, transitional justice is compatible with inclusive, sustainable development that respects the human rights of all people, as these conditions are necessary to bring about true peace.

5.3: Negotiations with the FARC-EP

Shortly after the adoption of the Victims Law, the Colombian government began peace talks with the FARC-EP, during which the focus on transitional justice was maintained. In a speech at the External University of Colombia, the Commissioner for Peace Sergio Jaramillo reveals the Colombian government's understanding of transitional justice at the time. Discussing the difference between a peace agreement and peace building, which he calls the transition phase, Jaramillo departs from the common understanding of impunity, instead measuring it by the

¹⁶⁰ Martínez Cortés.

degree to which the rights of the victims are satisfied.¹⁶¹ In this view, the transition of transitional justice is from an absence of violence, which can be understood as negative peace, toward more actively creating the conditions to maintain a peaceful society, often described as positive peace. In the Colombian case, transitional justice is viewed as ending impunity for human rights violations. However, as opposed to simply punishing perpetrators, Jaramillo suggests that impunity satisfies the rights of victims, shifting the focus toward them. Ensuring the rights of victims implies both a socioeconomic and developmental component.

NGOs have also reported on transitional justice and the peace talks. For instance, responding to the critique that the Colombian government should not consider the FARC-EP to have committed political crimes, International Crisis Group (ICG) acknowledges that while the FARC-EP has changed since the 1960s, it traces its roots to communist-inspired peasant communities, with marginalized peripheral constituencies remaining its most important social base.¹⁶² Through this differentiation, the ICG acknowledges the socioeconomic grievances at the root of the FARC-EP's mobilization, which impacts how the Colombian government seeks transitional justice as opposed to the peace process with the paramilitary groups. The ICG continues by acknowledging the specific elements of transitional justice that are being discussed in the peace talks. For instance, an investigation by a truth commission would reveal the web of connections between armed groups, economics, politics, and violence, resulting in a collective narrative that would address not only violence but also wider socio-economic harms.¹⁶³ In this view, transitional justice is meant to address not only physical violence but also socioeconomic injustices. This wider focus would reveal hidden histories, including institutional dimensions, of

¹⁶¹ Farid Samir Benavides Vanegas, "Justice in the Period of Transition," *Peace in Progress*, April 2014, <https://www.icip.cat/perlapau/en/article/justice-in-the-period-of-transition/>.

¹⁶² "Transitional Justice and Colombia's Peace Talks," Latin America Report (Bogotá/Brussels: International Crisis Group, August 29, 2013).

¹⁶³ "Transitional Justice and Colombia's Peace Talks."

the conflict, which would help to shift public perceptions and to guarantee non-repetition.¹⁶⁴ Thus, a consideration of wider socioeconomic harms would more comprehensively acknowledge victims and therefore achieve more sustainable peace. Reparations are also key to victims' rights. Acknowledging that access to health, education, and housing is every citizen's right and thus should not be included in budgets as part of reparation policy, the ICG points out that without social services and efficient local institutions, comprehensive reparation efforts and the restoration of land will be incomplete, thereby suggesting the need for a long-term program to improve access to these services.¹⁶⁵ This relationship between reparations and general social services suggests that the rights for all citizens, especially socioeconomic rights, must be guaranteed to also guarantee the specific rights of victims in addressing their harm. The reintegration of former combatants is also a focus of transitional justice. According to the ICG, many rank-and-file members who are deeply involved in the drug economy, illegal mining or extortion may prefer a relatively stable business to the uncertainty of the formal economy and question whether demobilization would improve their lives.¹⁶⁶ In this way, transitional justice and sustainable peace must also take the socioeconomic well-being of everyday former combatants into account.

Thus, during this time period beginning with Colombia's reengagement with transitional justice via the JPL until the Victims Law and start of negotiations with the FARC-EP, discourse by both government and non-government actors invested in peace reveals socioeconomic and developmental components to reintegration, reparations, and victim's rights. For instance, focusing on reintegration of former paramilitary members, as well as victims' rights and reparations, the JPL takes into account the socioeconomic circumstances of all these groups,

¹⁶⁴ "Transitional Justice and Colombia's Peace Talks."

¹⁶⁵ "Transitional Justice and Colombia's Peace Talks."

¹⁶⁶ "Transitional Justice and Colombia's Peace Talks."

along with the economic harm and human rights violations suffered by the victims. There is a developmental component to repairing this harm, as former combatants must undertake projects to improve the communities that they are reentering, suggesting the need for long-term institutional reform and investments in transitional justice mechanisms and processes. The Victims Law builds on this focus toward reforming institutions, suggesting that victims' rights should be restored through the provision of services that enable victims to rebuild their life projects, thereby enhancing socioeconomic well-being and supporting livelihoods. Therefore, the individual and collective social and economic measures - including comprehensive reparations - to compensate victims can be seen as a mechanism to restore human rights, which aligns with the right to development. In this way, development repairs harm to move toward peace, underlining the link between the past and present that defines transitional justice. While it is possible to focus the goals of transitional justice on different issues such as fighting impunity, addressing poverty and inequality, promoting inclusive development, and respecting human rights, these conditions are related in the sense that they are seen as necessary to bring about peace. Shortly after the adoption of the Victims Law, this peace became more tangible as negotiations between the Colombian government and the FARC-EP began, and transitional justice was seen as a way to address socioeconomic injustices in consideration of wider socioeconomic harms to victims, as this inclusion would ultimately make peace more sustainable.

CHAPTER 6: TRANSITIONAL JUSTICE AND PEACE WITH THE FARC-EP

In 2016, the Colombian government and the FARC-EP signed the Final Agreement to End the Armed Conflict and Build a Stable and Lasting Peace (Final Agreement). The peace accord is known for having the following key aspects relating to transitional justice: Commission for the Clarification of Truth, Coexistence and Non-repetition, the Special Jurisdiction for Peace (JEP), protection for ex-FARC-EP fighters and community leaders, and reparations for victims.¹⁶⁷ These processes and mechanisms are primarily in Chapter 3 of the Final Agreement, which presents the social and economic reincorporation of the FARC-EP to facilitate the end of the conflict, as well as Chapter 5 on victims. In these chapters, the end of the conflict is discussed as an opportunity for social change, suggesting the coexistence of peace and economic and social progress. The overall agreement is centered around a human rights-based approach and a territory-based approach, which is based on socioeconomic considerations and community participation. In particular, the special protections and measures for vulnerable groups who were victims of conflict relies on the recognition that these groups have been excluded both socially and economically, while there is a developmental component in the differential approach toward the promotion of the communities' participation in the peace process. Development is also present in the territorial focus of collective reparations.

¹⁶⁷ Piccone, "Peace with Justice: The Colombian Experience with Transitional Justice."

The Commission for the Clarification of Truth, Coexistence and Non-repetition (Truth Commission) established by the Final Agreement is an important element of transitional justice. In the report released by the commission in 2022, the acknowledgement of the history of exclusion of Afro-Colombians, Indigenous, and peasant farmers before the conflict provides additional context to the socioeconomic component to victims who were disproportionately impacted by violence during the conflict. In trying to understand the conflict, the commission identifies socioeconomic reasons for some of its causes, which include the presence of a complex system of political and economic interests by various groups, weapons in politics, and an internal enemy, as well as the conflict's persistence, which is made possible by drug trafficking, continuing inequality, and exclusion in investment, especially for vulnerable and marginalized groups, and land inequality for peasant farmers. This context is used to justify the need to change the economic development model in the country to ensure non-repetition, further demonstrating the relationship between socioeconomic change, development, and peace.

First, in my analysis of the Final Agreement, I find that there are socioeconomic goals to peace that are aligned with the concepts of the right to development. Specifically, the projects and programming necessary to facilitate the socioeconomic reincorporation of former FARC-EP members requires their participation in community development. Moreover, the transitional justice mechanisms established by the peace accord provide the opportunity to focus on socioeconomic human rights and development. Public discourse by the FARC-EP and the Colombian government, as well as multilateral organizations and foreign governments who have supported the peace process, highlight the socioeconomic considerations in Colombia's approach to transitional justice, as well as the importance of development support to communities in rural and violence-prone areas to implement the peace agreement.

