

What Lurks in the Shadows: Can Transitional Justice Help Deal with Wartime Organized Crime in Post-Conflict Colombia?

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Abstract

Traditionally, conflicts have been addressed through the framework of transitional justice. This framework focuses on reconciliation, reparations for victims, and strengthening democracy and the rule of law. Initially, these concepts were viewed from a liberal paradigm, but due to criticism, transitional justice has developed in recent years into a more holistic approach. Whereas before, attention was only given to the symptoms of a conflict (direct violence), transitional justice now focuses on underlying factors of the conflict. This development was translated into the 2016 peace agreement between the Colombian government and the FARC, which aimed to end a decades-long war. It focused on the structural problems that contributed to the conflict. However, this peace agreement did not achieve as much success as hoped. In 2023, Colombia is struggling with a lot of violence, with drug production reaching its peak. The demobilization of the FARC led to a vacuum that was filled not by the government but by armed actors. The cause of this lies partly in a lack of implementation and state presence in local areas, and partly in the resistance to the peace agreement. While transitional justice assumes that post-conflict areas are characterized by unity, the Colombian government faced a lot of resistance. The conflict created fault lines between the state and communities, as well as between citizens. This, combined with a lack of state presence and capacity, made it easy for armed actors to control the left-behind areas. A solution to this problem could lie in the framework of transformative justice. This framework focuses on emphasizing local input and resources, prioritizing the process over the outcome, and challenging unequal power relations and exclusionary structures. Concepts such as empowerment, resistance, and participation by victims and communities are central to this framework. The thesis examines to what extent transformative justice can contribute to the approach of the peace agreement towards organized crime, as characterized by transitional justice. It makes a theoretical comparison between transformative justice, transitional justice, and the peace agreement.

Nederlandstalige samenvatting

Traditioneel werden conflicten aangepakt binnen het kader van transitional justice. Dit kader richt zich op verzoening, vergoedingen voor slachtoffers en het versterken van democratie en de rechtsstaat. Aanvankelijk werden deze concepten bekeken vanuit een liberaal paradigma, maar door kritiek heeft transitional justice zich de afgelopen jaren ontwikkeld tot een meer holistische benadering. Waar eerder alleen aandacht werd besteed aan de symptomen van een conflict (direct geweld), richt transitional justice zich nu op onderliggende factoren van het conflict. Deze ontwikkeling werd vertaald naar het vredesakkoord van 2016 tussen de Colombiaanse regering en de FARC, dat tot doel had een decennialange oorlog te beëindigen. Het richtte zich op de structurele problemen die bijdroegen aan het conflict. Echter, dit vredesakkoord heeft niet zoveel succes behaald als gehoopt. In 2023 worstelt Colombia met veel geweld, waarbij de drugproductie haar hoogtepunt bereikt. De demobilisatie van de FARC heeft een vacuüm gecreëerd dat niet door de regering, maar door gewapende groeperingen is opgevuld. De oorzaak hiervan ligt deels in een gebrek aan uitvoering en staatsaanwezigheid in lokale gebieden, en deels in verzet tegen het vredesakkoord. Hoewel transitional justice ervan uitgaat dat post-conflictgebieden worden gekenmerkt door eenheid, stuitte de Colombiaanse regering op veel weerstand. Het conflict heeft scheidslijnen gecreëerd tussen de staat en gemeenschappen, evenals tussen burgers onderling. Dit, in combinatie met een gebrek aan staatsaanwezigheid en capaciteit, maakte het voor gewapende groeperingen gemakkelijk om controle te krijgen over achtergebleven gebieden. Een oplossing voor dit probleem kan liggen in het kader van transformative justice. Dit kader legt de nadruk op lokale inbreng en hulpbronnen, waarbij het proces belangrijker is dan de uitkomst, en het uitdagen van ongelijke machtsverhoudingen en uitsluitende structuren. Begrippen zoals empowerment, verzet en participatie van slachtoffers en gemeenschappen staan centraal in dit kader. Deze scriptie onderzoekt in hoeverre transformative justice kan bijdragen aan de benadering van het vredesakkoord ten aanzien van georganiseerde misdaad, zoals gekenmerkt door transitional justice. Er wordt een theoretische vergelijking gemaakt tussen transformative justice, transitional justice en het vredesakkoord.

Keywords (EN): Transitional justice, organized crime & transformative justice

Kernwoorden (NL): Transitional justice, georganiseerde misdaad & transformative justice

Voorwoord

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List of abbreviations

ANSA	Armed Non-State Actors
CI & MM&V	Monitoring and Review Mechanism
CRJI	Community Restorative Justice Ireland
ELN	National Liberation Army of Colombia
FARC	Revolutionary Alternative Common Force
FARC	Revolutionary Armed Forces of Colombia - People's Army
FARC-EP	Revolutionary Armed Forces of Colombia - People's Army
HRBA	Human Rights-Based Approaches to Development
MM&V	Monitoring and Review Mechanism
NASA	The people of Paez
NGO	Non-Governmental Organisation
PANEL	Participation, Accountability, Nondiscrimination, Empowerment and International Human Rights Law
PCC	Colombian Communist Party
PDET	Development Programs with a Territorial Approach
PNIS	Comprehensive National Programme for the Suppression of Illicit Crops
PISDA	Comprehensive Substitution and Alternative Development Plans
UN	United Nations
UP	Patriotic Union
ZVTN	Local Transitional Areas for Normalization

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1 Introduction

In 2016, the military conflict between the Colombian government and the FARC rebels that lasted for more than 50 years and claimed the lives of over 9 million people came to an end. On November 24, 2016, the parties involved signed a peace agreement. Along with all the parties involved, a 15-year plan was developed to address key issues in society (Van Rostenberghe, 2021). These 6 issues focused on (1) "Comprehensive Rural Reform"; (2) "Political Participation"; (3) "End the conflict"; (4) "Solution to the problem of illicit drugs"; (5) "Agreement regarding the victims of the conflict"; and a chapter on (6) "the Implementation". The peace agreement was supposed to be revolutionary, not only aiming to end the conflict but also addressing the underlying factors of the conflict. These underlying factors were translated into the 6 chapters (Acuerdo Final, 2016; The Office of the High Commissioner for Peace, n.d.; Piccone, 2019).

1.1 Problem statement

However, 7 years later, this period of "peace" is still plagued by violence, with ex-FARC fighters, social leaders and local communities becoming victims of it. The demobilization of FARC left a gap that has been filled by armed actors instead of the government. This has led to a power struggle over territory and resources between armed actors. In addition, the peace agreement posed a threat to local elites, leading to any opposition in the communities being punished or killed. Finally, this vacuum left by the government has led to an increase in drug production in Colombia, reaching its highest peak in years (Albarracín, et al., 2022; NRC, 2021).

This observation led to criticism of the peace agreement and the framework to which it belongs, namely transitional justice. Transitional justice is the framework traditionally applied in conflict areas to build peace. It is a toolbox of measures that focuses on reconciliation, reparation, and strengthening democracy and the rule of law. In addition to criticism of the implementation (which is lagging behind), both the transitional justice framework and the peace agreement are accused of being state-oriented, top-down, and overly technocratic. The local approach was lacking despite the focus in the peace agreement. Critics argue that addressing conflict areas through a locally focused, bottom-up approach is needed. This approach can be found in the framework of transformative justice. Transformative justice can be understood as transformative change that emphasizes local input and resources, prioritizes process over biased outcomes, and challenges unequal and intersecting power relations and exclusionary structures at both local and global levels (Waldorf, 2019).

The central concepts of this framework are empowerment, resistance, and participation by the victims and the communities (Gready & Robins, 2019).

1.2 Objective and research questions

These findings created an interest in investigating to what extent transformative justice can address the post-conflict violence in Colombia created by organized crime. This led to the central research question: "To what extent can a transformative approach within transitional justice help deal with wartime organized crime in Colombia?"

To answer this research question, 4 sub-questions were formulated: (1) What is transitional justice and what are its measures? (2) What does the peace agreement look like and what measures does it contain? (3) What are the negative and positive aspects of the peace agreement in dealing with wartime organized crime? (4) What is transformative justice and what are its tools?

1.3 Structure and composition

The first part answers the sub-question "What is transitional justice and what are its measures?" by referring to the theoretical components of the framework. Questions such as "What is transitional justice, what measures belong to the toolbox of transitional justice, and what are its critiques?" are addressed.

The second part evaluates the peace agreement. This includes the history of the conflict and its peace negotiations, as well as an analysis of each chapter of the peace agreement, the measures taken, and their goals in building peace.

The third part examines all positive and negative aspects of the peace agreement. This includes an assessment of the extent to which the peace agreement has had positive effects on FARC and organized crime, as well as an analysis of the problems that the peace agreement has brought and how they are related to the rise of violence (from organized crime) in Colombia.

The last part provides a theoretical framework for transformative justice, its measures, and its critiques. Finally, it examines to what extent transformative justice is compatible with the peace agreement of Colombia and how it can contribute to addressing wartime organized crime.

2 Methodology

2.1 Collected data

These questions are answered by collecting and creating data. The collected data is obtained through a systematic literature study that includes scientific articles on Google Scholar, policy documents from Colombian and international (government) institutions, reports from both government and non-governmental organizations, and newspaper articles. The collected data is analyzed through Mendeley. However, transformative justice is a recent phenomenon, so there is limited scientific data available. For this reason, community organizations that use this framework in other countries were mainly consulted.

2.2 Generated data

The generated data was obtained through expert interviews. In total, two experts were interviewed. These experts are individuals who were present at the negotiating table during the peace talks between the FARC and the Colombian government. The interviewees are pseudonymized as "Respondent 1" and "Respondent 2." "Respondent 1" refers to a diplomat who was required to provide support to both parties (FARC and the Colombian government), while "Respondent 2" is a legal researcher in Colombia who, like "Respondent 1," was present at the negotiating table. The interviews consisted of an open interview format in which several topics were discussed. These topics were:

- Transitional justice
- The connection between transitional justice and the peace agreement
- The measures of the peace agreement
- To what extent the peace agreement is connected to organized crime

The interviews were conducted via Microsoft Teams. The created data was analyzed using NVivo. The data was categorized in NVivo based on each topic discussed, with each topic being assigned a different color. This allowed for an overview and for both interviews to be compared to each other.

The respondents were found through a snowball method. Respondent 1 was contacted after reading policy documents, and he was subsequently contacted. Respondent 2 was contacted through connections who referred me to him.

2.3 Disadvantages of the methodology

However, the interviews had some drawbacks. Firstly, it was decided to conduct several interviews. However, due to the fact that I had little to no contacts in Colombia, it became difficult to find a starting point. The problem here is that it became difficult to do grounded theory since two interviews are not enough for such a complex phenomenon. Therefore, the interviews were used in conjunction with scientific literature to support certain ideas.

Additionally, the research had a low response rate. This is because mainly people with "high positions" were contacted. This was also a disadvantage. At the start of the research, it seemed interesting to contact policymakers at the national and international level. However, it would have been even more interesting to contact people from the local community. They could have explained to what extent the peace agreement had an impact on them and what problems they faced. This disadvantage was particularly evident in "Respondent 1". Due to his international nature, his knowledge of the communities was limited. Therefore, he could talk a lot about transitional justice and the way the peace agreement was made, but less about local phenomena and the influence of organized crime. Fortunately, this was not the case with "Respondent 2." This interview brought a lot of knowledge about each domain.

2.4 Goals of this research

This research has both an internal and an external objective. The internal objective of this research is to examine to what extent transformative justice can contribute to the transitional justice approach to peacebuilding in Colombia. It should be noted that this contribution is mainly seen from a theoretical standpoint. This master's thesis cannot test whether transformative justice is helpful in practice in the fight against organized crime in Colombia. For this, a larger-scale study is necessary, in which the measures of transformative justice are tested. In addition, it becomes difficult to determine to what extent the measures of transitional and transformative justice are compatible since they cannot be tested.

However, this master's thesis tries to compare the limitations of transitional justice and the peace agreement with the strengths of transformative justice. The external objective is to contribute to the state of the art in peacebuilding in Colombia and transitional justice. This master's thesis hopes to broaden the lens on the approach to peace and organized crime in Colombia.

This research is criminologically relevant due to its potential to make an additional contribution to the state of the art on organized crime in conflict zones and post-conflict (structural) violence. Organized crime and post-conflict violence stemming from this organized crime are part of the criminological research domain.

3 Chapter 1: What is transitional justice?

3.1 History

The transition from conflict zones to peaceful democracies in recent decades has been characterized by the use of the framework of transitional justice. The term “transitional justice” became known after the publication of "Transitional Justice: How Emerging Democracies Reckon with Former Regimes" edited by Neil Kritz and published in 1995 (Werle & Vormbaum, 2022). Teitel (2003) divided the history of transitional justice into 3 phases (Mieszkalski & Zyla, 2021).