Next, as a mechanism of transitional justice established by the Final Agreement, the Truth Commission's report echoes the socioeconomic and developmental considerations in the achievement of peace. In particular, I find that the commission acknowledges the structural issues and history of wealth inequality that created the conditions which made the violence against vulnerable and marginalized communities possible, especially against peasants. This acknowledgement of the socioeconomic component to victimization suggests the possibility of a prosperous Colombia if people were not prevented from pursuing their livelihoods, a concept which aligns with the right to development. Discourse by multilateral organizations, namely the UN, reinforces the finding that the injuries of the past as acknowledged by the Truth Commission are socioeconomic in nature. Thus, transitional justice processes and mechanisms must be fully implemented in order to achieve total peace.

6.1: The Final Agreement with the FARC-EP

Framing the whole document, including the transitional justice chapters, the preamble of the Final Agreement to End the Armed Conflict and Build a Stable and Lasting Peace (Final Agreement) states that the agreement:

contributes to the fulfilment of fundamental rights, such as political, social, economic and cultural rights...rights of women, of vulnerable social groups such as indigenous peoples, girls, boys and adolescents, communities of African descent and other ethnically differentiated groups; the fundamental rights of the small-scale farmers, both male and female, and the essential rights of persons with disabilities and of those displaced by the conflict; and the fundamental rights of the elderly and of the LGBTI community.¹⁶⁸

The inclusion of fundamental rights in this section establishes that human rights are at the center of the agreement, including economic, social, and cultural (ESC) rights, while the mention of small-scale farmers among the many vulnerable groups in the country suggests a socioeconomic component to marginalization. The preamble continues with the point that

¹⁶⁸ "Final Agreement to End the Armed Conflict and Build a Stable and Lasting Peace," November 24, 2016, <https://www.peaceagreements.org/viewmasterdocument/1845>.

Colombia has signed international treaties and declarations on equality, non-discrimination, and tolerance, not only as principles but also as values which are a prerequisite for bringing about peace and economic and social progress for all people.¹⁶⁹ The mention of these principles and values frames the rest of the agreement with the idea that economic and social progress is tied together with peace as coexisting goals. Indeed, the transformations that must be achieved when implementing this agreement must also aim to reverse the effects of the conflict and to change the conditions that have led to the persistence of violence across the country, while the FARC-EP suggests that these transformations must resolve the historical causes of the conflict, such as the issue of land ownership, the exclusion of the rural population, and the underdevelopment of rural communities.¹⁷⁰ In this way, underdevelopment is acknowledged as an issue, while there is a socioeconomic component to exclusion. To take this point further, according to the FARC-EP, socioeconomic issues are conditions that have led to violence. Acknowledging that the central pillar of peace is effective presence and operation of state throughout the country, especially in neglected regions, it is a goal of reconciliation ‘to construct a new territorial-based welfare and development paradigm to the benefit of broad sectors of the population that have hitherto been the victims of exclusion and despair.’¹⁷¹ Through the mention of both welfare and development, there are both socioeconomic and developmental goals to peace. A territorial-based paradigm acknowledges different development needs by territory, in which development occurs at the local level, rather than just within the national system. The mention of exclusion and despair experienced by these victims acknowledges their suffering, which has been impacted by socioeconomic circumstances. There is also an element of justice to this acknowledgment. In particular, justice ‘acknowledges essential fundamental rights for new and future generations,

¹⁶⁹ “Final Agreement to End the Armed Conflict and Build a Stable and Lasting Peace.”

¹⁷⁰ “Final Agreement to End the Armed Conflict and Build a Stable and Lasting Peace.”

¹⁷¹ “Final Agreement to End the Armed Conflict and Build a Stable and Lasting Peace.”

such as the right to protected land [and] the right to the conservation of the human species.’¹⁷² In this way, justice is understood as creating the conditions for future generations to thrive in a healthy environment. While the right to development is not named specifically, the mention of third generation rights, as well as a focus on the environment, is aligned with the concepts behind the right to development.

Following the preamble, the introduction observes that many communities throughout the country have been impacted by the conflict, including women, boys, girls, adolescents, rural communities, Indigenous peoples, the Afro-Colombian, black, palenquero, raizal and Roma communities, social and trade-union movements, and economic associations.¹⁷³ In consideration of these various communities, there is an ethnic, racial, gender, and socioeconomic component to marginalized groups and victims of the conflict. The introduction also acknowledges these communities in the end-of-conflict scenario. Specifically, the end of the conflict serves as an opportunity ‘to initiate a phase of transition that will contribute to greater territorial integration, greater social inclusion – especially of those who have existed on the fringes of development.’¹⁷⁴ The end of the conflict marks a transition that may be the transition in transitional justice, in which there is an opportunity for social change. To achieve this social change, the peace accord suggests that development is required. As specific areas in the country have different needs, a territorial-based approach to development is particularly required. The territorial-based approach, as described by the Final Agreement, recognizes and considers the economic, cultural, and social needs and characteristics of Colombia’s territories and communities to guarantee socio-environmental sustainability, while comprehensively implementing the various measures of the agreement with the active participation of all citizens.¹⁷⁵ Thus, the consideration of

¹⁷² “Final Agreement to End the Armed Conflict and Build a Stable and Lasting Peace.”

¹⁷³ “Final Agreement to End the Armed Conflict and Build a Stable and Lasting Peace.”

¹⁷⁴ “Final Agreement to End the Armed Conflict and Build a Stable and Lasting Peace.”

¹⁷⁵ “Final Agreement to End the Armed Conflict and Build a Stable and Lasting Peace.”

socioeconomic needs at the community-level and the active participation of these communities is present throughout the agreement and is necessary for sustainability, an important component of development.

Chapter 3 of the Final Agreement focuses on the end of the conflict, in which the social and economic reincorporation of the FARC-EP is a main element of transitional justice. The first section of the chapter is the Agreement between the National Government and the FARC-EP on the Bilateral and Definitive Ceasefire and Cessation of Hostilities and the Laying down of Arms, in which the Colombian government and the FARC-EP commit to ‘working together to achieve a national consensus involving all political, economical and social sectors.’¹⁷⁶ Thus, agreeing to a ceasefire involves not only laying down weapons but also building a new national consensus in which there is a socioeconomic component, as demonstrated by the need for socioeconomic change.

Building a new national consensus requires the economic and social reincorporation of the FARC-EP, which is discussed in the next section of Chapter 3. To promote a process of economic and social collective reincorporation, the FARC-EP set up a joint social and economic solidary organization called Social Economies of the Common (ECOMÚN).¹⁷⁷ Via ECOMÚN, a fund shall be set up for the implementation of programs and projects for the economic and social reincorporation process.¹⁷⁸ The projects and programming involved in the FARC-EP’s goal of socioeconomic reincorporation requires development work. In this way, the FARC-EP oversees their own destinies as members reentering society. To facilitate the process of comprehensive economic and social reincorporation of the FARC-EP into civilian life as a community and as individuals, a socioeconomic census will be conducted to identify potential sustainable socially

¹⁷⁶ “Final Agreement to End the Armed Conflict and Build a Stable and Lasting Peace.”

¹⁷⁷ “Final Agreement to End the Armed Conflict and Build a Stable and Lasting Peace.”

¹⁷⁸ “Final Agreement to End the Armed Conflict and Build a Stable and Lasting Peace.”

productive projects and programs to bring together the greatest number possible of men and women who are currently members of the FARC-EP with programs and projects for environmental protection and humanitarian de-mining warranting particular attention.¹⁷⁹ Conducting a socioeconomic census identifies the needs of the communities which will benefit from projects and programs. In this way, there is a developmental component to this work. Furthermore, the social plans or programs necessary to safeguard the fundamental and basic rights of the population shall be identified, such as the rights to: formal education and education for work and human development, housing, culture, environmental protection and regeneration; psychosocial support; reunification of family units, and measures for the protection and care of children of members of the FARC-EP in the process of reincorporation.¹⁸⁰ Human development is specifically mentioned and is also tied to human rights, most of which are ESC rights. In the process of reincorporation, every member of the FARC-EP will have the right to economic support to start an individual or collective socially productive or housing project. This contribution to society is an important aspect, underlying development goals, while economic support is needed to invest in these communities. To guarantee sustainable social and economic reincorporation, every man or woman who is currently a member of the FARC-EP shall receive a monthly basic income if they do not generate income for them and social security payments in terms of healthcare and pensions.¹⁸¹ In this way, the government ensures basic needs for former FARC-EP members. Sustainability is important in the sense that former combatants will not pick up arms again. Additional resources for economic reincorporation projects provided by international aid, the private sector, foundations, and multilateral organizations for projects shall increase the economic resources made available by the national government for the purpose of

¹⁷⁹ "Final Agreement to End the Armed Conflict and Build a Stable and Lasting Peace."

¹⁸⁰ "Final Agreement to End the Armed Conflict and Build a Stable and Lasting Peace."

¹⁸¹ "Final Agreement to End the Armed Conflict and Build a Stable and Lasting Peace."

reincorporation.¹⁸² Support for additional resources invites development aid into Colombian society to support reincorporation, as it will further support implementation.

While Chapter 3 focuses on facilitating the end of the conflict for the FARC-EP, Chapter 5 focuses on victims, introducing the Comprehensive System for Truth, Justice, Reparations and Non-Recurrence (Comprehensive System), which consists of different transitional mechanisms and processes aiming to restore the rights of victims. Before introducing the Comprehensive System, the chapter's preface includes a list of principles. One of these principles is reparations, in which victims have the right to be compensated for 'the injury and loss suffered because of the conflict... changing their lives for the better, in an end-of-conflict scenario, is a fundamental aspect of building a stable and longlasting peace.'¹⁸³ In this way, compensation is a means to restore victims' rights, which improves their overall socioeconomic well-being, ultimately building peace. The restoration of victims' rights is also related to the principle of a rights-based approach, in which victims should contribute to protecting and guaranteeing the effective enjoyment of rights by all, all citizens have the duty to refrain from violating the human rights of fellow citizens, and the infringements of ESC rights as a result of the conflict will be taken into account.¹⁸⁴ It is important to consider victims as fellow citizens and value their contribution and participation, especially as people are seen as capable of violating others' rights, and it is not just the duty of the state to refrain from violations. Furthermore, people are asked to be induced of the situation of others, suggesting that they should be interested in supporting the rights of their fellow citizens. The infringement of economic and social rights during the conflict is acknowledged, further underlying the conflict's impact on socioeconomic well-being.

¹⁸² "Final Agreement to End the Armed Conflict and Build a Stable and Lasting Peace."

¹⁸³ "Final Agreement to End the Armed Conflict and Build a Stable and Lasting Peace."

¹⁸⁴ "Final Agreement to End the Armed Conflict and Build a Stable and Lasting Peace."

Aiming to guarantee the rights of victims, the next section of Chapter 5 introduces the Comprehensive System as a system of judicial and extrajudicial transitional justice mechanisms which include a Truth, Coexistence and Non-Recurrence Commission, a Special Unit for the Search for Persons Deemed as Missing, a Special Jurisdiction for Peace (JEP), comprehensive reparations for victims, and guarantees for non-recurrence. When presenting the Comprehensive System, it is made clear that ‘the end of the conflict must contribute to ensuring the end of violations and infringements, while also being an opportunity to guarantee the realization of victims’ rights.’¹⁸⁵ In this view, the end of the conflict is an opportunity to promote a focus on human rights, suggesting a move from negative to positive peace in the sense that not only does violence stop, but rights are restored, including ESC rights. Nonetheless, impunity is a concern in the field of transitional justice, especially in the Colombian context. To move forward in the fight against impunity, the Comprehensive System complements judicial mechanisms with extrajudicial mechanisms to contribute to truth-telling regarding what happened, the search for missing persons, and the reparation of the damage caused to people, communities, and territories.¹⁸⁶ It is important to note that transitional justice combines judicial and extrajudicial mechanisms so that justice goes beyond punishment. These extrajudicial mechanisms provide the opportunity to focus more on socioeconomic human rights and development, especially reparations and truth-telling. As the goal of the Comprehensive System is fighting against impunity, even socioeconomic- and development-focused mechanisms are meant to hold perpetrators accountable for their crimes. Indeed, the Comprehensive System aims to achieve a: territorial-based, equity-based and gender-based approach, through the differentiated treatment of territories and populations, in particular of women and children victims, and of the most deprived

¹⁸⁵ “Final Agreement to End the Armed Conflict and Build a Stable and Lasting Peace.”

¹⁸⁶ “Final Agreement to End the Armed Conflict and Build a Stable and Lasting Peace.”

and most vulnerable populations and communities, and therefore those most affected by the conflict.¹⁸⁷

The focus on the most deprived and most vulnerable Colombians implies a lack of resources, which conveys a socioeconomic component. Acknowledging that these groups are those who have been most impacted by the conflict also suggests that there is a need for more care, support, and protection. At the same time, there must be improvements to overall society which enable people to live peacefully among each other. Indeed, in order to move forward, starting from the positive changes instigated within society by the Final Agreement, coexistence and reconciliation require the acknowledgement by society as a whole of the need to take advantage of the end of the conflict to build a future based on social justice.¹⁸⁸ In this way, the peace agreement is intended to make positive changes in society, many of which are socioeconomic. There is also a socioeconomic component to the goal of social justice, as this requires some form of economic redistribution in the Colombian context, considering that injustice is rooted in socioeconomic inequality. Moreover, because transitional justice aims to address the past in order to move toward the future, social justice is a part of this process.

Promoting the right to truth is a way in which this future can be built. In order to instigate truth-telling, the next section of Chapter 5 establishes the Truth, Coexistence and Non-Recurrence Commission. Specifically, the Truth Commission aims to uncover the truth and offer an extensive explanation of the complexity of the conflict, in particular regarding the least known aspects, such as its impact on children and adolescents and gender-based violence.¹⁸⁹ The least known impacts of the conflict are likely socioeconomic in nature, as this type of violence tends to be more invisible and complex than physical violence. Through its work, the commission will

¹⁸⁷ "Final Agreement to End the Armed Conflict and Build a Stable and Lasting Peace."

¹⁸⁸ "Final Agreement to End the Armed Conflict and Build a Stable and Lasting Peace."

¹⁸⁹ "Final Agreement to End the Armed Conflict and Build a Stable and Lasting Peace."

‘raise awareness of the specific ways in which the conflict reproduced historical mechanisms of discrimination, as a fundamental first step towards a more just and inclusive society.’¹⁹⁰

Understanding the historical mechanisms of discrimination is the first step to a more just, inclusive society, especially since there is a socioeconomic element to exclusion in Colombia. As part of its guiding criteria, the commission’s focus on guaranteeing the participation of victims, ensuring the restoration of their dignity, contributing to the realization of their rights to the truth and justice, comprehensive reparations and guarantees of non-recurrence, always taking pluralism and equity into consideration, should also help change their living conditions for the better.¹⁹¹ Essentially, this focus on victims’ rights and participation is meant to help change their living conditions, in which there is a socioeconomic component. Similarly, the commission’s mandate will be to elucidate and recognize ‘the human and social impact of the conflict on society, including its impact on economic, social, cultural and environmental rights.’¹⁹² In this way, the commission specifically focusing on ESC rights and how the conflict has affected society will require a deeper look into socioeconomic conditions.

The judicial component of the Comprehensive System is the Special Jurisdiction for Peace (JEP), which is discussed in the next section of Chapter 5. A guiding paradigm of the JEP is a focus on ‘reparations for the victims affected by the conflict, particularly to end the situation of social exclusion generated by their victimisation.’¹⁹³ In this sense, social exclusion is also tied to economic exclusion. As victimization generated this exclusion, reparations are needed to remedy this situation. Exclusion is important to acknowledge, as the consequences of human rights violations are most serious when victims belong to the most vulnerable groups, who deserve reparations and special protection, including Indigenous peoples, Afro-Colombian communities

¹⁹⁰ “Final Agreement to End the Armed Conflict and Build a Stable and Lasting Peace.”

¹⁹¹ “Final Agreement to End the Armed Conflict and Build a Stable and Lasting Peace.”

¹⁹² “Final Agreement to End the Armed Conflict and Build a Stable and Lasting Peace.”