The first phase took place in the post-World War II era, when the Allies chose to convene international trials, thereby supplanting traditional, national justice models. The primary objective of transitional justice at the time was to establish criminal accountability, but what made it distinct was the shift towards international law. The resulting jurisprudence influenced the establishment of future international courts and contributed to the development of international law. The legacy of the Nuremberg and Tokyo tribunals is the general acceptance of the notion that individuals are subjects of international law, and should be held criminally responsible for committing war crimes, crimes against humanity and genocide (Mieszkalski & Zyla, 2021).

Teitel's (2003) second phase in the genealogy of transitional justice occurred during the last two decades of the 20th century, which he characterizes as a "veritable wave of political transition". This post-Cold War phase began after the collapse of the Soviet Union, which marked the end of bipolar power relations and the simultaneous spread of political democratization (Teitel, 2003; Kritz, 1995). The fall of the Soviet Union triggered a wave of democratic transitions (Quinn, 2017; Werle & Vormbaum, 2022). In an attempt to come to terms with long legacies of repressive authoritarianism and in the context of the transition to democracy, several concepts of justice emerged that went far beyond criminal prosecution (Mieszkalski & Zyla, 2021). The rule of law was gradually equated with a state's efforts to promote nation-building and provide legitimacy to its successor regime. However, it soon became clear that the process of establishing the rule of law in countries in democratic transition would depend on the political realities on the ground (Teitel, 2003; Mieszkalski & Zyla, 2021). Moreover, it should not be forgotten that criminal prosecution without reparations does not directly benefit victims, other than a sense of vindication that does not change their living conditions. A policy based solely on prosecution is likely to be perceived by victims as an inadequate response to their own legal claims.

Eventually, Phase II went beyond criminal prosecution and focused on a broader approach aimed at social healing, reconciliation and collective recovery, which had previously been excluded from the transitional justice discourse (Mieszkalski & Zyla, 2021).

The current and third phase of transitional justice is characterized by an expansion of the concept of transitional justice in the context of contemporary conditions of ongoing conflicts, including the emergence of interstate conflict, state fragility and political fragmentation (Teitel, 2003; Mieszkalski & Zyla, 2021). Transitional justice has evolved from being an exception to the norm in the transition from a conflict zone to peace. However, this has led to the increasing politicization of the concept of transitional justice, as it has become associated with political situations. As a result, a wide range of international actors, including regional and non-governmental organizations (NGOs), international financial institutions and the United Nations, are increasingly focusing on societies emerging from conflict (Quinn, 2017; Werle & Vormbaum, 2022; Mieszkalski & Zyla, 2021).

3.2 Definition

The publication of Kritz's books led to a spread of the term transitional justice among international organizations such as the United Nations, the European Union and the African Union, non-governmental organizations and scholars in different disciplines. His work defines transitional justice as a victim-centered and multidisciplinary field of theory and practice, aimed at addressing the legacy of massive human rights violations, and commonly applied during the transition from war to peace (United Nations, 2008; Werle & Vormbaum, 2022). However, there are multiple and sometimes widely differing interpretations of transitional justice; with the actual meaning of the term remaining unclear. Traditionally, transitional justice can be understood as the set of institutions, policies and practices designed to address atrocities and serious politically motivated human rights violations during, in anticipation of or in the aftermath of regime change or violent conflict (Vinjamuri, & Snyder, 2015). It can be seen as a "toolbox" of measures based on reconciliation, recognition and strengthening of the rule of law and democracy, with the aim of contributing to peacebuilding. (Gready, & Robins, 2020; Werle & Vormbaum, 2022).

3.3 Characteristics of transitional justice

Jens Ohlin (2007) notes that transitional justice is a combination of two very different concepts, namely a description of a particular political situation, "transition" and "justice". Justice is seen in an institutional sense to build (democratic) institutions for the future, based on the (bad) experiences of the past, and less in a philosophical sense.

Here, the past is not solely forgotten but used to build a future (Mihir, 2020). Justice in this context aims to obtain a measure of justice for the victims who have suffered from human rights violations in the past and aims to strengthen the possibilities for peace (and associated democracy) (United Nations, 2008).

Respondent 1's definition links to this:

Specialized justice to turn a situation from conflict to peace, with a form of reparations to the victims, using specialized sanctions for perpetrators and various mechanisms that systematically elaborate and present different versions of what happened during the conflict (Respondent 1).

Transitional justice is characterized by specialized measures, applied within the temporal framework of transition. The measures must therefore be temporal and exceptional (Canal Acero & Aponte Castro, 2019). The framework aims to address problems, which institutions have been struggling with for years. As a result, there is a need for a specialized approach.

The response of institutions during a transition that couldn't resolve massive atrocities and accountability during either an authoritarian government or a conflict. So, it's a response that is based on a lack of response (Respondent 2).

3.3.1 The liberal paradigm of transitional justice

The goal of transitional justice is connected to peacebuilding, where it has become part of the peacebuilding package used by the international community (Andrieu, 2010). However, the peace of transitional justice must be seen within a liberal paradigm. The liberal peace in which transitional justice is embedded stems from two dominant branches of contemporary globalization. The first branch favors liberal paradigms of civil and political rights by emphasizing elections, procedural democracy, constitutionalism and the rule of law, and various backward-looking truth and justice measures.

The second line is market-driven, neoliberal economics, with interventions linked to the "Washington Consensus" (Gready & Robins, 2019). Specifically, the aftermath of the Cold War prevailed a belief that political and economic liberalism was the way to peace (Mieszkalski & Zyla, 2021).

This paradigm has also dominated much of the UN's decisions and actions since the end of the Cold War (Chandler, 2017). As a result, transitional justice was mainly focused on a technocratic, top-down, liberal approach, with the aim of producing "a certain kind of state, namely a liberal, democratic state organized around markets and the rule of law and democracy (Barnett et al., 2014; Mieszkalski & Zyla, 2021).

Ironically enough, the international community must start acting illiberally to achieve liberal peace: Rebuilding the structures of the state to enable it to monopolize violence and control the social conflicts that are the unfortunate byproducts of democracy and free markets. The central targets are leaders and "high politics" in the hope that the rest of society will be impacted (Andrieu, 2010). Nevertheless, this liberal paradigm did not remain without criticism. While statistically speaking it is true that well-established liberal democracies are less prone to war, states emerging from conflict may have little or no experience with democracy and are therefore prone to revert back into the conflict. It is especially this "transitioning" period from being a war-torn, conflict-affected state towards an evolving democratic state that is crucial and important (Mieszkalski & Zyla, 2021). That's why democracy and free markets associated with the typical package of post-conflict peacebuilding interventions can be both dangerous and destabilizing (Scharp, 2011; Andrieu, 2010).

The criticism of the classical model of transitional justice has been about re-emphasizing local rather than international agency, and local cultural traditions of justice and reconciliation rather than Western and international approaches. Ultimately, Muvingi (2016) emphasizes the importance of shifting away from a westernized transitional justice framework towards locally determined practices, in an effort to engage locals in the identification of the causes of the conflict and empower locals to participate in transitional justice decision-making (Mieszkalski & Zyla, 2021). Similarly, there has been a criticism of the more technocratic and legalistic slant of mainstream transitional justice and an attempt to emphasize the importance of considering the local political context and the political and distributive consequences of particular approaches (Scharp, 2011).

3.3.2 Positive and negative peace

Finally, one of the biggest criticisms of the liberal paradigm of transitional justice is on the limited attention that it has to *positive peace*. The traditional paradigm of transitional justice focuses mainly on *negative peace*.

Negative peace involves stopping direct violence such as the silencing of weapons in a conflict. It forgets the underlying reasons for direct violence. Positive peace does pay attention to these underlying factors. It focuses on true forms of structural violence such as poverty, corruption, radical economic, social, civil and political inequalities, and other forms of social injustice. Unlike direct violence, structural violence is not personal, direct and intentional (Scharp, 2019). Figure 1 of Grewal (2003) summarizes this.

Without the level of individual and collective agency associated with direct violence, many struggles to understand the impersonal, unintended consequences of an ill-defined “system” as a form of violence at all, and indeed structural violence is often normalized and legitimized to the point of near-invisibility, by what Galtung (1969) called “cultural violence”.

The issue of transitional justice is that structural violence has long been a blind spot within paradigmatic transitional justice because of neoliberal and legalistic blinders, and needs to be addressed as one of the root causes of conflict under the banner of transformation. As a result, the liberal paradigm is accused of merely addressing symptoms rather than causes. (Scharp, 2019).

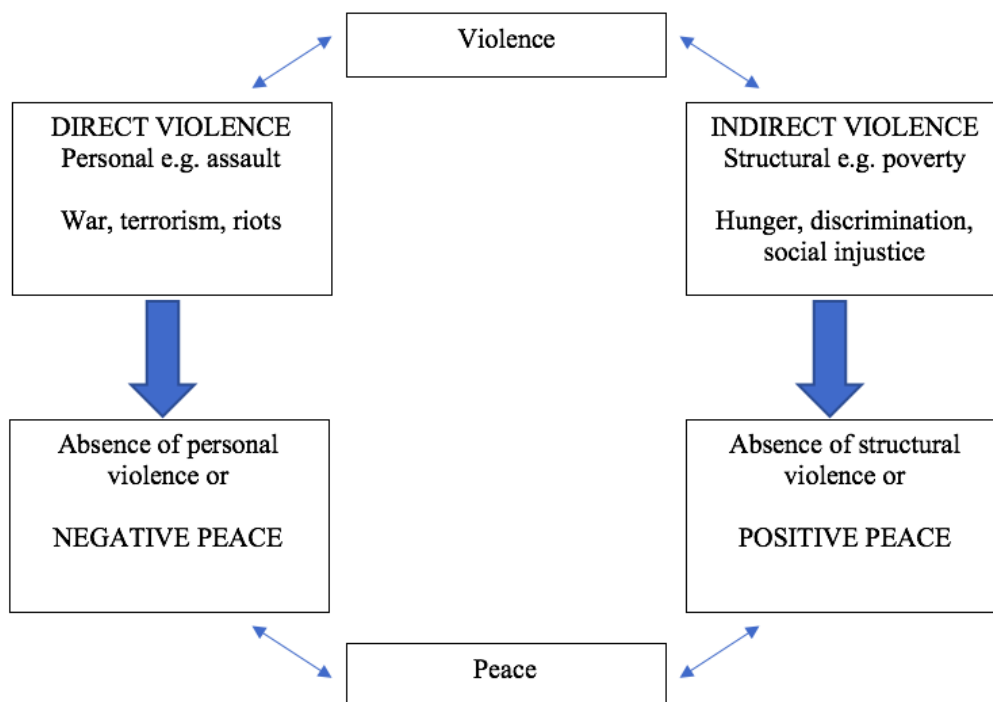


Figure 1: Negative and positive peace

An absent focus on positive peace and structural violence, can be translated into elements traditionally brought to the forefront and to the background. Scharp (2011) summarized in the table below which elements are pushed to the foreground and the background.

From this it can be deduced, that it is mainly the elements that fit within the technocratic, top-down, liberal approach, are set in the foreground. If violence is stopped at this level, there is peace according to this view. However, the underlying causes of a conflict such as structural causes, are hereby placed in the background.

Set in the Foreground	Set in the Background
Civil and political rights	Economic and social rights
The public	The private
The state and The individual	The community, group, corporation
The legal	The political
The secular	The religious
The international	The local
The modern	The traditional
Form, process, participation, procedure	Substance
Institutional enforcement	Cultural, social enforcement
Strict rules	Flexible standards
Rights as neutral, apolitical “trumps”	Rights as implicating hard policy choices with political and distributional consequences

Table 1: Set in the foreground and set in the background

3.4 Evolution of the liberal paradigm to a more holistic approach

In response to criticism of the liberal peacebuilding system, there has been a shift since the 2000s towards a more holistic approach that prioritizes local, bottom-up, and micro-peacebuilding, moving away from the technocratic, top-down, liberal approach of the 1990s. This shift aligns with broader trends in development policy (Mieszkalski & Zyla, 2021; Salvioli, 2022). At the policy level, the United Nations (2004) report on “The Rule of Law and Transitional Justice in Conflict and Post- conflict Societies” marked a major turning point in highlighting the importance of the local transitional justice when commitments were made to encourage local agency and participation in transitional. Building upon local ownership, practices and values are seen to be key factors in embracing successful transitional justice interventions (Sharp, 2014). This shift also came up in the interviews:

It's designed by the elite, top down, but it is designed in order to have contributions from bottom-up (Respondent 1).