¹⁹³ “Final Agreement to End the Armed Conflict and Build a Stable and Lasting Peace.”

and other ethnically distinct groups, rural communities, the poorest, the disabled, the displaced and refugees, children, and adolescents, the LGBTI population and the elderly.¹⁹⁴ The inclusion of poorest and rural communities in this list of vulnerable groups suggests a socioeconomic component to vulnerability. However, it must be considered that these groups have been historically vulnerable, which is why they were disproportionately victimized by conflict. The acknowledgement of truth and responsibility is an important aspect of the JEP. Persons appearing before the Judicial Panel for Acknowledgement of Truth and Responsibility, a mechanism of the JEP, may submit an individual or collective project for work or activities providing reparations.¹⁹⁵ Consistent with the ethnic and cultural traditions and customs of the communities, the project may involve one or more of the following: reparation for displaced rural people, environmental protection for forests, infrastructure building and repair, urban or rural development, waste disposal, illicit crop substitution, and environmental recovery.¹⁹⁶ In this way, reparations are programs that promote development, aiming to improve the socioeconomic well-being of people. Indeed, the acknowledgement of truth and responsibility may provide eligibility for an alternative penalty. To be eligible for the alternative penalty, a person who acknowledges truth and responsibility must contribute to their reincorporation into society through work, training, or study during their term of imprisonment, while engaging in activities ensuring non-recurrence when appropriate.¹⁹⁷ On the other hand, convicted persons who do not acknowledge truth and responsibility may be given substitute penalties or additional benefits if they contribute to their reincorporation into society through work, training, or study during their term of

¹⁹⁴ "Final Agreement to End the Armed Conflict and Build a Stable and Lasting Peace."

¹⁹⁵ "Final Agreement to End the Armed Conflict and Build a Stable and Lasting Peace."

¹⁹⁶ "Final Agreement to End the Armed Conflict and Build a Stable and Lasting Peace."

¹⁹⁷ "Final Agreement to End the Armed Conflict and Build a Stable and Lasting Peace."

imprisonment and to engage in activities ensuring non-recurrence once they are released.¹⁹⁸ In this way, there is a socioeconomic component to reentering society through work and education.

The act of reparations is also an important component of transitional justice. Demonstrating concrete contributions to reparations, the FARC-EP is committed to reincorporation into civilian life and to taking concrete action to help to redress the harm or injury caused, which may include participating in programs focusing on rebuilding infrastructure in the areas most affected by the conflict, substituting crops used for illicit purposes, or repairing environmental damage.¹⁹⁹ In this way, development programs both reincorporate the FARC-EP into society, while repairing harm, which is a goal of transitional justice in Colombia. Development Programmes with a Territorial-Based Focus (DPTFs) also take a reparations-based approach. The level and impact of victimization is a criterion in defining areas where the DPTFs will be implemented, which aims to provide redress for victims and communities.²⁰⁰ Thus, development programs are implemented based on areas with high victimization levels and impacts. Similarly, to acknowledge the harm or injury caused by the conflict and to help communities transform their living conditions so that they can rebuild their plans in the context of the end of the conflict, all DPTFs will include collective reparation plans, while other plans for particularly victimized communities will be strengthened and community initiatives prioritized.²⁰¹ The inclusion of efforts to transform living conditions and rebuild life plans underlies development goals. It is important that these plans are occurring at the community level. Where applicable, the return and relocation plans of displaced persons will be coordinated with the DPTFs, rural housing and water plans, measures to provide access to land, income generation, boosting of the small-scale farmer economy, and land

¹⁹⁸ "Final Agreement to End the Armed Conflict and Build a Stable and Lasting Peace."

¹⁹⁹ "Final Agreement to End the Armed Conflict and Build a Stable and Lasting Peace."

²⁰⁰ "Final Agreement to End the Armed Conflict and Build a Stable and Lasting Peace."

²⁰¹ "Final Agreement to End the Armed Conflict and Build a Stable and Lasting Peace."

restitution processes.²⁰² Ensuring decent living conditions for Colombians who decide to return is important, and there is both a socioeconomic and developmental component to this process.

The strengthening of community advocates, facilitating the return of victims who moved abroad, and land restitution measures are also important components. The Colombian government will take measures to strengthen the community advocates programs, particularly their functions of protection and promotion of human rights, so that they can effectively monitor the processes of land restitution, return and relocation of displaced persons and victims abroad and can support and assist the victims to guarantee access to the institutional services offered regarding the realization of their rights.²⁰³ Strengthening community advocates at local level can be seen as empowering local actors for development. Regarding the large number of victims who had to leave the country as a consequence of human rights violations during the conflict, the government will promote the conditions to facilitate their return and the construction of their life project and progressively guarantee access to basic rights, decent employment, housing, health and education according to each person's individual needs.²⁰⁴ These development programs are meant to support victims who left the country and wish to return. The construction of a life project suggests that they are tasked with pursuing their own well-being and happiness, while the government will provide basic needs so that they have the conditions to facilitate these projects. To further reconstruct their life projects, the population benefiting from land restitution measures will receive technical and financial support strategies for income generation, substitution of crops used for illicit purposes, and recovery and reconstruction of the social fabric.²⁰⁵ Similar to those who left and are returning, victims who are benefitting from land restitution will receive financial

²⁰² "Final Agreement to End the Armed Conflict and Build a Stable and Lasting Peace."

²⁰³ "Final Agreement to End the Armed Conflict and Build a Stable and Lasting Peace."

²⁰⁴ "Final Agreement to End the Armed Conflict and Build a Stable and Lasting Peace."

²⁰⁵ "Final Agreement to End the Armed Conflict and Build a Stable and Lasting Peace."

support, while they oversee their reconstruction. The mention of social fabric suggests that land is important to holding together society.

Guarantees of non-recurrence are also significant to transitional justice. Indeed, the primary objective of Comprehensive System is to guarantee the definitive end to the armed conflict, as well as the implementation of respect of human rights, with a vision of territorial based development and implementation.²⁰⁶ This vision further reflects the vision that the end of the conflict is tied to respect for human rights, as well as territorial-based development. The guarantee of ESC rights for the rural population through the Comprehensive Rural Reform contributes to their well-being and quality of life, while the Solution to Illicit Drugs contributes to overcoming the conditions of poverty, marginalization and weak institutional presence for the populations living in territories affected by the growing of crops used for illicit purposes.²⁰⁷ Rural reform and countering illicit drugs, both of which are development programs, guarantee ESC rights, supporting the rights-based approach, which thus contributes to well-being and quality of life, supporting the territorial-based approach, by overcoming poverty and marginalization, which are socioeconomic goals. Chapter 5 ends by reaffirming the commitment to the promotion, respect, and guarantee of human rights. The end-of-conflict scenario will make it possible to guarantee the effective participation of citizens and their organizations in decision-making, the culture of human rights, cultural diversity and autonomy, social inclusion, the well-being and quality of life of the population, social justice, poverty alleviation, and environmental protection.²⁰⁸ Overall, this chapter focusing on victims contains a socioeconomic component to the end of the conflict, while the focus on inclusion and participation, as well as environmental protection, align with the right to development.

²⁰⁶ "Final Agreement to End the Armed Conflict and Build a Stable and Lasting Peace."

²⁰⁷ "Final Agreement to End the Armed Conflict and Build a Stable and Lasting Peace."

²⁰⁸ "Final Agreement to End the Armed Conflict and Build a Stable and Lasting Peace."

In a Joint Communiqué, representatives of the Colombian government and the FARC-EP announced that they had come to a Final Agreement, which begins a ‘transition phase that will contribute toward a greater integration of our territories, a greater social inclusion --in particular of those who have lived apart from development and have suffered.’²⁰⁹ In other words, this transition phase leads to both territorial integration and social integration, suggesting a socioeconomic component to the end goal of transitional justice. Achieving this goal requires the recognition that some Colombians have not been included in development and have suffered as a result.

Multilateral organizations have also contributed to the discourse on the Final Agreement, including the United Nations. In particular, the UN Security Council has been uniquely invested in the success of Colombia’s peace accord, demonstrating its support for peace. In particular, the UN acknowledges that the Final Agreement ‘sets new records, not only in terms of its focus on a comprehensive transitional justice approach but also in terms of its incorporation of gender, human rights, and structural considerations.’²¹⁰ The incorporation of Colombia’s structural considerations in its transitional justice approach implies a socioeconomic component. At the same time, the Security Council realizes that transitional justice is one part of a comprehensive set of commitments, and its support can help signal that success in one area of the peace process is contingent on success in others.²¹¹ Success in transitional justice, for example, might support success in rural development or ethnic inclusion.

Indeed, as a UN representative points out, ‘for many countries it is important to defend this peace agreement in order to defend the issues that are at stake.’²¹² One of these countries is the

²⁰⁹ “Joint Communiqué #93, Havana, Cuba” (Government of Colombia, August 24, 2016), <https://reliefweb.int/report/colombia/joint-communicu-93-havana-cuba-august-24-2016>.

²¹⁰ Rebecca Brubaker, “The UN Security Council and Transitional Justice: Colombia” (United Nations University Centre for Policy Research, August 2020).

²¹¹ Brubaker.

²¹² Brubaker.

United States, which has supported Colombian transitional justice actors and the peace process since the beginning. For instance, the United States Agency for International Development (USAID), through its Inclusive Justice Activity, works with transitional justice mechanisms established by the Final Agreement, like Truth Commission and the Special Jurisdiction for Peace, facilitates justice service access for citizens living in rural and violence-affected areas, which increases trust in the Colombian justice system through reduced impunity, improved access to justice services, and increased respect for rule of law.²¹³ In this way, USAID provides development support targeting communities in rural and violence-prone areas to expand access to justice, while working specifically with transitional justice actors supports peace accord implementation. Thus, there is a relationship between transitional justice and development.

Therefore, the discourse within the Final Agreement and by the various actors invested in the peace process suggests that there are socioeconomic goals in the achievement of peace, which are aligned with the right to development. For instance, former FARC-EP members must participate in development projects in order to achieve socioeconomic reincorporation. Meanwhile, the transitional justice system created by the peace accord acknowledges socioeconomic human rights and development for the victims of the conflict.

6.2: Truth Commission Report

In 2022, the Truth Commission released a report after conducting several years of investigation. In the introduction, the commission calls for Colombians not to cooperate with those who pretend to support the legitimate social struggle with weapons, to protect human rights and place institutions in the service of dignity of individuals, communities, and ethnic groups, and to democratically take on the responsibility for the social and institutional changes that is

²¹³ "Inclusive Justice (Colombia)" (USAID, 2023), <https://www.usaid.gov/colombia/fact-sheet/pgo-inclusive-justice>.

demanded by coexistence.²¹⁴ In the acknowledgement that there is a legitimate social struggle in the country, the commission calls for social and institutional change. Indeed, after acknowledging that Colombia is an exclusionary society with structural problems that have never been confronted, the commission recognizes that cultural, natural, and economic wealth have gone hand in hand with the violation of rights and contempt for the rights of citizens.²¹⁵ This language is coded in the right to development in the sense that Colombia can thrive, but structural issues are preventing people from living their best lives. As an extrajudicial component of transitional justice, the truth commission acknowledges these structural issues and socioeconomic inequality.

Following the introduction, the commission begins by shedding light on the truth of the conflict. For example, kidnappings deprived farmers and small and medium-sized businessmen of their freedom, while great massacres of defenseless members of the civilian population took place against peasant farmers, ethnic communities, and inhabitants of rural towns and the outskirts of cities.²¹⁶ This acknowledgment of political violence against rural communities and businessmen and women suggests a socioeconomic dimension to victims. With the commission acknowledging that the reality of the conflict is complex, many men and women who joined the guerrillas as children and have laid down their arms defend their life story as one in which there was respect and personal growth, as they came to the war fleeing from destroyed homes or poverty.²¹⁷ Indeed, the conflict is complex because many people perceive the conflict as a source of well-being, as economic issues caused them to join the war in many cases. The conflict also destroyed people's homes or caused them to flee. However, many Colombians persevered even after the neighboring farms were left: “We are not going to leave because the only thing we have

²¹⁴ Alejandro Jiménez, trans., “There Is a Future If There Is Truth: Final Report” (Colombia: Commission for the Clarification of Truth, Coexistence and Non-Repetition, July 2022).

²¹⁵ Jiménez.

²¹⁶ Jiménez.

²¹⁷ Jiménez.

is a piece of land and we can't take it on our shoulders.'"²¹⁸ In this way, there is a sense of pride in Colombians who stayed, as their land gave them livelihood, underlying its importance. The commission then acknowledges the issue of land in the country. Specifically, the peasant farmer struggles for land were:

born in the mid-twentieth century... an irrefutable truth: the Colombian peasantry was the main victim of the internal armed conflict...The dispossession and violence especially affected peasant farmer families: from the 393,000 plots of land dispossessed during the period of violence to the more than 2 million hectares claimed in the current land restitution process, peasant farmers were the most severely affected.²¹⁹

By tracing these origins back to the mid-twentieth century, the commission acknowledges that peasant farmers experienced socioeconomic issues before the official beginning of the conflict. With peasants as the main victims, there is a socioeconomic component to the violence. Similarly, ethnic groups have suffered greatly from victimization. Indeed, suffering has been more destructive in these communities, as a result of exclusion that has created the conditions conducive to the dispossession of these territories, which have served as corridors for drug trafficking and the development of illicit economic activities to generate income for the armed groups.²²⁰ In this way, armed groups have profited from the historical exclusion of these communities, which still exists in the country's institutions and structures. The Truth Commission acknowledges the history that has created conditions which made the violence against these communities possible. The commission further acknowledges the other dimensions of victimization. For instance, trade unionists fought for better working conditions for all workers in Colombia, and university students dedicated the cause of building a society without exclusion or inequality were killed in their expression of courage and civil resistance.²²¹ In this way, there

²¹⁸ Jiménez.

²¹⁹ Jiménez.

²²⁰ Jiménez.

²²¹ Jiménez.

is a socioeconomic component to the victims who were also fighting for equality amid the conflict.

As one of the causes of socioeconomic harm, the commission specifically discusses the economic model in Colombia and its relationship to the conflict. In undertaking the task of understanding the armed conflict, the commission confirmed the situation of poverty and inequality throughout the country and verified the imposition of mining and agro-industrial projects that destroyed the cultural and ecological environments of Indigenous and Afro-Colombian communities.²²² The commission assumes that ‘if profound changes are not made to the country’s economic development model, it will be impossible to achieve the non-repetition... which will be repeated and will evolve in unpredictable ways.’²²³ Thus, economic development that does not exclude members of the population and enhances, rather than harms, their overall well-being is necessary for peace and non-repetition. The commission goes further by making recommendations to the state. For instance, when allocating public resources, the state leaves huge regional inequalities and abandons the countryside and fails to implement the comprehensive agrarian reform that is essential for peace.²²⁴ In this way, the peace agreement with the FARC-EP is not being fully implemented, which is meant to tackle many of the socioeconomic issues that the country has been facing. Additionally, contrary to the demands of sustainability, the implementation of private investment projects has left millions of Colombians – including peasant farmers, Indigenous people, Afro-Colombians, and the Roma people – not being able to participate in a process of production of life with dignity to the detriment of the tranquility of all.²²⁵ In other words, the economic development that is occurring is excluding these vulnerable and marginalized groups, and thus, the understanding of development that

²²² Jiménez.

²²³ Jiménez.

²²⁴ Jiménez.

²²⁵ Jiménez.

promotes well-being and livelihood is not occurring in the country. Maintaining exclusion and inequality, drug trafficking keeps the armed conflict active in the countryside and provides resources to more than half of Colombians who demand goods and services in the so-called informal sector.²²⁶ In this way, rural communities need licit economic opportunities and resources so that drug trafficking does not continue. Indeed, the commission offers a glimpse of hope.

Amid all these issues, there is also:

entrepreneurs of all strata who, despite the human and monetary costs paid, and the uncertainties, remained in the country and continue to risk investments, believing that their best contribution to peace is to persevere in the daily task of contributing to the production of goods and services for the life with dignity of Colombians.²²⁷

This positive outlook suggests that economic activities when conducted in alignment with human dignity and respect can be a potential solution for peace.

The commission then provides some elements of the explanatory context regarding the conflict, many of which were socioeconomic in some regard. For instance, there were so many victims because ‘everything happened in a complex system of political, institutional, economic, cultural, military and drug trafficking interests; of groups that, faced with structural injustice, chose armed struggle, and of the State.’²²⁸ In other words, rather than a sudden occurrence of violence, the conflict occurred within a pre-existing complex system, which included economic interests. By acknowledging that groups faced structural injustices within this system, the commission recognizes the socioeconomic inequalities. Another element of the explanatory context is that those in society who demanded structural changes by democratic means were often repressed by the state so that dispute between citizens who hold power and protect the status quo and those who seek power to establish structural change began with weapons and has been

²²⁶ Jiménez.

²²⁷ Jiménez.

²²⁸ Jiménez.

protracted in an ongoing war for more than half a century.²²⁹ In this way, those who demanded socioeconomic structural changes were repressed by the state, which led to the mobilization of armed groups such as the FARC-EP. Many people believe that the conflict is a war over drug trafficking interests. However, the commission points out that the conflict was ‘not originally a war over the drug trade... the drug traffickers entered the war to legitimize the business and the guerrillas entered the drug trade in search of financing.’²³⁰ In this way, economic interests in the drug trade sustain the conflict but did not cause it. In consideration of all these issues, the commission calls for an analysis of the policies and decisions that never fully resolved or even made worse the serious issues of land, impunity, exclusion, structural racism, abandonment of territories, drug trafficking, and inequality.²³¹ In this way, the commission acknowledges that policies thus far have not solved the structural issues and socioeconomic injustices faced by communities.