In the 90s and in the beginning of the 2000, the tools were concentrated into mechanisms that concentrated regarding the past. Right now, it has changed into some development issues, some things about reparations, which are not only for dealing with the past but also with the future. It is connected with broader development issues. For instance, economic issues that were connected with the poor regions of the conflict. That has changed into a wider scope of different measures. Not only looking into the past like for instance the tribunals as before (Respondent 2)

The problem is that the literature still doubts that transitional justice has become holistic. In addition, there is still conceptual blurring over what exactly should be understood under “a holistic approach”. There has indeed been a shift towards a more localized approach, however, this does not necessarily mean that it addresses more underlying problems, such as structural violence. Scharp (2019) talks about the debate on whether or not transitional justice should be replaced by transformative justice, saying that it still remains unexplored whether one should and or can broaden the measures of transitional justice so that underlying factors are indeed addressed. So, do academics, therefore, believe that transitional justice is currently not fulfilling this purpose? This contradiction is particularly evident when observing its implementation in practice. The Colombian peace agreement, for instance, endeavors to address underlying factors through economic measures such as the Rural Reform Plan, while also taking steps against organized crime and acknowledging its contribution (Acuerdo final, 2016). Thus, can't this be considered an example of a holistic approach?

3.5 Measures

The toolbox of the classical approach of transitional justice consists of a number of measures, roughly based on 3 concepts, namely truth, reparation (of and for victims) and strengthening democracy and the rule of law. These measures are summarized in table 2 of Mihir (2020).

3.5.1 *Recognition and truth*

First of all, there are measures that focus on the aspect of truth, where the main focus is on recognition of the human rights violations. Examples of such measures include setting up history or truth commissions, or establishing memorials and commemorative days. The practice shows that the aspect of truth is evolving. There is a growing awareness for the “truth” of underlying factors (Mihir, 2020; United Nations, 2008; Werle & Vormbaum, 2022). Truth is not only seen from a legal standpoint, concerning what happened during the conflict. Truth now focuses on a broader perspective that also questions how the conflict initially arose.

I think very good transitional justice measures have to deal with the causes and those are not only part of a judicial truth. You have to deal with a wider form of truth, which only comes in a macro-narrative of truth. The big narrative forest. In that forest, you can address some of the major roots and causes that have allowed the conflict to last so long. It is not only to address a particular judicial (justice) truth. Also, when you deal with reparations, I think reparation is also a part of transitional justice. (Respondent 2).

3.5.2 *Reconciliation*

Second, there is the aspect of reparation that translates into reparative measures, which aim at recovery, restitution, rehabilitation or compensation for victims of the conflict. These measures are aimed at material or financial compensation and reconciliation between victim, perpetrator and society. Examples of such measures include quota systems, reconciliation and reintegration programs for political prisoners of the former regime, the restoration and maintenance of memorials and so on (Mihir, 2020; United Nations, 2008). However, reparations are not always easy. When it comes to financial damages, such as corruption, it is relatively straightforward to determine the necessary steps for making reparations. When it comes to physical crimes, such as the murder, it is much more difficult to measure and repair these damages (EVNReport, 2019; Werle & Vormbaum, 2022).

As with the truth aspect, practice shows that the reparation aspect is evolving, being more attentive to underlying factors (See Rural Reform Plan). This also means that repair does not always have to appear in a judicial form, but can therefore also be addressed through non-judicial measures.

3.5.3 Strengthening of the rule of law and democracy

The third aspect of strengthening democracy and rule of law can translate into two types of measures.

First, there are criminal law measures such as trials, tribunals or vetting procedures in accordance with international instruments. International standards and instruments help to create the legal framework with the aim of establishing the rule of law, by enabling the establishment of tribunals and a new national legal system. The principle of complementarity applies in this case, where international law steps in to fill the gap when the state fails to address the issue. It is about complementing the national law. (Schabas, 2018; Mihr, 2020; Werle & Vormbaum, 2022).

On the other hand, there are amnesty measures, which are most commonly used by governments in transition to deal with the past. They are also the most controversial measures, because they include amnesty laws or informal "silence pacts". Silence pacts are agreements between old and new political elites and governments. They include decisions not to prosecute warlords, paramilitaries, or policymakers in the near future, as was the case in post-authoritarian Argentina or post-Franco Spain in the 1970s and 1980s (Werle & Vormbaum, 2022). Amnesty laws can be established through informal agreements or national legislation and are often seen as measures that promote impunity. It can even lead to an abuse of power where the former elite can benefit from transitional justice measures.

However, advocates of amnesty laws point out that pardoning and integrating certain offenders into society can benefit democracy. An example of this is when judges are discovered to have committed human rights violations during the conflict. The issue of punishment arises when there is no immediate replacement for those judges, which may result in the consideration of amnesty or impunity. The lack of an immediate alternative system in place means that alternative solutions need to be sought at times (Schabas, 2018; Schabas, 2018; Mihr, 2020; Werle & Vormbaum, 2022).

Acknowledgement	Restoration	Criminal justice	Amnesties
History commissions	Reparation	Application of international human rights and humanitarian law	Blanket or conditional amnesties
Truth commissions	Restitution	Criminal justice	Silence pacts
Apologies	Compensation for past injustice	Tribunals and ad hoc tribunals	Rehabilitations programs
Memorials	Quota and affirmative action	Trials	
Public debates	Restoration of historical sites	Security system reform	
Film	Exhumation of mass graves	Condemnation or probation	
Literature		Vetting and lustrations	
Schoolbooks			
Scientific research open archives			
Media involvement			
Symbolic naming of victims and perpetrators			

Table 2: Categories of transitional justice measures

3.6 Critiques

The critiques of transitional justice can be categorized into two main parts. The first part centers around the classical paradigm of transitional justice, while the second part revolves around the "holistic and local approach" to transitional justice.

3.6.1 Critique of the classical approach

The criticism of the classical paradigm has largely already been overrun (see the liberal paradigm of transitional justice). However, there are some critics that have not been discussed.

First of all, Gready and Robins (2022) show in their study that while the "theoretical compatibility and complementarity of these mechanisms" has been widely affirmed, it has not been assessed whether their actual operation is compatible. A "practical discrepancy" persists between truth commission investigations and trials, particularly concerning aspects such as access to information, the exchange and presentation of evidence, and the involvement of witnesses. Tensions exist between truth commissions and trials when they operate simultaneously, but also when they take place sequentially. Truth commissions may find themselves questioning previous court rulings, and over time their findings are in turn challenged by further court proceedings. Questioning administrative and socially accepted truths may be considered necessary, given judicial standards of evidence and fair trial safeguards, but the fact that the truth may be permanently "ephemeral" can be deeply troubling for victims and their families.

A second criticism of the classical model is its limited focus on non-political actors involved in a conflict. This criticism is closely linked to the critique of insufficient attention to structural violence. Conventional definitions of civil wars, for example, emphasize the political objectives of actors as a crucial factor in determining whether a conflict qualifies as a civil war. However, according to the New Civil Wars definition, these political objectives play a smaller role. The recognition of organized crime in a civil war is crucial because it can benefit from perpetuating the conflict.

During a conflict, various opportunities arise for organized crime. On one hand, the weakening of the state allows organized crime to operate more freely, as can be seen in the case of Colombia, where cartels exercise control over certain regions where the state's presence is limited. On the other hand, organized crime becomes a source of revenue for political actors involved in the conflict. Consequently, organized crime generates profits through the conflict and establishes corrupt relationships with political actors, creating opportunities for infiltration into democratic institutions.

These relationships stem from the fact that in new wars, state financing is no longer prevalent, and alternative means such as drug smuggling and resource exploitation are employed. Unlike old war economies that were typically centralized, self-sufficient, and mobilized the population, new wars are part of an open, globalized, decentralized economy, characterized by low participation and revenues dependent on war dynamics (Correa-Cabrera et al., 2015; Kaldor, 2005; Kalyvas, 2015).

The transitional justice paradigm primarily focuses on traditional forms of conflict, centering on human rights violations and political actors, while overlooking the influence of criminal actors on a conflict. This omission becomes particularly problematic when efforts are made to strengthen democratic states without addressing the presence of organized crime and its physical and economic influence in certain regions. It can lead to the abuse of power resources and infiltration within the democratic system (Moran, 2001; Trejo et al., 2018; Steele & Schubiger, 2018).

3.6.2 Critique of the more holistic approach

The second part of the critique focuses on the holistic approach. A fundamental question to raise is whether transitional justice has truly shifted its paradigm. Despite the discourse of a more comprehensive approach, scholars consistently criticize the persistence of the liberal paradigm within transitional justice. The underlying principle of an "ideal state" is still rooted in a Western liberal framework. However, as mentioned earlier in the section addressing the liberal paradigm of transitional justice, this perspective can be both perilous and destabilizing (Scharp, 2019; Mieszkalski & Zyla, 2021).

Secondly, if evolution did take place, there is a need to consider how "holistic" should be interpreted and translated into practice. Indeed, academics warn against a "do everything" paradigm. While there is a recognized need for more comprehensive interventions and proposals in transitional justice, which entails working at different levels and employing diverse mechanisms and sectors, it is crucial to exercise caution regarding complex and ambitious programs lacking a clear strategy (Gready & Robins, 2019).

3.6.3 Critique of the more local approach

In connection with the liberal paradigm of peace, the "local" aspect is criticized. First, critics denounce the one-size-fits-all approach to reconciliation by the international community and argue for a fully participatory process designed, implemented and governed by local people, as participation should ultimately lead to empowerment. Currently, there is quite a tendency to make "local" a vague catch-all term, allowing for conceptual substitution (Gready & Robins, 2019).

Indeed, local participation in transitional justice cannot be defined as a single static phenomenon, which means that there is neither one method or mechanism that can encompass meaningful participation in transitional justice. In particular, inclusiveness or bottom-up processes cannot be easily transferred from one context to another (Selim, 2017; Mieszkalski & Zyla, 2021).

Certain factors such as geographic isolation, political marginalization, inadequate outreach and minimal civil society engagement, may mean that not every area can be addressed in the same way (Mieszkalski & Zyla, 2021).

Here, Scharp (2014) argues that a multidimensional approach is needed to address local aspects such as control (agency decision-making, funding), process (bottom-up, participatory) and content (values, practices, priorities). More questions need to be asked by whom and how local is interpreted. Victims (in local areas, communities) of human rights violations in war and conflict zones include a wide range of people, each with different stories and forms of harm. Simply labelling these victims as "local" does not do justice to the different forms of violations they have experienced (Okello, 2010; Mieszkalski & Zyla, 2021). Scharp (2014) argues that simply building local property, without understanding the complex mechanisms involved, can lead to maintaining oppressive power structures and interests of (local) elites.

A persistent criticism of transitional justice is that insufficient attention is paid to understanding the complexity of the relationships between the local and national levels. Scholars tend to overlook important dimensions, such as local-national power asymmetries and veiled political agendas, creating blind spots (Mieszkalski & Zyla, 2021). Daly (2002) argues that the emphasis on the local in transitional justice has overlooked the agency of local actors and has therefore failed to examine the complex ways in which power has been exercised between the national and subnational levels (Mieszkalski & Zyla, 2021). In addition, transitional justice demands change at multiple levels, but it remains vague about which changes are important in which process or mechanism, and or how that change is connected to other levels (Gready & Robins, 2020, Mieszkalski & Zyla, 2021).

Finally, the focus on local ownership should prioritize "the ability of local societies to create their own social institutions and make their own decisions about the future". Engaging local ownership does not only refer to local participation in national politics, but also in integrating politics at the local level (Gready & Robins, 2014; Mieszkalski & Zyla, 2021).

3.7 Conclusion

Transitional justice can be seen as a toolbox of mechanisms, aiming to contribute to peacebuilding and thus characterized by a period of transition. The measures of this toolbox are victim-centered and each seeks to focus on truth, reconciliation and strengthening democracy and the rule of law, all of which should contribute to greater justice. Despite this, the framework has been heavily criticized in the past for its liberal paradigm and the associated Western values, focusing only on “negative peace”. As a result, it has evolved, focusing more on a more holistic approach.

However, how this more holistic approach should be interpreted remains open to debate. Empirical data has shown that transitional justice has indeed undergone a shift towards a more local and holistic approach, while certain perspectives in the literature may contest this notion. On the other hand, from the interview with respondent 2, it was observed that there is still a tendency to focus on the legal and technocratic aspects of peacebuilding. Perhaps, a shift has occurred in the sense that transitional justice now pays attention to underlying factors, but it does not necessarily mean that these factors have become the primary focus. The framework may have broadened its vision, but it may not have deviated significantly from its priorities. In this manner, both perspectives are correct regarding the way in which transitional justice has undergone a shift or not.

4 Chapter 2: Implementation of transitional justice

4.1 What is the FARC?

The Revolutionary Armed Forces of Colombia (FARC), is a Marxist-Leninist guerrilla group founded in 1964. The group was formed to represent the interests of the rural population after Colombia's civil war from 1948 to 1958. The FARC initially sought to overthrow the government, but in order to sustain their operations, they resorted to employing drug trafficking, kidnapping, extortion, and illegal gold mining. After reaching a peace agreement with the Colombian government in 2016, the FARC underwent an official process of disarmament and demobilization. It is now a political party called the Revolutionary Alternative Common Force, still using the acronym "FARC".