To overcome the challenges presented the report, the commission provides recommendations to those who wish to achieve peace. For instance, the commission suggests the need to recognize that the penetration of drug trafficking in society and the economy is one of the main factors in the persistence of the conflict and to change the policy toward the peasantry in order to overcome structural problems of poverty, ostracization and stigmatization.²³² With drug trafficking penetrating the economy, it is perceived as an obstacle to economic well-being. Specific structural issues are named, with poverty especially having a socioeconomic component.

In regard to industrial and financial projects, the commission recommends:

guaranteeing the conditions of well-being and dignified life of people and communities, without exclusions, from a shared vision of the future to overcome the structural inequalities that make this country one of the most inequitable in the world in the concentration of income, wealth, and land. And for state, business, and financial investment to be incorporated into the creativity and

²²⁹ Jiménez.

²³⁰ Jiménez.

²³¹ Jiménez.

²³² Jiménez.

passion of popular and rural youth, who demand to be part of the production of the life that is cherished by all Colombians.²³³

There is a relationship between the concepts of well-being and livelihood and industrial and financial projects, which are programs facilitating economic development. In this vision of the future in which structural inequalities are overcome, an investment in youth is important, suggesting the need to uplift future generations. To everyone, the commission recommends a greater recognition of peasant farmers and to ‘assure them the equal redistribution of land, the prevention and reversal of dispossession, the multimodal cadastral system, the conditions for sustainable production, access to public goods and services.’²³⁴ In this way, the commission recognizes peasants as the backbone of life in Colombia. However, this group is still experiencing socioeconomic inequality and injustice.

The commission concludes the report by highlighting the need for reconciliation, which is another component of peace in Colombia and a project that the country is still working on. Highlighting the challenge of reconciliation, the commission recognizes that even though the ‘confrontation between the State and the FARC-EP ended, the violence connected with politics and money continues in different forms, because the problems described in the findings have not been solved.’²³⁵ In this way, despite the peace agreement, structural issues – many of which involve socioeconomic injustice and inequality – cause the violence to continue. According to the commission, reconciliation ‘means building in such a way that the State, justice, politics, economy, and security are at the service of the equal and sacred human dignity of Colombians.’²³⁶ Thus, there is a socioeconomic component to reconciliation, while the focus on

²³³ Jiménez.

²³⁴ Jiménez.

²³⁵ Jiménez.

²³⁶ Jiménez.

equal and sacred dignity for all Colombians requires respect for human rights. To build reconciliation, inclusive, sustainable development is needed.

Like the Final Agreement, multilateral bodies such as the UN gave statements indicating their support for the Truth Commission's report. In a speech by UN Assistant Secretary-General for Human Rights Ilze Brands recognizes that work was 'carried out by the Truth Commission in remote areas of the country, recognizing the suffering of the most marginalized and excluded in society.'²³⁷ There is a socioeconomic component to the most marginalized and excluded groups in society. Recognizing this, the commission's work brought 'visibility to the situation of children, women, indigenous and afro-Colombian people [and] contributed to redress injuries of the past.'²³⁸ These injuries of the past are socioeconomic in nature. Therefore, the 'recommendations put forward by the Truth Commission address the root causes of the conflict and the need to work to build a culture of peace based on truth and justice.'²³⁹ In the context of relationship between transitional justice via the commission and socioeconomic circumstances, this specific mention of root causes suggest that this focus is aligned with that of total peace.

Indeed, the UN recognizes that the commission has highlighted 'the need to address historic inequalities, discrimination and racism and we support its recommendations for the full implementation of the peace accord.'²⁴⁰ As these historical inequalities are socioeconomic in nature, the full peace accord, including the transitional justice system, must be comprehensively implemented in order to achieve sustainable and total peace.

Thus, in my analysis the Truth Commission report, along with the Final Agreement and the discourse surrounding the Colombian peace process, I find that there are socioeconomic

²³⁷ Ilze Brands, "Transitional Justice in Colombia" (Office of the High Commissioner for Human Rights, July 14, 2022), <https://www.ohchr.org/en/statements-and-speeches/2022/07/transitional-justice-colombia>.

²³⁸ Brands.

²³⁹ Brands.

²⁴⁰ Brands.

components to the goal of achieving peace, which is also aligned with the right to development. Specifically, socioeconomic reincorporation of demobilized FARC-EP members requires their participation in development work, while the restoration of victims' rights acknowledges their socioeconomic challenges and development. Moreover, in the acknowledgement of structural issues that created the unequal conditions which made the violence against vulnerable and marginalized communities possible there is a socioeconomic component to victimization. Thus, I contend that there are socioeconomic and developmental considerations in Colombia's approach to transitional justice.

CHAPTER 7: CONCLUSION

When it comes to conflict, peace, and transitional justice, Colombia is a unique case. For instance, Colombia's status as a middle-income economy is unusual for a country that suffered from violent internal conflict for so long. At the same time, Colombian society is one of the most unequal in the world. This socioeconomic inequality, particularly regarding land, is at the root of the conflict.

In 2016, the Final Agreement with the FARC-EP was seen as historic. People all over the world celebrated that a civil war which began in the 1960s was finally over. It was seen as the last remaining internal conflict in the western hemisphere. Adding to this 'win' for peace was the content of the agreement itself. Principles including human rights, social and ethnic inclusion, and victim participation are weaved in throughout the entire document.

Grounded in these principles, a major component of the Final Agreement was the establishment of a comprehensive, integrated transitional justice system, which includes a judicial component, a truth commission, victims' reparations, and the reincorporation of former combatants. The ability to create this unique system was built on decades of previous engagement with transitional justice processes and mechanisms, which began while the violent internal conflict was ongoing. As demonstrated by its transitional justice legislation, this engagement began with amnesty for former combatants in the 1980s and is now defined by the victim-centered process solidified by the Final Agreement and Truth Commission report.

Despite this achievement, implementation of the Final Agreement has been stalled. President Gustavo Petro's 'total peace' strategy aims to extend the accord, while focusing on the socioeconomic root causes of the conflict. Addressing these structural issues requires inclusive, holistic community and societal development that promotes well-being for all people.

Most scholars have tended to focus on transitional justice as a way to address the most egregious human rights abuses, such as murder, torture, forced disappearances, and other crimes which violate civil and political rights. While seeking justice for these violations is crucial, there are also socioeconomic and development elements in the understanding of transitional justice that are often overlooked.

In my critical analysis of discourse on transitional justice, I find that Colombia's engagement with transitional justice has foundations in the right to development, which grants communities the right to develop their societies to ensure the enjoyment of all political, civil, social, economic, and cultural rights. As Colombia's understanding of transitional justice has become a victim-centered process, the focus on inclusion and participation aligns with the right to development, while the reincorporation of former combatants and comprehensive reparations for victims both acknowledge the requirement for development programs and projects. Reincorporation and reparations also take into account the socioeconomic circumstances of former combatants and victims. At the same time, the socioeconomic inequalities and injustices of vulnerable and marginalized groups in repairing the harm to victims and achieving social justice at the end-of-conflict scenario.

In a way, these principles and values associated with transitional justice present an overarching vision of a peaceful, inclusive, and just Colombia. Perhaps this is the reason why so many scholars, practitioners, human rights activists, and government officials at all levels in Colombia and across the globe are committed to implementing peace, as demonstrated by their

investment in strengthening transitional justice processes and mechanisms. While transitional justice establishes concrete judicial and extrajudicial mechanisms to address past abuses and transition into a more just and peaceful society, this transition presents a picture of hope for a better future. Hopefully, this vision can transform into more concrete action.

Therefore, given this example of Colombia, transitional justice scholars and practitioners should incorporate the attention to the right to development in the consideration of any documents produced in the name of transitional justice. Despite the concerns about the right to development and rights-based approaches that I laid out in the beginning of this dissertation, I have demonstrated that this language shows up implicitly and explicitly in Colombia's engagement with transitional justice mechanisms and processes. While this engagement is unique to Colombia, it is important to note that other countries have turned to transitional justice with the aim of achieving peace. Moreover, the involvement of the international community in the Colombian peace process and the investment in other countries in pursuit of peace suggests that the right to development may be present in additional transitional justice contexts. In this way, Colombia serves as a model in support of more comprehensively studying how transitional justice is discussed and understood.

BIBLIOGRAPHY

- Abegaz, Solomon Tekle. “Displacement from Land as a Limit to the Realisation of the Right to Development in Ethiopia.” *Journal for Juridical Science* 45, no. 1 (2020): 51–71.
- “Additional Protocol to the American Convention on Human Rights in the Area of Economic, Social and Cultural Rights ‘Protocol of San Salvador.’” Eighteenth Regular Session of the General Assembly, 1988. <https://www.oas.org/juridico/english/treaties/a-52.html>.
- “Agenda for Development.” UN General Assembly, 1997. https://digitallibrary.un.org/record/245092/files/A_RES_51_240-EN.pdf?ln=en.
- “American Declaration of the Rights and Duties of Man.” Ninth International Conference of American States, 1948. <https://www.cidh.oas.org/basicos/english/basic2.american%20declaration.htm>.
- Añaños Bedriñana, Karen G., Bernardo A. Hernández Umaña, and José A. Rodríguez Martín. “‘Living Well’ in the Constitution of Bolivia and the American Declaration on the Rights of Indigenous Peoples: Reflections on Well-Being and the Right to Development.” *International Journal of Environmental Research and Public Health* 17, no. 8 (2020). <https://doi.org/10.3390/ijerph17082870>.
- Arbour, Louise. “Economic and Social Justice for Societies in Transition.” *N.Y.U. Journal of International Law and Politics* 40, no. 1 (2007): 1–28.
- Arthur, Paige. “How ‘Transitions’ Reshaped Human Rights: A Conceptual History of Transitional Justice.” *Human Rights Quarterly* 31, no. 2 (2009): 321–67.
- Associated Press. “Colombia, National Liberation Army Rebels to Restart Peace Talks.” *VOA*, October 5, 2022. <https://www.voanews.com/a/colombia-national-liberation-army-rebels-to-restart-peace-talks-/6776470.html>.
- Benavides Vanegas, Farid Samir. “Justice in the Period of Transition.” *Peace in Progress*, April 2014. <https://www.icip.cat/perlapau/en/article/justice-in-the-period-of-transition/>.
- Bogota Domestic Service*. “Betancur’s Response.” September 14, 1982.

Bogota Domestic Service. “Ministers Comment on New Amnesty Decree.” February 19, 1982.

Borda, Sandra, and Martha Gutiérrez. “Between Peace and Justice The Role of Human Rights Norms in Colombia’s Peace Process.” In *Human Rights and Conflict Resolution: Bridging the Theoretical and Practical Divide*, edited by Claudia Fuentes Julio and Paula Drumond, 1st ed., 222–43. London: Routledge, 2017.

Boshoff, Elsabé. “Rethinking the Premises Underlying the Right to Development in African Human Rights Jurisprudence.” *Review of European, Comparative & International Environmental Law* 31, no. 1 (2022): 27–37. <https://doi.org/10.1111/reel.12423>.

Brands, Ilze. “Transitional Justice in Colombia.” Office of the High Commissioner for Human Rights, July 14, 2022. <https://www.ohchr.org/en/statements-and-speeches/2022/07/transitional-justice-colombia>.

Brubaker, Rebecca. “The UN Security Council and Transitional Justice: Colombia.” United Nations University Centre for Policy Research, August 2020.

Caracol Television. “FARC Leader Marquez Says Peace Requires Resolving Conflict Origins.” October 18, 2012.

“Charter of the Organization of American States.” Third Special Inter-American Conference, 1948. <https://www.cidh.oas.org/basicos/english/basic22.charter%20oas.htm#:~:text=The%20American%20States%20establish%20by,territorial%20integrity%2C%20and%20their%20independence.>

“Colombia: Towards Peace and Justice?” Latin America Report. Bogotá/Brussels: International Crisis Group, March 14, 2006.

Comparative Constitutions Project, trans. “Political Constitution of Colombia.” Oxford University Press, 1991. constituteproject.org.

Congreso de la República de Colombia. “Decreto 2711 de 1982.” Diario Oficial, September 19, 1982. <https://www.suin-juriscol.gov.co/viewDocument.asp?ruta=Decretos/1881504>.

———. “Ley 35 de 1982,” November 19, 1982. <https://bapp.com.co/documento/ley-35-de-1982/>.

Congress of Colombia. “Law No. 975.” Queen’s University Belfast, 2005. <https://reparations.qub.ac.uk/assets/uploads/law-975-ingls-1.pdf>.

Congress of the Republic of Colombia. “Law 1448 of 2011.” Queen’s University Belfast, June 10, 2011. <https://reparations.qub.ac.uk/assets/uploads/Victims-Law-1448-2011.pdf>.

“CORRECTING COURSE: VICTIMS AND THE JUSTICE AND PEACE LAW IN COLOMBIA.” Latin America Report. Bogotá/Brussels: International Crisis Group, October 30, 2008.

- Duthie, Roger. "Transitional Justice, Development, and Economic Violence." In *Justice and Economic Violence in Transition*, edited by Dustin N. Sharp, 165–201. New York, NY: Springer New York, 2014. https://doi.org/10.1007/978-1-4614-8172-0_7.
- El Espectador*. "Human Rights Forum Issues Final Declaration." April 2, 1979.
- El Espectador*. "New Prosecutor General 'Does Not Believe in' Drug Legalization." March 25, 2012.
- El Espectador*. "Reintegration Adviser Says Released FARC Members Will Not Rearm." June 23, 2007.
- El Pais*. "Article Lays Out Content of Peace Framework Law." June 19, 2012.
- El Tiempo*. "Text of Becantur Letter to Peace Commission." February 5, 1983.
- Evans, Matthew. *Transformative Justice: Remediating Human Rights Violations Beyond Transition*. New York: Routledge, 2018.
- "Final Agreement to End the Armed Conflict and Build a Stable and Lasting Peace," November 24, 2016. <https://www.peaceagreements.org/viewmasterdocument/1845>.
- Firchow, Pamina. "Must Our Communities Bleed to Receive Social Services? Development Projects and Collective Reparations Schemes in Colombia." *Journal of Peacebuilding & Development* 8, no. 3 (2013): 50–63. <https://doi.org/10.1080/15423166.2013.863689>.
- Friedman, Rebekka, Nelson Camilo Sánchez, and Eric Wiebelhaus-Brahm. "Securing the Peace and Promoting Human Rights in Post-Accord Colombia: The Role of Restorative, Reparative, and Transformative Justice Dimensions." In *As War Ends: What Colombia Can Tell Us About the Sustainability of Peace and Transitional Justice*, edited by Jacqueline H. R. DeMeritt, James Meernik, and Mauricio Uribe-López, 304–23. Cambridge: Cambridge University Press, 2019. <https://doi.org/10.1017/9781108614856.014>.
- Galtung, Johan. *Peace by Peaceful Means: Peace and Conflict, Development and Civilization*. SAGE, 1996.
- . "Violence, Peace and Peace Research." *Journal of Peace Research* 6, no. 3 (1969): 167–91.
- Gordon, Eleanor, Sebastian Restrepo Henao, Alejandra Zuluaga Duque, and Elliot Dolan-Evans. "Power, Poverty and Peacebuilding: The Violence That Sustains Inequalities and Undermines Peace in Colombia." *Conflict, Security & Development* 20, no. 6 (2020): 697–721. <https://doi.org/10.1080/14678802.2020.1848119>.
- Gready, Paul, and Simon Robins, eds. *From Transitional to Transformative Justice*. Cambridge: Cambridge University Press, 2019. <https://doi.org/10.1017/9781316676028>.
- Gurr, Ted. "Relative Deprivation and the Impetus to Violence." In *Why Men Rebel*, 22–58. Princeton, NJ: Princeton University Press, 1971.