4.2 History of the peace treaty and the FARC

To discuss the origins of the FARC and the peace treaty, it is necessary to go back to the civil war of 1948-1958, also known as La Violencia. During this civil war, so-called peasant self-defense groups emerged, which later in 1964 began to translate into the Revolutionary Armed Forces of Colombia (FARC). The FARC functioned as the military arm of the Colombian Communist Party (PCC), a party that defended rural balances. The party established its presence in rural communities in Marquetalia and Tolima with the objective of creating a society that would address the needs and concerns of the rural population. However, after a series of attacks on these communities by the Colombian army, the communities came together in what they called the First Guerrilla Conference. During this conference, they formally declared themselves as a guerrilla group and adopted the name Southern Bloc (of the FARC). Initially, the movement was conceived as a defense group, intended to protect the rural population from government attacks. However, after another meeting in 1966, the group decided to change its name to FARC and also changing its strategy. In addition to defending rural populations from government attacks, the FARC expanded its mission to include providing education and medical services to loyal communities, training militants for combat, and carrying out offensive attacks.

Initially, the group tried to finance its attacks only through kidnappings. However, the FARC also began trading cocaine in the late 1970s to finance its activities, a practice that facilitated its rapid growth in the 1980s. The FARC's new wealth from kidnapping and drug trafficking and social services attracted a large number of new members seeking to escape Colombia's growing poverty.

The increase in profits and new members marked the beginning of FARC's exponential growth and increase in power. FARC's reliance on the drug trade also damaged its reputation. The US government, the Colombian government and news sources soon began referring to the group as a drug cartel. As a result, the FARC held in 1982 its Seventh Guerrilla Conference and changed its name to Fuerzas Armadas Revolucionarias de Colombia - Ejército del Pueblo (FARC-EP). This new addition to the name meant "People's Army". However, despite the name change, it was still referred as a drug cartel.

In 1982, peace talks were initiated under the leadership of President Belisario Betancur. Two years later, in May 1984, the Uribe Accords were successfully negotiated and agreed. The agreement called for a bilateral ceasefire, which lasted from 1984-1987. As part of the agreement, the FARC, together with the PCC, founded the Patriotic Union (UP), a political party, in 1985 (Bell, et al., 2015.; Piccone, 2019). The UP achieved unprecedented left-wing success in the 1986 elections, but this was soon undermined by forced disappearances and systematic killings of UP leaders by the Colombian army, right-wing paramilitaries, and other drug gangs. The FARC continued violent tactics and kidnappings because the group believed that the government's political reforms were inadequate. Wealthy landowners were the main target of these kidnappings. In response to the FARC's continued violence, landowners formed militant groups, which joined the Colombian army in the 1980s to counter the guerrillas.

In 1999, FARC's membership grew to 18,000. FARC's increased influence in the country, its extreme number of kidnappings and its involvement in drug trafficking led to both domestic and international reactions. In 1999, a quarter of Colombia's population marched in cities across the country in the "No Más" protests against FARC and its violence. Around this time, the FARC began new peace negotiations with the Colombian government.

In 2000, the United States and Colombia launched Plan Colombia, which some say led to the beginning of FARC's decline. In 2002, President Pastrana ended peace talks with FARC that had started in 1999. This period was also marked by profound effects on the dynamics of peace organizations and on the country's interest in peace processes. It was a period that led to massive public disillusionment (Bell, et al., 2015.; Piccone, 2019).

In 2002, Álvaro Uribe (2002-2010) successfully ran for the presidency by pledging to take strong action against guerrilla presence and activities in the country. He emphasized a departure from negotiations and peace processes with guerrilla groups, instead focusing on securing major cities and routes between them through a policy known as "democratic security".

Uribe formulated an anti-guerrilla program that aimed to enhance the professionalism of the army, with the assistance of paramilitary groups and support from the US government's Plan Colombia. This period witnessed the utilization of the language associated with peace processes to engage with right-wing paramilitaries, while marginalizing the FARC and ELN rather than negotiating with them. Uribe's tough approach against the FARC resonated with the Colombian public, resulting in a decrease in violence and a significant decline in the number of FARC members. Furthermore, not only did the FARC weaken in 2002, but the Patriotic Union (UP) party, which was founded by the FARC, lost its legal status and was unable to participate politically due to a lack of members and support.

In 2010 Juan Manuel Santos won the presidential election. He resumed the peace process with the FARC and announced in August 2012 that the government had begun "exploratory talks" with the group. The talks had several ups-and-downs, because of ceasefire violations. A final agreement was reached in 2016, eventually ending 52 years of violence between the FARC and the Colombian government (Nationaal Coördinator Terrorismebestrijding en Veiligheid, 2018; Center for International Security and Cooperation, 2019).

4.2.1 Critical note

While acknowledging the deep involvement of FARC in drug trafficking and other forms of organized crime, it is crucial to examine the group's origins. The FARC initially emerged as a political group, advocating for rural interests and espousing Marxist and Leninist ideologies. However, to continue their struggle against the government, it was necessary to seek funding in the illegal economy. As a result, FARC should be seen as an actor with political motives rather than just a criminal actor. Indeed, it is important to recognize that there are actors within organized crime who are solely driven by financial gain and do not have any political motives. As already discussed in the critiques of transitional justice, there are actors who benefit from letting a conflict continue. However, to understand why FARC have ingrained themselves in the world of organized crime, it is more important to look beyond financial motives (Otis, 2014). Organized crime, in this case, can be seen as a symptom, with political interests and structural problems contributing to its origin. That was something the Colombian peace-agreement had to take into consideration (and it also did).

Drug trafficking as in many wars is just a wartime economic. So, if you don't accept that, you won't have a peace agreement. You have to deal with diamonds, timber, crops, resources, etc. Every conflict as legal and illegal economies, but we realized drug trafficking was not the root of the conflict. Drug trafficking started late 70s, 80s, while FARC existed from the 60s. FARC is prior to drug trafficking.

Even with the drug trafficking that boosted FARC (and others) but it was not the roots. You have to take that in consideration with the peace agreement (Respondent 2).

4.3 Content of the treaty

To end the conflict, the Colombian State and the FARC signed an agreement that would address the underlying causes of the conflict. At the core of their agreement is a bold endeavor to address the rights of approximately 8 million victims of the conflict. This includes providing truth, justice, reparations, and guarantees of non-recurrence through a comprehensive process of transitional justice. The peace treaty includes a plan for the FARC's transition to its new status as a recognized political party. The treaty had 6 chapters: (1) "Comprehensive Rural Reform"; (2) "Political Participation"; (3) 'End the conflict'; (4) "Solution to the problem of illicit drugs"; (5) "Agreement regarding the victims of the conflict"; (6) "Implementation" (Acuerdo Final, 2016; The Office of the High Commissioner for Peace, n.d.; Piccone, 2019).

4.3.1 Comprehensive Rural Reform

The first chapter "Comprehensive Rural Reform" focuses on the transformation of rural Colombia. The objective is to eliminate extreme rural poverty and reduce overall rural poverty by 50% within a span of 10 years. This entails bridging the urban-rural divide to achieve greater equality, promoting economic recovery in rural Colombia, and fostering the growth of small-scale family and community agriculture. Central to this is helping rural people gain access to land, to the means to make this land productive and to participate in the planning of their regions.

To achieve those goals, measures have been taken. Examples include land funds, with free redistribution for those without (usable) land. This would be characterized by an "extended access", where people get technical assistance, seeds capital and or loans, etc. Another example is the implementation of farm zones, known as "zonas de reserva campesina." These zones are either pre-existing or created based on the requests of local communities, aiming to facilitate a more active presence of the State in these areas. These measures are supported by national plans and by development programs with a territorial approach (PDET).

The national plans aim to provide rural Colombia with public services and infrastructure, with the aim of helping inhabitants overcome poverty and inequality. The plans specifically emphasize the enhancement of primary production economies in rural areas, including family farms and communities.

The plans are focused on 3 pillars, namely infrastructure, social development and incentives for productivity which can be found in table 3 published by the Office of the High Commissioner for Peace (n.d).

In the areas most affected by poverty and the conflict, PDETs will be implemented to accelerate the implementation and financing of national plans. These will begin with a Regional Transformation Action Plan, which will seek broad participation of relevant sectors of the community in the preparation, implementation and follow-up of the plan (Acuerdo Final 2016; The Office of the High Commissioner for Peace, n.d.)

Infrastructure	Social development	Stimuli for productivity
<p>Rural road network</p> <p>This plan seeks to connect regions and enable rural inhabitants' access to markets and public services.</p>	<p>Healthcare</p> <p>This plan seeks to improve coverage and quality of public healthcare in rural areas.</p>	<p>Solidarity economies</p> <p>This plan seeks to enhance stimuli for solidarity economies and producer cooperatives, bringing producers closer to consumers and enhancing the flow of goods, and creating a national plan of commercialization for their products.</p>
<p>Irrigation and draining infrastructure</p> <p>This plan seeks to foster rural productivity by guaranteeing democratic access to water in a sustainable way.</p>	<p>Education</p> <p>This plan seeks to improve coverage, quality and relevance of education, from early childhood to higher education, and to eradicate illiteracy in rural areas.</p>	<p>Technical assistance</p> <p>This plan seeks to enhance stimuli for solidarity economies and producer cooperatives, bringing producers closer to consumers and enhancing the flow of goods, and creating a national plan of commercialization for their products.</p>
<p>Electricity and internet services</p> <p>This plan seeks to expand the coverage and quality of power and internet services.</p>	<p>Housing and drinking water services</p> <p>This plan seeks to guarantee access to community-run aqueducts and waste management systems, as well as improve housing conditions in rural areas.</p>	<p>Financial capital</p> <p>This plan seeks to guarantee access to credit, seed capital and crop insurance to people in rural areas.</p>
		<p>Social security</p> <p>This plan seeks to improve the labour conditions of rural producers and workers, guaranteeing their access to mechanisms of social protection.</p>
		<p>Food security and nutrition</p> <p>This plan seeks to eradicate hunger and malnutrition in rural communities, and to guarantee plans for proper nourishment and nutrition in these areas.</p>

Table 3: National Plans for Rural Reform Development

4.3.2 Political Participation

The next chapter focuses on promoting more diverse voices in politics, increasing citizen participation in public affairs and ensuring that politics and arms are no longer used together. Building peace requires seizing a democratic opportunity to strengthen pluralism and the representation of society's diverse views and interests. With the goal to promote and strengthen citizen participation in matters of public interest, and prohibiting violence as a means of political action. The measures of this chapter include promoting electoral transparency and participation, electoral regime reform, strengthening the rights of the political opposition, and strengthening political participation of women.

There is a specific focus on civic participation, by focusing on social organizations, more rights for social protests, more civic control over public administration and participatory planning, giving citizens a more active role in making decisions (Acuerdo Final, 2016; The Office of the High Commissioner for Peace, n.d.).

4.3.3 End the conflict

This chapter encompasses two main aspects: the physical cessation of the conflict, symbolized by the laying down of arms, and the establishment of conditions of security and protection for all Colombians, including political parties, movements, and the political entity formed as a result of the FARC's demobilization. The reintegration of former FARC combatants and ensuring their security are integral parts of this chapter.

The laying down of arms is done through the bilateral and final ceasefire and the laying down of arms treaty signed by the FARC and the Colombian government. The treaty is characterized by the Monitoring and Review Mechanism (MM&V) and the international component of the Monitoring and Review Mechanism (CI-MM&V). In addition, arms issuance takes place in so-called Local Transitional Areas for Normalization (ZVTN). These transition zones are temporally and geographically defined areas. The purpose is to ensure the ceasefire and the laying down of arms and lay the groundwork for the reintegration of the FARC into civilian life and their transition to legal activities. Inside these zones, ex-combatants (from FARC) must surrender their weapons. In each encampment, there is a storage area for weapons in designated containers, which are controlled exclusively by the CI-MM&V. In addition, these local zones will enable the training of FARC members in productive work and education.

The measures to ensure the security of both the FARC and civilians can be divided into 4 categories namely protection measures, judicial measures, security measures and political measures. These measures are summarized in table 4 of the Office of the High Commissioner for Peace (n.d).

Finally, this chapter focuses on two aspects: the political reincorporation of FARC as an organization in the political system, and the social and economic reincorporation of FARC members into society. The goal is to give FARC a legal status within the political system that will remain active through 2026, while creating short- and long-term conditions for former FARC combatants to build life projects within civilian life." (Acuerdo Final, 2016; The Office of the High Commissioner for Peace, n.d.).

Protection measures	Justice measures	Security measures	Political measures
A Comprehensive Security System for the Exercise of Politics	A Special Judicial Unit responsible of tackling criminal organizations threatening implementation of the Peace Agreement	A Special Judicial Unit responsible of tackling criminal organizations threatening implementation of the Peace Agreement	A political nationwide pact in support of the Peace Agreement
A comprehensive protection programme for the former members of FARC who reincorporate themselves into civilian life	A comprehensive protection programme for the former members of FARC who reincorporate themselves into civilian life	A Special Judicial Unit responsible of tackling criminal organizations threatening implementation of the Peace Agreement	Preventive measures and the fight against corruption
		A prevention and monitoring instrument for criminal organizations	Preventive measures and the fight against corruption
		A national mechanism for the supervision of private security and surveillance services	

Table 4: Measures Chapter 3

4.3.4 Solution to the Problem of Illicit Drugs

Chapter 4 concentrates on addressing illicit drugs, with a dual focus on combating drug use and drug trafficking. The chapter recognizes the role of organized crime present in the conflict, especially in certain regions facing structural problems. It tries to tackle drugs by looking at the underlying factors. Indeed, this chapter needs to be connected to Chapter 1.

The impact of drugs on Colombian society has been increasingly recognized (Rettenberg, 2020). The drug trade has had several significant effects on the armed conflict in the country.

Firstly, it provided funding to illegal groups and their support base, leading to extensive recruitment in the 1990s. Secondly, it exacerbated rural inequality by enabling drug traffickers to acquire and seize land. Moreover, as drug lords purchased land, they became targets of guerrilla pressure, which prompted the establishment of paramilitary groups to counter the guerrilla's influence. This, in turn, resulted in the forced displacement of the peasant population. Lastly, both the state and the FARC were weakened by drug-related corruption and violence. The lure of drug-related income caused divisions within their respective organizations and undermined their political aspirations.

Despite generating considerable wealth, the drug trade benefits producers minimally, and its primary consequences are the exacerbation of inequality and violence in areas where crops are cultivated (Rettenberg, 2020).

A first measure taken within this chapter is the National General Program for the replacement of crops used for illegal purposes. This program (called PNIS) aims to work with communities to change the conditions in areas where illegal crops are grown and solve the resulting problem with regional integration and social inclusion. This measure is connected to the measures in Chapter 1. It recognizes that farmers tend to plant illegal crops because the situation they are in leads to it. The program aims to strengthen the state presence in areas affected by illegal crops by guaranteeing citizens' rights and providing infrastructure and access to public services. However, in regions where the state is denied, the government will use brute force to remove illicit crops.

In addition, substitution and non-replanting agreements will be used, with communities signing that they will not use illicit crops. In return, they take part of the Immediate Response Plan, which will guarantee food assistance for persons who sign substitution and non-replanting agreements.

Third, efforts will be made to set up participatory planning processes, with the idea to forge a new partnership between communities affected by illegal crops and the state. This will require wide participation from communities, including those directly involved in the cultivation of these crops. Through bottom-up planning, communities can identify their needs their Comprehensive Substitution and Alternative Development Plans (PISDA) and be actively involved in their implementation.

Finally, the chapter contains a number of repressive measures, which will focus on corruption, asset laundering and inputs and chemical precursors. Also, a number of measures that focus on tackling drug users (Acuerdo Final, 2016; The Office of the High Commissioner for Peace, n.d.).

4.3.5 Agreement regarding the victims of the conflict

The fifth chapter focuses on addressing the needs of the conflict's victims through the implementation of a comprehensive system. This system comprises a range of judicial and non-judicial mechanisms that will be coordinated effectively. The primary goals of this system are to ensure the full realization of victims' rights, establish accountability for past events, provide legal certainty for all parties involved, promote coexistence and reconciliation, prevent future conflicts, and facilitate a smooth transition from armed conflict to lasting peace.

The system consists of 5 measures that can be found in the table below by the Office of the High Commissioner for Peace (n.d):

Measures					Actors involved
Truth, Coexistence and Non-Repetition Commission	Special Search Unit for Persons reported as Missing	Comprehensive Reparation Programs for Peacebuilding Purposes	Special Jurisdiction for Peace	Guarantees of Non-Repetition	
An impartial and independent mechanism, of transitory and extra-judicial character, with a territory-based approach, which will seek to contribute to the realization of the right to the truth for victims and society as a whole.	A special unit of humanitarian and extrajudicial nature, which will work with independence and autonomy in seeking to establish what happened to persons deemed as missing in the context of and due to the armed conflict.	The end of the conflict represents a unique opportunity to strengthen the programs of comprehensive victim reparation that are being implemented by the Colombian government, as well as to adopt new measures and promote the commitment of everyone to repair the damage that has been done.	The various organs of the Special Jurisdiction for Peace will undertake criminal justice proceedings and comply with the state's duty to investigate, prosecute and punish crimes committed in the context of and due to the armed conflict, particularly those that are most serious and representative.	The guarantees of nonrepetition will result from the coordinated implementation of the various mechanisms of the Comprehensive System, and the measures agreed under item 3 of the Negotiation Agenda ("End of the Conflict") which includes the surrender of weapons, the reintegration of guerillas into civilian life and other security guarantees.	Victims State Agents Guerrillas Demobilized paramilitaries Third Parties

Table 5: Measures for victims

4.3.6 *Implementation*

The final chapter deals with the implementation of the peace agreement, setting out a number of measures, which are intended to promote and monitor the implementation. First, there is the "follow-up and verification commission for the peace agreement".

This commission was established to monitor the implementation of the peace agreement and prepare a 10-year framework plan for the implementation of the agreement based on a draft by the Colombian government. It will promote "the active participation of the private sector, local communities and social organizations in the implementation of the Peace Agreement, and adopt different measures to guarantee the transparency and accountability in the implementation, as well as prevent any form of corruption" (The Office of the High Commissioner for Peace, n.d.). Second, the "Mechanism for the verification of implementation", a mechanism, consisting of various institutions and international representatives which monitor the state of implementation of the peace agreement, will track delays and setbacks and strengthen implementation. Lastly, there is international accompaniment, involving the Colombian government and FARC seeking support from countries and international organizations to guide implementation (Acuerdo Final, 2016; The Office of the High Commissioner for Peace, n.d.).

4.4 Connection with transitional justice

The main question of this section is about how transitional justice was implemented in the peace agreement. To answer this question, the transitional justice theory must be linked to the measures contained in the peace agreement.

4.4.1 *Victim-centered*

Transitional justice places victims at the center, which can be found in Chapter 5 of the peace treaty, which prioritizes their needs. Truth commissions are among the tools utilized in this process. The interviews also revealed that victims were given a chance to provide input during the peace agreement's drafting.

During the talks, there was a broad participation on the issue of transitional justice, that was secured in various ways. We had a very elaborate scheme on bringing victims to the table. We had 60 victims, 5 delegations, 12 victims in each delegation that travel to Havana to sit down with the parties and tell their story. And give their inputs on how the transitional justice measures should be designed (Respondent 1).

4.4.2 Peace-building

Secondly, transitional justice aims to facilitate the transition from conflict to peace in conflict-affected areas, thereby contributing to peacebuilding efforts. Putting an end to conflict is part of the main goal of the peace agreement. The goal here is not to solve all the problems, but rather those connected with the conflict.

4.4.3 Reconciliation, repair and strengthening of democracy

The first element, namely truth, can be found in Chapter 5 of the peace agreement. The measures in this chapter focus on recovering the judicial truth of conflict, through, for instance, truth commissions. In other words, they focus on the recovery of crimes violating human rights that occurred during the conflict. Nevertheless, the peace deal goes beyond focusing solely on recovering judicial truth. Indeed, the peace accord also wants to recover a broader version of truth. A translation of this can be found in Chapter 1, where the peace agreement aims to change structural problems in rural areas. Through this, the peace treaty recognizes that structural problems were part of the root causes of the conflict. As discussed earlier in the section around the evolution of transitional justice, this recognition can also be seen as a form of truth. Here, the question changes from "what happened during the conflict?" to "why did conflict start initially?".

Protecting ex-FARC combatants during their reintegration is an important aspect of acknowledging the truth. It was acknowledged during the historical discussion that they faced violence in previous peace agreements. The current peace agreement recognizes the need to safeguard ex-FARC fighters in order to ensure the success of the peace agreement.

In addition, Chapters 3 and 4 present a range of measures that seek to tackle organized crime. By doing so, the peace agreement recognizes that organized crime was an actor that helped drive the conflict to continue. Protecting ex-FARC members and acknowledging the presence of organized crime in the conflict are examples of measures that focus around the question "why does the conflict continue?".

Secondly, the same can be seen with the aspect of reparation. It is traditionally it has traditionally been seen as judicial reparations to the victims for what happened during the conflict. Justice here gets the connotation of judicial justice, which is translated in Chapter 5. Just like the concept of truth, the notion of reparation has also undergone a broadening of its meaning. Chapter 1, the Rural Reform Development Plan, focuses on addressing structural problems of poor rural areas. It focuses on land redistribution, as well as improving the conditions of the rural area.

Through these reforms and investments, the plan aims to create a form of justice for the inhabitants of these areas, who are considered victims of structural problems.

However, the expanded understanding of truth and reparation does not imply that the broader interpretation takes precedence over the judicial aspect. This will be further discussed in the upcoming chapter. Finally, the last element, strengthening democracy and the rule of law, translates into Chapters 2, 3 and 4. Chapter 2 focuses on political participation and stability, with the aim of strengthening democratic pluralism (see political participation). In addition, a number of measures such as political, security, judicial and protection measures are being taken to strengthen the rule of law. Finally, the fight against corruption comes up in Chapter 4, where the peace accord recognizes the problem of corruption in dealing with organized crime, and seeks to strengthen the rule of law by increasing its measures on corruption.

4.4.4 Local Route

Finally, the peace agreement emphasizes local participation in transitional justice, as seen in Chapter 2. Similar to the criticism of the theoretical framework of transitional justice regarding the "local turn," the 2016 peace agreement also faces criticism. Despite its emphasis on local and subnational actors, some scholars argue that they are portrayed as passive participants (Eaton, 2021).

Chapter 1 may focus on the transformation of local, rural areas; however, everything is done through national plans, thus missing subnational governments. Instead of giving subnational officials the power to make these decisions, municipalities would only play an administrative role. Chapter 2 prevails on participatory institutions through "territorial planning councils" and "territorial reconciliation councils" to be formed by citizen groups. However, subnational governments play a limited role, including the ability to "exchange positive experiences" and respond to petitions.

A limited role for local authorities also characterized the third chapter of the agreement, which regulated the end of the conflict through the relocation of FARC soldiers in 20 "Local Transitional Areas for Normalization" (ZVTN). Municipalities served only as passive locations without allowing municipal authorities to engage demobilized insurgents in any services. In the remaining chapters of the agreement, sub-national governments are absent from the institutions for the protection of victims' rights (Chapter 5) and from the commission set up to monitor implementation (Chapter 6). Finally, Chapter 4 on illicit drugs seems to imply a more policy-making role for municipalities (Acuerdo Final, 2016), but still calls for the creation of a national system to harmonize local plans (Eaton, 2021).

The limited role of local governments in making decisions, can be explained by reference to already previous peace agreements and to the interests of FARC. Over three decades ago, decentralization played a central role in previous attempts in Colombia to resolve the conflict. This resulted in the establishment of an institutional framework for subnational governance.

However, due past experiences, the government and the FARC chose not to work by decentralization. While the government concluded that decentralization had gone too far and in fact exacerbated the conflict, FARC negotiators had reasons to conclude that it was fundamentally insufficient to achieve their goals of transformation, which would require a national stage. Already previous experiences revealed gaping capacity shortages at the local level, raising questions at the Colombian government about whether local governments were viable peace partners. These deficits were exacerbated by the increase in coercive powers of the central state under President Uribe. The strengthening of the state convinced government negotiators that sectoral decentralization is a better alternative than territorial decentralization, and that capacity can be transferred from the center to the suburbs (rather than created in the suburbs) (Saffon, & Uprimny, 2007; Bell, et al., 2015; Eaton, 2021).

4.5 Conclusion

As a conclusion, it can be stated that examining history is crucial to understanding the conflict. From this, it can be inferred that FARC initially started as a political actor defending political interests. However, over time, it became heavily involved in the drug trade to finance its goals.

Understanding the initial purpose of FARC is important in the application of transitional justice measures. A more holistic understanding of the aspects of truth and reparation requires a better comprehension of the initial reasons for the conflict. FARC initially emerged as a group aiming to represent the interests of farmers who had suffered during La Violencia and its aftermath. It is crucial, therefore, to include this harm and truth in the peace agreement as well.

Initially, the peace agreement seems capable of addressing these initial reasons and understanding why the conflict started. However, a problem immediately arises. Due to previous experiences with decentralization on the government's side and a lack of trust in the power of local changes from FARC's perspective, both parties opted for a centralized approach. The problem here is that local communities and victims risk being described as passive actors, which contradicts the goals of transitional justice and the peace agreement. It has been previously mentioned (introduction) that transformative justice can be understood as bringing about transformative changes that prioritize local needs. Without delving too deeply into this, an interesting question may be to what extent transformative justice can play a role in increasing confidence in the power and importance of local change? However, this will be discussed further.

5 Chapter 3: Pros and cons of the agreement

In this section of the master's thesis, the advantages and disadvantages of the peace agreement for FARC will be examined. The focus is on the benefits brought to FARC, the resolution of the conflict, and related drug issues. Conversely, it also explores the shortcomings of the peace agreement, which contributed to increased drug production in Colombia and the reengagement of former FARC fighters in the conflict. This analysis is supported by insights from experts involved in the creation and implementation of the peace agreement, as well as by relevant scientific literature and policy documents.