- “Inclusive Justice (Colombia).” USAID, 2023. <https://www.usaid.gov/colombia/fact-sheet/pgo-inclusive-justice>.
- Iqbal, Khurshid. *The Right to Development in International Law: The Case of Pakistan*. Taylor & Francis Group, 2009.
- Istrefi, Remzije. “Accommodating the Right to Development in Kosovo: A Human Rights Perspective.” *Acta Universitatis Danubius* 13, no. 2 (2017): 101–12.
- Jiménez, Alejandro, trans. “There Is a Future If There Is Truth: Final Report.” Colombia: Commission for the Clarification of Truth, Coexistence and Non-Repetition, July 2022.
- Jiménez Millán, Álvaro. “Colombia: Una Nueva Gramática Del Poder.” *Nueva Sociedad*, 2023.
- “Joint Communiqué #93, Havana, Cuba.” Government of Colombia, August 24, 2016. <https://reliefweb.int/report/colombia/joint-communicu-93-havana-cuba-august-24-2016>.
- Kamga, Serges Djoyou (Serges Alain Djoyou Kamga). *The Right to Development in the African Human Rights System*. Global Africa ; 8. New York, NY: Routledge, 2018. <https://doi.org/10.4324/9781351142489>.
- Lambourne, Wendy. “Transitional Justice and Peacebuilding after Mass Violence.” *International Journal of Transitional Justice* 3, no. 1 (2009): 28–48. <https://doi.org/10.1093/ijtj/ijn037>.
- Laplante, Lisa J. “On the Indivisibility of Rights: Truth Commissions, Reparations, and the Right to Development.” *Yale Human Rights & Development Law Journal* 10 (2007): 141–77.
- . “Transitional Justice and Peace Building: Diagnosing and Addressing the Socioeconomic Roots of Violence through a Human Rights Framework.” *International Journal of Transitional Justice* 2, no. 3 (2008): 331–55. <https://doi.org/10.1093/ijtj/ijn031>.
- Madrid EFE*. “Betancur Terms Baker Plan ‘Good News.’” November 29, 1985.
- Mani, Rama. “Dilemmas of Expanding Transitional Justice, or Forging the Nexus between Transitional Justice and Development.” *International Journal of Transitional Justice* 2, no. 3 (2008): 253–65. <https://doi.org/10.1093/ijtj/ijn030>.
- Martínez Cortés, Paula. “The Victims and Land Restitution Law in Colombia in Context: An Analysis of the Contradictions between the Agrarian Model and Compensation for the Victims.” Amsterdam: Transnational Institute, December 2013. <https://www.tni.org/en/publication/the-victims-and-land-restitution-law-in-colombia-in-context>.
- McColl, Richard. “Can Gustavo Petro’s Plan for ‘Total Peace’ With Colombia’s Armed Groups Succeed?” *Foreign Policy*, November 8, 2022.

- McKay, Ben M. “Democratising Land Control: Towards Rights, Reform and Restitution in Post-Conflict Colombia.” *Canadian Journal of Development Studies / Revue Canadienne d’études Du Développement* 39, no. 2 (2018): 163–81. <https://doi.org/10.1080/02255189.2017.1364621>.
- Miller, Zinaida. “Effects of Invisibility: In Search of the ‘Economic’ in Transitional Justice.” *International Journal of Transitional Justice* 2, no. 3 (2008): 266–91. <https://doi.org/10.1093/ijtj/ijn022>.
- Montoya Londoño, Catalina, and Maryluz Vallejo Mejía. “Development vs Peace? The Role of Media in the Law of Victims and Land Restitution in Colombia.” *Media, War & Conflict* 11, no. 3 (2018): 336–57. <https://doi.org/10.1177/1750635217710677>.
- Murithi, Tim. “Advancing Transitional Justice in Post-Conflict Societies in Africa.” *African Journal of Democracy and Governance* 5, no. 3 (2018): 103–24. <https://doi.org/10.10520/EJC-1246872a33>.
- Muvingi, Ismael. “Sitting on Powder Kegs: Socioeconomic Rights in Transitional Societies.” *International Journal of Transitional Justice* 3, no. 2 (2009): 163–82. <https://doi.org/10.1093/ijtj/ijp010>.
- Ochoa, Carlos Uribe, and Beatriz Puyana Mejía. “The Armed Conflict and Peacebuilding in Colombia.” *Law and Safety* 4, no. 87 (2022): 59–68. <https://doi.org/10.32631/pb.2022.4.05>.
- Paris AFP*. “Socialists Urge Truce, Joint Party With M-19.” November 14, 1982.
- Peña-Huertas, Rocío Del Pilar, María Mónica Parada-Hernández, Natalia Abril-Bonilla, Luisa Fda Uribe-Larrota, María Camila Jiménez-Nicholls, and Ana Valentina Nieto-Cruz. “Collective Ownership and Land Restitution: A New Opportunity for Afro-Colombian Communities.” *International Journal of Transitional Justice* 15, no. 1 (2021): 230–41. <https://doi.org/10.1093/ijtj/ijaa034>.
- Piccone, Ted. “Peace with Justice: The Colombian Experience with Transitional Justice.” Washington, D.C: Brookings, 2019. https://www.brookings.edu/wp-content/uploads/2019/06/FP_20190708_colombia.pdf.
- “Protecting Colombia’s Most Vulnerable on the Road to ‘Total Peace.’” Latin America Report. Brussels: International Crisis Group, 2023.
- Republic of Colombia. “Justice and Peace Law: An Experience of Truth, Justice and Reparation.” Review Conference of the Rome Statute, June 1, 2010. https://asp.icc-cpi.int/sites/asp/files/asp_docs/RC2010/Stocktaking/RC-ST-PJ-M.1-ENG.pdf.
- Rowen, Jamie. *Searching for Truth in the Transitional Justice Movement*. Cambridge: Cambridge University Press, 2017.
- Schmid, Evelyne. “TRANSITIONAL JUSTICE: Information Handbook.” United States Institute of Peace, 2008. https://www.usip.org/sites/default/files/ROL/Transitional_justice_final.pdf.

- Selim, Yvette, and Tim Murithi. "Transitional Justice and Development." *Journal of Peacebuilding & Development* 6, no. 2 (2011): 58–72.
- Sharp, Dustin N., ed. *Justice and Economic Violence in Transition*. New York: Springer, 2014.
- Szoke-Burke, Sam. "Not Only 'Context': Why Transitional Justice Programs Can No Longer Ignore Violations of Economic and Social Rights." *Texas International Law Journal* 50, no. 3 (2015): 465–94.
- The Economist*. "Can Colombia Ever Have 'Total Peace'?" February 8, 2023.
- "Transitional Justice and Colombia's Peace Talks." Latin America Report. Bogotá/Brussels: International Crisis Group, August 29, 2013.
- Triana-E, Sergio, Leah Grace, and Josefin Wulkan. "Law and Order: The Evolution of Transitional Justice in Colombia from the Peace Process with the AUC (2003) to the FARC (2015)." *Iberoamericana – Nordic Journal of Latin American and Caribbean Studies*, 2022. <https://doi.org/10.16993/iberoamericana.553>.
- UN General Assembly. "Declaration on the Right to Development," December 4, 1986.
- UN Secretary-General. "Guidance Note of the Secretary-General: United Nations Approach to Transitional Justice." United Nations, 2010. https://digitallibrary.un.org/record/682111/files/TJ_Guidance_Note_March_2010FINAL.pdf.
- "United Nations Special Rapporteur on the Right to Development: An Introduction to the Mandate." Geneva: United Nations Human Rights Office of the High Commissioner, December 2017.
- "United Nations Special Rapporteur on the Right to Development: Guidelines and Recommendations on the Practical Implementation of the Right to Development." Geneva: United Nations Human Rights Office of the High Commissioner, July 2020. <https://www.ohchr.org/sites/default/files/OHCHR--web--planches.pdf>.
- Uprimny, Rodrigo, and Maria Paula Saffon. "Uses and Abuses of Transitional Justice Discourse in Colombia." Policy Brief. Selected Briefs from the Seminar Law in Peace Negotiations. Bogotá: PRIO, 2007.
- Uvin, Peter. "From the Right to Development to the Rights-Based Approach: How 'Human Rights' Entered Development." *Development in Practice* 17, no. 4/5 (2007): 597–606.
- "What Is Transitional Justice?" International Center for Transitional Justice, 2009. <https://www.ictj.org>.
- "WHAT IS TRANSITIONAL JUSTICE? A Backgrounder." United Nations Mission in South Sudan, 2008. https://www.un.org/peacebuilding/sites/www.un.org.peacebuilding/files/documents/26_02_2008_background_note.pdf.

Williams, Philip J., and Juanita Duque. "Transitional Justice before and after Transition: Colombia in Comparative Perspective." *Revista de Derecho*, no. 15 (2019): 133–50.
<https://doi.org/10.14482/dere.51.303.69>.

World Conference on Human Rights in Vienna. "Vienna Declaration and Programme of Action." United Nations Human Rights Office of the High Commissioner, 1993.
<https://www.ohchr.org/sites/default/files/vienna.pdf>.