5.1 Strengths

An initial strength of the peace agreement is the fact that FARC was part of the peace agreement's design, which brought a number of advantages. First, the government demonstrated a willingness to listen to FARC's demands, aiming to develop a proposal that was both feasible and necessary to effectively resolve the conflict. In this way, the government's first proposal not only set out what it thought was a responsible way to address a problem, but also tried to incorporate the FARC's historical demands. (Canal Acero & Aponte Castro, 2019).

In addition, according to the design of the peace agreement, "the people that were going to be judged were also the people that were part of the design of that policy" (Respondent 2). As a result, FARC was able to put forth additional demands, particularly in terms of amnesty, which provided benefits to the organization and increased their willingness to negotiate and cooperate with the government's demands. However, this also drew the attention of military personnel who were implicated in the conflict and had committed crimes as well. They wanted the same opportunities as FARC, which made them more willingly to co-operate. In this way, the peace agreement addressed two issues "the illegal nature of FARC, as well as the illegal behavior of a legal actor, such as the army" (Respondent 2).

However, a nuance needs to be made in terms of the demands FARC could make. According to Respondent 1, FARC could make demands to the extent that they were acceptable for the time, rather than demands that were acceptable to FARC. Certainly, in terms of reintegration and security, there was limited acceptability for FARC, so demanding better conditions could lead to the government leaving the negotiating table.

Maybe if the FARC had pushed for a better agreement, the government would have left the table, we don't know that. Maybe the agreement was the best that was achieved under those circumstances. But ideally, I think the FARC would prefer an agreement that gave them better guarantees of security and re-integration (Respondent 1).

The second benefit of the treaty was stability for the FARC. The treaty was so constitutionally entrenched that President Duque could not renounce it. It was difficult for Duque to make major changes, as the transitional elements of the accords were now enshrined in Colombian law and Colombian sentencing guidelines point judges to the most lenient law available. Moreover, the international component meant that many international actors had anchored themselves in the peace accord and thus co-financed the treaty.

Duque didn't want to implement the peace-agreement, but the justice part was implemented during his time, not because he wanted it, but because it was so solidly designed. The system was set up, the judges were appointed, it just kept on working despite president Duque's negative posture (Respondent 1).

They couldn't change it, because it was very protected in a constitutional and international way. President Duque, was really upset because every time he went to the United States, a lot of parliamentarians, diplomatic, they asked how the peace agreement was doing, how the implementation was, because they were giving a lot of money (Respondent 2).

Another significant strength of the peace agreement, as previously mentioned, is its recognition and focus on addressing structural problems and organized crime. It acknowledges that the root causes of the conflict must be effectively dealt with. Moreover, it specifically targets the issues that have emerged as a result of the conflict, including the presence of certain economies and actors that sustain it. This comprehensive approach demonstrates the agreement's potential to not only address the past but also establish a foundation for a future society.

This peace agreement is a comprehensive agreement that deals with dealing with past, victims, ceasefire, stopping the violence, but also building layers that will allow peace building in the future (Respondent 2).

FARC is prior to drug trafficking. Even with the drug trafficking that boosted FARC (and others) but that is not the roots. You have to take that in consideration with the peace agreement. That is why this is one of the only deals, that deals with the economy of war (Respondent 2).

5.2 Weaknesses

5.2.1 *What is the problem?*

Looking at all those advantages and all those problems that have been acknowledged and tackled, how does it come, that 6 years later, violence has increased in rural Colombia, drug production is at its peak, armed groups have increased, and the number of ex-FARC fighters rejoining the conflict or being killed haven't risen (BBC, 2022)?

To answer this question, it is necessary to look at the cause of the current problem occurring in Colombia and to what extent the peace agreement has contributed to this problem.

At first glance, it appears that after the demobilization of the FARC, a territorial power vacuum was created, which has been filled by other Armed Non-State Actors (ANSAs), including other guerrillas, neo-paramilitaries, criminal groups and various dissident groups from the FARC, who violently contest control of illegal markets. This power vacuum has been marred by a wave of killings of representatives of local communities and other social movement organizations (Albarracín, et al., 2022). In addition to the rise in so-called 'post-conflict violence', drug production is on the rise. A new UN report (2022), for instance, shows that drug production (cocaine) in Colombia is up 43%, reaching its peak since 2001. So how is it, that despite the peace agreement, drug production and violence have risen?

5.2.2 *Implementation*

A first problem that arises is the fact that the peace agreement anno 2023, has not yet been fully or even partially implemented. The Kroc Institute, which the accord gives a formal role in monitoring compliance with the accord's commitments, reached a number of conclusions here. It concluded that "Five years after the signing of the final agreement, the status of overall national implementation shows 30% of provisions completed, 19% in an intermediate status, 37% in a minimum implementation status and 15% that have not yet started implementation." (O'Brien, 2022). Figure 2 from the Kroc Institute shows the extent to which the peace agreement has been implemented by chapter (O'Brien, 2022).

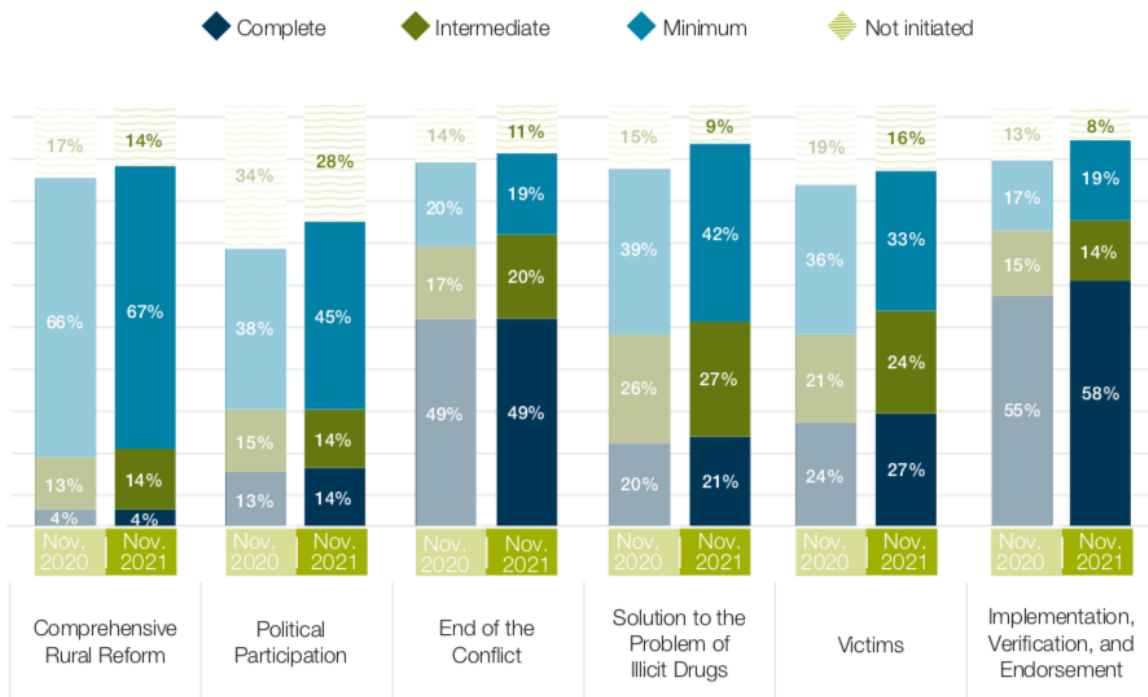


Figure 2: Implementation by Point of the Final Accord: Nov. 2022 vs. Nov 2021

This shows that mainly Chapter 1 (Comprehensive Rural Reform), Chapter 2 (Political Participation) and Chapter 4 (Solution to the Problem of Illicit Drugs) lag behind in terms of implementation, with only 4% of Chapter 1 fully implemented, 28% of Chapter 2 implementation not yet started and only 14% fully implemented. Finally, only 21% of Chapter 4 has been implemented. In contrast, Chapter 3 (End of the Conflict) and Chapter 6 (Implementation), are the most “fully” implemented, with 49% for Chapter 3 and 58% for Chapter 6.

One explanation for the imbalance in implementation, can be found in transitional justice theory. The section on transitional justice theory showed that the classical paradigm of transitional justice operated through a technocratic, top-down, liberal approach. Despite the evolution of transitional justice, it can be inferred from the implementation that the priority still lies on the legal, technocratic top-down aspect. Hence, the implementation of chapters 3 and 6 was more thorough compared to the chapters addressing structural problems, such as chapters 1, 2, and 4. This view was also reflected in one of the interviews;

This my personal view but the peace process shouldn't be concentrated in the peace jurisdiction, it should be concentrated in the rural reform. That is where the money should go, the big efforts. If you change those conditions you will change violence forever, but unfortunate it hasn't happened so far (Respondent 2).

5.2.3 *Political support*

Of course, this can be countered with the argument that without the legal basis, the peace agreement could not have survived during Duque's government. The deficits in implementation as well as the imbalance, can be found in the political support for the peace agreement. The peace agreement was signed by both parties in 2016 during the Santos administration. In the first year of the peace agreement (2017), the primary focus was on constitutionalizing the peace agreement and putting everything in legal order so that the peace agreement could survive. The problem with this was that Santos' term would end in 2018. On top of that, Colombia was suffering from polarization, with the first approval of the peace agreement, Colombian citizens had rejected the peace agreement with 50.2% of voters voting negatively, while 49.7% cast a positive vote (Revelo & Sottilotta, 2023).

In the end, the peace agreement was approved, however it cost a lot of support for the Santos government. Consequently, the 2018 presidential election brought Ivan Duque, of the Centro Democrático party, to power. His campaign focused on promising to amend the November 2016 agreement. His government has systematically continuously challenged the transitional justice system agreed in 2016. Consequently, the peace agreement had to survive between the 2018-2022 period, preventing it from being implemented. In addition, President Duque shifted attention from crop replacement programs to aggressive anti-drug policies with US support, and did not initiate plans and programs for rural reform (Revelo & Sottilotta, 2023).

The Santos government was only able to give in his last year, the stability in the legal framework. And I do believe that the four years of the peace agreement during Duque's government was just standing by, surviving (Respondent 2).

On top of that, the peace agreement, with or without political support, costs a lot of resources and money. The Colombian government had given itself time to implement everything until 2031 (Isacson, 2021). Logically, implementing the peace agreement takes a long time.

Consequently, the failure to fully implement the peace agreement results in structural problems not being solved, which has implications for tackling organized crime. Initially, Chapter 1 was set up to help farmers in rural areas, who got into drug production to survive. Chapter 1 would improve their situation, turning them away from drug production. However, if the problems are not solved because of implementation, there is a chance that farmers will remain present in drug production.

5.3 Other weaknesses of the peace treaty

The above issues can be incorporated into a more comprehensive statement regarding the failure of the peace agreement in the fight against structural violence and organized crime.

5.3.1 Involved actors

Firstly, a structured overview must be given of all the actors involved, who act against the government. This refers to Figure 3, where it can be deduced that these actors can be represented as a kind of pyramid, which plays out within structural problems. The pyramid was created based on what Respondent 2 told in the interview. However, it was then supplemented with what the literature showed.

FARC is seen as the "tip of the iceberg". They are considered the main political opponent of the government in this conflict and the ones who take the lead in the conflict. In this context, FARC refers to the upper echelon of the organization. Below this echelon are the actors that emerged during the conflict, such as FARC supporters, drug cartels, paramilitaries, and so on. At the bottom of the pyramid are the local communities, which are under the control of FARC and other armed groups. It is important to that all these actors are seen within the structural problems in which the conflict has arisen.

In terms of their relationships, the initial dynamic can be understood as follows: at the bottom of the pyramid, the communities operated within structural problems. In response to these issues, FARC emerged and began fighting against the government in the name of these communities' interests. Therefore, FARC originated from the lower layer of the pyramid. However, as the conflict progressed, additional actors came into play. On one hand, there were those associated with the illegal economy spawned by the conflict, including certain factions of FARC involved in drugs, other drug cartels, and similar entities. Albarracín et al. (2022) refer to these actors as criminal actors (criminal road) that gained control over certain areas during or after the conflict.

Additionally, there are actors who, during and after the conflict, pursued their own political interests. These individuals emerged as local elites deeply entrenched in specific regions. The peace agreement poses a threat to the corrupt structures they have established, particularly in lucrative areas. This phenomenon, as described by Albarracín et al. (2022), is referred to as the political road. Consequently, these actors engage in conflicts over land and resources, exploiting the vulnerabilities of local communities (Otis, 2014)

The major difference between FARC and the other armed groups is that they were the symbol of the conflict, as well as the biggest actor competing for territory and resources. They were viewed by the government as the (political) opponent par excellence (Rettberg, 2020). The mainstream idea behind this is that if peace is made with FARC, the conflict will end.

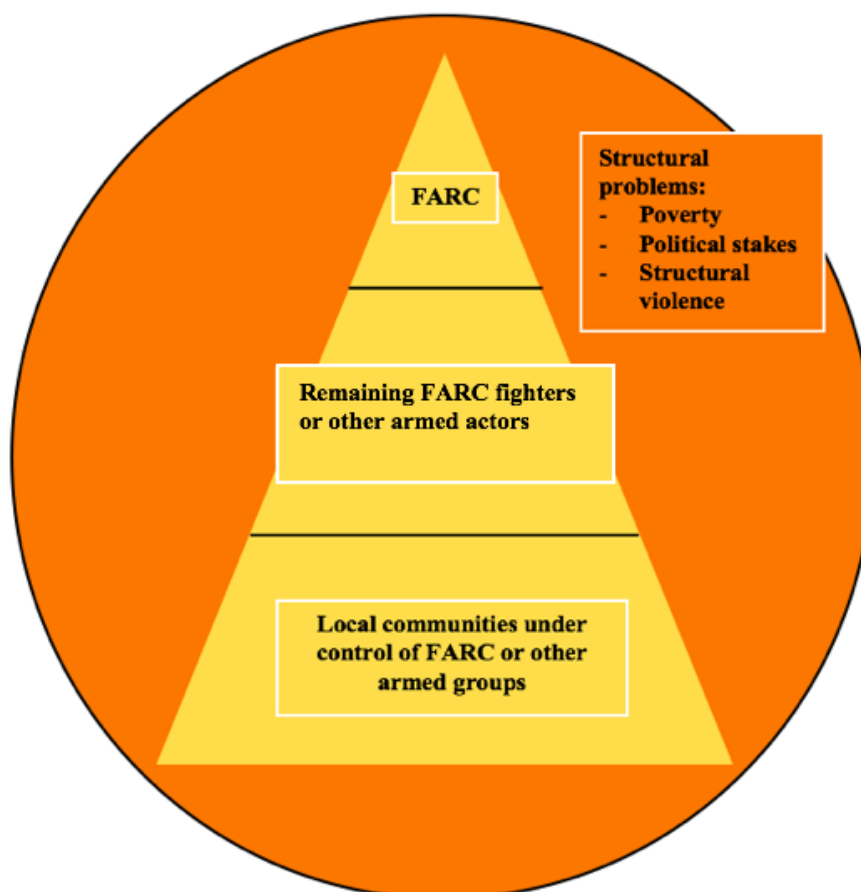


Figure 3: Actors involved in peace treaty

5.3.2 Relationship between transitional justice, the peace treaty and the actors

As mentioned earlier, the classical paradigm of transitional justice focuses on negative peace. In this context, this means that the classical paradigm focuses on the top of the pyramid (see Figure 4). Namely, if peace is made with FARC, then the large-scale direct violence that resulted from the conflict ends (Grewal, 2003; Scharp, 2019). The problem with this is that the underlying factors are forgotten.

The 2016 peace treaty decided to apply transitional justice from a more holistic way. It looked at the elements of reconciliation and truth from a more comprehensive perspective, where compensation for victims (of all parties) lay not only on the legal aspect but also on improving social conditions by focusing on rural improvements as well as more political participation for civil society groups (Acuerdo Final, 2016; Rettberg, 2020).

In addition, the Colombian state is committed to improving crop replacement programs, with the aim of providing communities with legal economic alternatives and credit through the national integral program for the replacement of illegal crops (PNIS) (Rettberg, 2020). In combination, it seeks to tackle the drug cartels by increasing security measures against criminal organizations that pose a threat to the peace agreement and by voluntarily or compulsorily destroying drug production fields (Acuerdo Final, 2016). In this way, the peace agreement seeks to address the middle and lower tiers of the pyramid, by targeting illicit drug production and improving the situation of the rural regions (see figure 3).

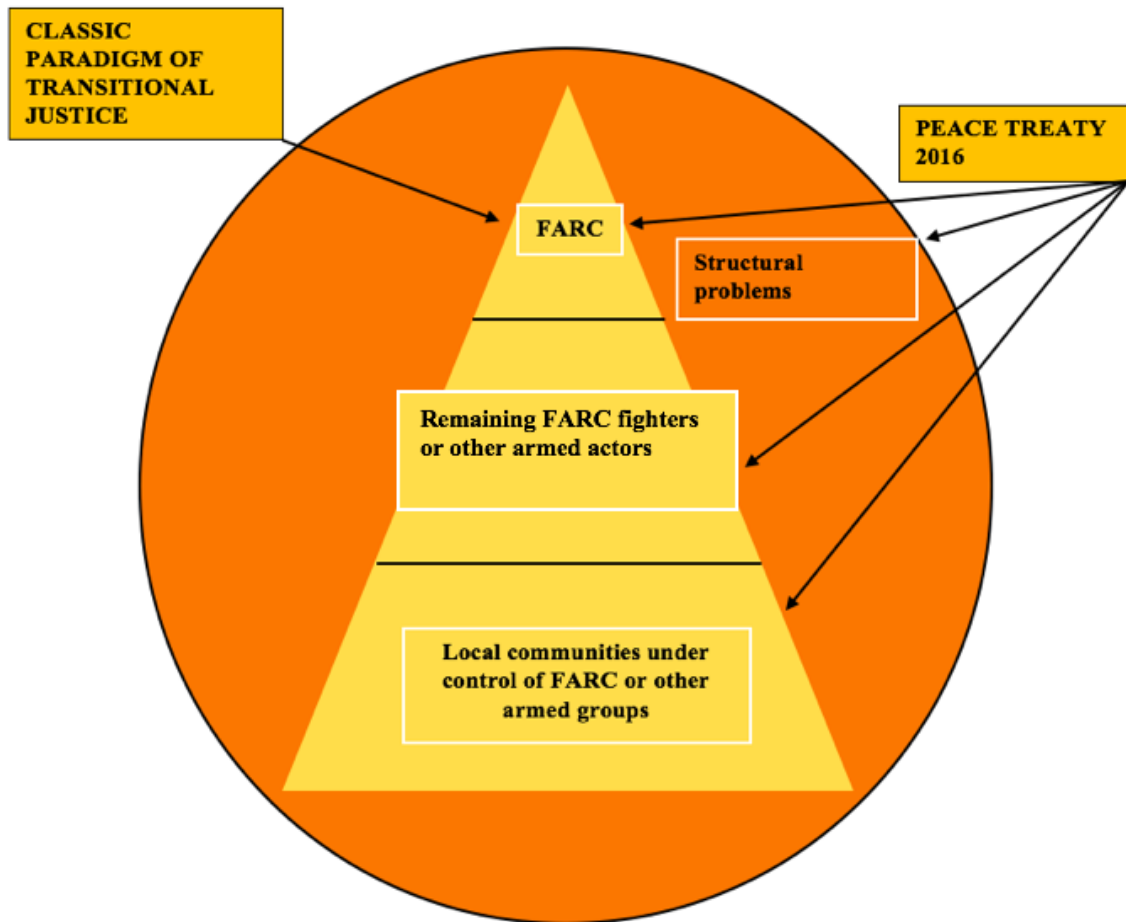


Figure 4: Target of transitional justice and peace treaty

5.3.3 *Problem of the peace treaty*

So where does the problem lie then? The problem lies in the way the middle level and lower level of the pyramid are addressed. The peace treaty does not consider local politics and culture, social cohesion and the lack of state capacity in the local community, when tackling those problems.

That is what you do to the basis of the pyramid and what do you do with the drug trafficking at the middle level, nothing is done in the middle level. I think that's one of the main problems. You have incentive in the big part of the pyramid because you gave them seats in the congress, but what happened to the middle part of the pyramid? That was not something that we thought of (Respondent 2).

5.3.3.1 Centralization vs decentralization

As previously discussed, Colombia has a history of decentralization, but due to negative experiences, a centralized approach was adopted. The aim was to transfer the capacity outlined in the peace agreement from the central government to the peripheral areas, under the assumption that a strong state would facilitate this process.

The problem here is that Colombia is characterized by an imbalance between urban and rural areas. While urban areas have experienced significant progress in recent years, the same cannot be said for rural regions. As a result, certain areas lag behind in terms of state capacity, making it challenging to transfer the peace agreement seamlessly from urban to rural areas (Arjona, 2016).

While the peace agreement acknowledges the importance of local involvement, decision-making power remains predominantly centralized within the hands of the central state (Eaton, 2021). Moreover, as discussed in Chapter 2, political participation opportunities are primarily offered to civic groups rather than subnational entities, limiting the representation of these regions in the political discourse. However, it is crucial to recognize that local communities are autonomous entities with their own perspectives, rules, and ways of functioning.

Perhaps there is a lack of government institution, but there is a state because there is a community (Respondent 2).

A challenge related to the insufficient state capacity in rural areas is the presence of local elites who rely on corrupt practices to maintain their political influence. This type of political environment is often marked by violence, with opposition being met with punishment (Albarracín, et al., 2022). Therefore, there is a pressing need for strengthened state capacity capable of confronting and challenging these entrenched structures.

Furthermore, the disparity between rural and urban areas can give rise to divisions among the citizens. An "us vs them" mentality may develop, pitting urban dwellers against rural residents, and vice versa. This can lead to a lack of horizontal cohesion, which will be further explored in subsequent discussions. With a lack of political representation and decision-making power, this can result in national, urban and repressive actors, being able to offer more political opposition, which has happened with President Duque (Revelo & Sottilotta, 2023).

5.3.3.2 Cohesion of local and armed actors

A one-size fits all approach is employed with the state applying its idea of security and peace to all other areas, despite the fact that they may interpret it differently (Rettberg, 2020). However, the problem here is that conflict has disrupted social cohesion at both vertical and horizontal levels. At the vertical level, both the literature and the empirical research show that the peace agreement is not simply accepted by everyone. The state has been the enemy for many groups and communities for years, losing its credibility. As a result, civilians on the one hand and armed actors on the other are skeptical towards the peace agreement. In addition, combatants were more likely to see the peace agreement as an agreement for the old guard. They didn't believe that the peace treaty was for them.

A lot of those people felt like that had to continue the war because the peach agreement, according to them was only for the "old ones". They said that this a pension, they are retiring. For them it was an opportunity because they left us all the room to grow up (Respondent 2).

This distrust of state institutes also takes place among citizens. Today, Colombians have a strong national identity, a key feature of vertical cohesion according to Rettberg (2020), but are cynical and critical of national government capacity, in part because of the ineffectiveness of state institutions, characterized by poor performance, widespread impurity and corruption. Problems with implementation can reinforce this thinking.

In addition, some communities have experienced violence from both legal and illegal actors, resulting in both no trust in the state and armed actors. Distrust of the government may result in rejection of the peace agreement (Nilsson & Marin, 2020; Rettberg, 2020). However, this needs to be nuanced. research by Nilsson & Marin (2020) showed that citizens, are satisfied with the new role of government as development factors. The problem is that the government lacks understanding when communities are suspicious of the peace agreement. An example of this can be found in Chapter 4, where National General Program for the replacement of crops used for illegal purposes are used in communities. If these are refused, the state will forcibly remove the illegal crops, which in turn can create more fractures between the relationship of the government and the communities.

On top of this, the conflict has resulted in fault lines in horizontal cohesion. This cohesion refers to the cohesion of citizens and civilians, and armed groups and civilians. The conflict has engendered a culture of violence, leading to elevated levels of violence, aggression, and mistrust among the average Colombian population (Rettenberg, 2020).

Research by Nilsson & Marin (2020) showed that certain communities, which have been victims of the conflict for a long time, have their own ways of dealing with concepts such as reconciliation, repercussion, and so on. Nilsson & Marin (2020) give the example of the NASA community in Colombia. This community opposes any form of violence. When members of these communities join armed groups, they are not readily accepted back. In doing so, this NASA community uses a long process of reintegration. Members of this community stress out that peace will thus be the result of a long process of negotiations within and between communities to restore the cohesion destroyed by the conflict and the peace process rather than an agreement between the government and illegally armed groups (Nilsson & Marin, 2020). The peace accord does not take this kind of process into account, as it views the concepts of peace from the centralized, national way. An aspect reflected in the criticism of transitional justice, where it only considers its own view of (liberal and Western) peace, rather than from a local point of view.

5.3.3.3 State Absence

On top of this, it appears that the government, is unable to be physically present in some rural areas, resulting in total absence of the state in some areas. Consequently, the government was unable to protect supporters of the peace agreement with it. Indeed, because of the fact that armed actors and remaining FARC fighters did not believe in the peace agreement, they began to see it as a threat to their power. They saw an opportunity to expand their territorial power and social power, with the peace accord posing a threat. Consequently, social leaders were killed, who were responsible for representing communities (see political participation). and where in favor of the peace treaty. The killing of social leaders reflects the violent reaction of local elites who see their power threatened by socio-political challenges "from below" emerging in the wake of the peace process. However, the state did not have the capacity to counter this, due to a lack of state presence in the areas, with rural areas suffering from underdeveloped state institutions (Massé & le Billon, 2018; Isacon, 2021; Albarracín, et al., 2022).

The above-mentioned problems can be summarized in the following figure, which illustrates the emergence of the vacuum and its consequences.

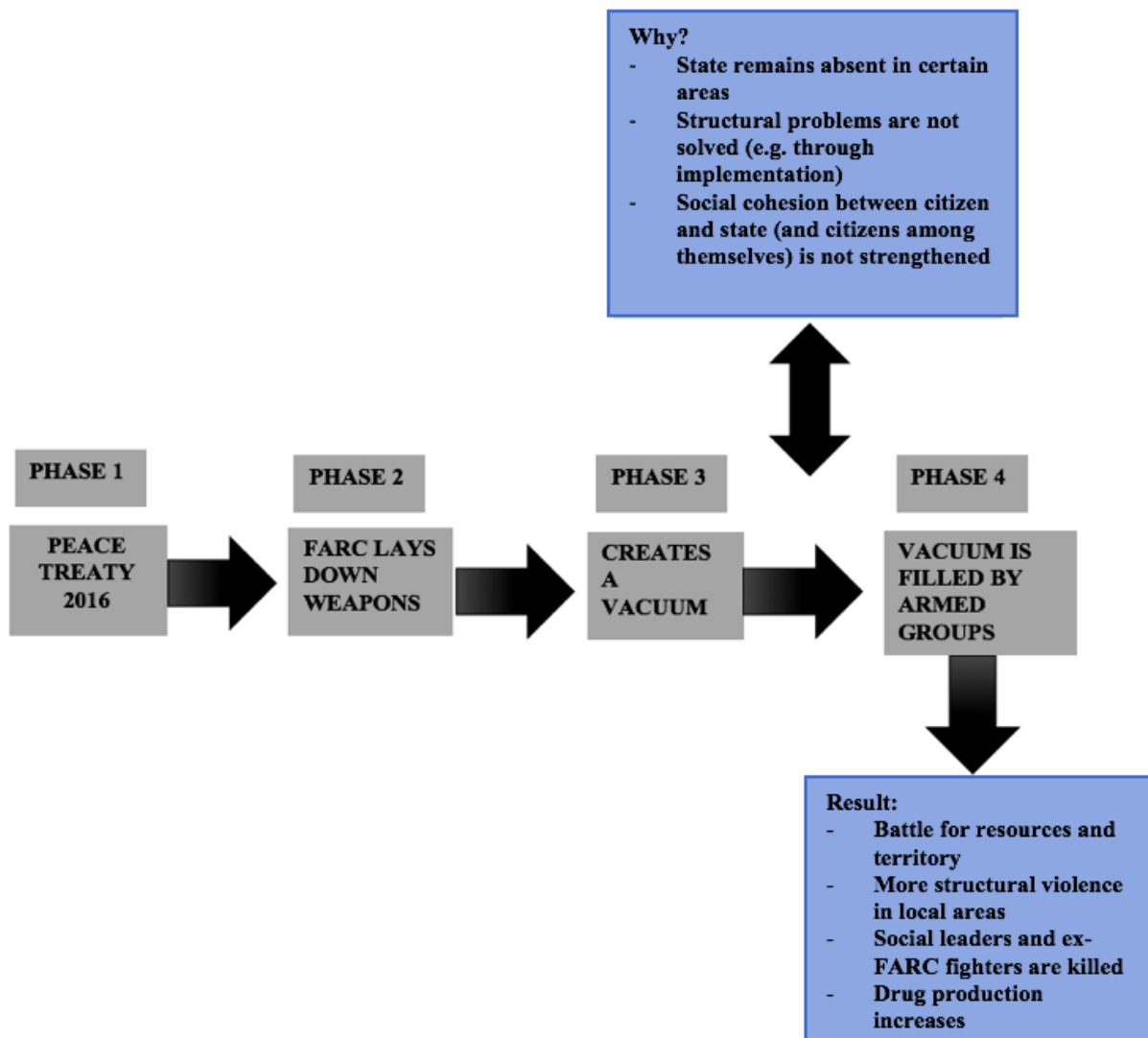


Figure 5: The Created Vacuum

5.4 Conclusion

It can be concluded that the legal framework anchored in the peace agreement through transitional justice brings both benefits and drawbacks. On one hand, the peace agreement provides stability, but on the other hand, the focus remains primarily on the legal aspects. Similar to the theory of transitional justice, there is attention given to structural problems, but the priority lies in the legal aspect. Additionally, the main problems of the peace agreement lie in a lack of implementation due to a lack of political support and the need for resources. Furthermore, the peace agreement operates under the assumption that the end of a conflict is characterized by unity rather than opposition.

However, it is interesting to note that if there is proper implementation with political support, resources, and cohesion, the post-conflict violence stemming from organized crime could potentially be resolved. The aspect of local participation is overlooked when there is sufficient political support and social cohesion. However, it is also true that this participation can lead to increased political support and social cohesion between the state and citizens, as well as among citizens themselves.

Nevertheless, the idea that this peace agreement would work under conditions of social cohesion and perfect implementation is intriguing. The environment in which organized crime operates should be further examined. Questions such as "how do they exert control?" are not adequately addressed in this section. The relationship between the community and organized crime should be better explored. Currently, there is too much assumption that acceptance and proper implementation of the peace treaty would solve the problem of Post-Conflict violence coming from organized crime, but is this indeed the case?

6 Chapter 4: What is transformative justice?

6.1 Defining transformative justice

The issues arising from the peace treaty leads to the final question of this master's thesis, namely "to what extent can transformative justice theoretically contribute to addressing wartime organized crime in Colombia?". However, to answer this question, it is necessary to explain the concept of transformative justice.

Transformative justice can be understood as transformative change that emphasizes local inputs and resources, prioritizes process over biased outcomes, and challenges unequal and intersecting power relations and exclusionary structures at both local and global levels (Waldorf, 2019).

Transformative justice is linked to restorative justice and transitional justice. Restorative justice is a system where victims and perpetrators of harm are brought together to take accountability, forgive and heal. This involves a community-based approach, without the presence of the state. Transformative justice is similar in that it also focuses on community-based solutions to harm. However, it goes one step further, focusing not only on repairing the harm, but also on transforming the underlying factors, which helped lead to the harm, into a context where the harm could not take place (Stapleton, 2020).

In addition, transformative justice should be understood within the context of conflict, aiming to transform the underlying factors that contribute to the conflict and enable the attainment of peace. It shares similarities with transitional justice, particularly in terms of their common ground in the context of conflict, but it differs in its emphasis on addressing the underlying factors. Transformative justice, in fact, focuses on fostering positive peace, whereas the traditional paradigm of transitional justice primarily addresses negative peace. Furthermore, transformative justice adopts an Actor-Centered approach to human rights, firmly grounded in everyday perspectives and local contexts. "An Actor-Centered approach asks how people claim their rights in specific situations and for whom a particular strategy works, and thus recognizes that any intervention can both reinforce and challenge power differences and hierarchical relations" (Gready & Robins, 2014). In addition to the Actor-Centered approach, transformative justice works from Human Rights-Based Approaches to Development (HRBAs). Like transitional justice, transformative justice works from a human rights perspective. Nevertheless, transformative justice adopts a "thicker version of justice" (Scharp, 2019). The Human Rights-Based Approaches to Development are rooted in the belief that development or socio-economic needs should be defined as rights rather than through service delivery or charity.

The Human Rights-Based Approaches to Development of transformative justice based on two elements; namely, the PANEL principles and focus on building the capacity of rights holders to claim rights and of duty-bearers to fulfil their obligations. The PANEL principles are based on participation, accountability, nondiscrimination, empowerment and international human rights law. The priority of this approach is the process rather than predetermined outcomes. The PANEL principles indicate how interventions should take place, with outcomes largely determined by the process itself, and in particular by a reconfigured understanding of the process (Gready & Robins, 2014). The focus on the process leads to individualization of the measures by reforming them each time after the involved actors evaluate them and provide feedback (actor-centred approach).

6.2 Tools of transformative justice

6.2.1 Framing

A first stage of transformative justice is to frame the problems in order to translate them into the transitional justice agenda. In addition, it is crucial to frame accompanying interventions as well. Transformative justice offers a point of departure with HRBAs and an actor-centered approach, emphasizing socio-economic rights, focused on local ownership, on process rather than outcomes, and where unequal and intersecting power relations and exclusion should be denounced.

Gready & Robins (2014), emphasize framing opposition within the agenda of transitional justice. Transitional justice starts from the idea of dealing with opposition from the past, working forward from the idea of unity and reconciliation. However, transformative justice emphasizes dissent and ongoing activism for change in the present. Interesting, especially when this is compared with the case of Colombia, where the Colombian government also bristles at resistance from local communities and armed actors. A recognition of this reality, may lead to a transformation of measures, which do take this issue into account. Transitional justice measures such as truth commissions, memorials and education reforms can play a potential role, framing problems. Crucially in this case is that transitional justice measures must be able to provide a forum for debate on the meaning of justice, peace and reconciliation, and alternative visions of transitional justice and transitional politics. Truth commissions can contribute to broad national debates on economic models in the present, especially when economic injustices are endemic and economic disparities have fueled past conflict (Gready & Robins, 2014).

6.2.2 Participation

Framing issues and creating forums should lead to participation, the second phase. Nominal and instrumental forms of transitional justice participation involve victims as implementers (such as in trials and truth commissions), but have little or no say in challenging power relations or in determining their mechanisms and implementation. In the case of Colombia, local communities can only use their voices to narrate a situation, and not to transform it. In this case, victims are often instrumentalized to serve the broader interests of the state. Moreover, there is a lack of clarity surrounding the concept of victims, with a narrow and exclusionary form of identity politics shaping its understanding. As a result, this can lead to passivity and lack of agency, but also competitiveness where victims start denying each other the label of victim. Participation should lead to inclusiveness, with a wide range of actors feeling engaged (Gready & Robins, 2014). In the case of Colombia, local actors must feel compelled and able to participate on debates of peace, reconciliation and measures to achieve it. They must feel as if they are capable of transforming themselves as well as their own situation. A study by Eriksson (2009) gave an insight into community policies of Community Restorative Justice Ireland organization in communities in Northern Ireland (CRJI, n.d.). Although this organization primarily operates within the realm of community-based restorative justice, according to Eriksson (2009), it can be situated within the framework of transitional justice. After the implementation of the "Good Friday Agreements" in Northern Ireland, the region continued to grapple with violence and deep divisions within certain communities. However, by adopting community-based measures with a focus on restorative justice, the organization was able to address and mitigate these issues effectively. Both perpetrator, victims, as well as the state (in this case the police) were involved in this process. Everyone was encouraged to participate, leading to an improvement in social cohesion. Where before people did not dare to reach out to the police, now people are more willing to cooperate. This participation led to rules being changed and power shifts taking place, with both the police and the community being in control. It helped build trust and understanding between police and community on a case-by-case basis (Eriksson, 2009).

6.2.3 Empowerment

Participation should lead to the third stage, empowerment, which focuses on power, time, space and the problem. Empowerment must engage with "politics of location", shifting the focus from the metropolis and official spaces to the communities where violence occurs. However, it is important to understand complex local and national relations in terms of histories and overlapping and intersecting political processes, when speaking of "politics of location".

The aim here is to provide mobilizations, which are an indication of the potential for deeper forms of participation and empowerment. Victims and survivors of human rights violations are no longer seen as passive objects of policy, function actively in the process, where activism is central.

It enables groups of victims and survivors to become active citizens and develop what Madlingozi calls "civic competence". This means the ability to stand up for justice and challenge marginalization in sustainable ways, challenging narrow, exclusive conceptions of victimhood (Gready & Robins, 2014; Waisbich & Coelho, 2019).

6.3 Conclusion

At first glance, transformative justice appears to be able to contribute to addressing wartime-organized crime. The framework pays attention to the fault lines that emerged during the conflict, and the culture of violence that ensued. It recognizes that post-conflict periods are characterized by resistance, as is the case in Colombia. It seeks solutions by changing current structures, enabling local participation and empowerment, where there is a "politics of local."

The Northern Ireland case showed that transformative justice led to improved cohesion, both vertically and horizontally, which in turn led to power shifts and increased local participation.

However, the question that arises is whether transformative justice can simply be translated into the Colombian context. The interview with respondent 2 showed that Colombia has a complex geography, where areas can easily be isolated from state actors or actors not desired by the local elite. Moreover, Colombia is characterized by more armed actors than in Northern Ireland. The control of the local elite makes it difficult to take initiatives from the community. The literature showed that many social leaders have become targets of violence by the local elite. A strong state is therefore logically desired to make the process of transformative justice physically possible.

The relationship between transformative justice and the peace agreement, as well as its approach to tackling organized crime, remains limitedly explored. However, the central idea remains that transformative justice can contribute to addressing current shortcomings. It has the potential to enhance limited local participation, which in turn could lead to greater political support and improved social cohesion. Similar to the case of Northern Ireland, transformative justice could improve the relationship between the state and its citizens (as well as among citizens themselves).

In this way, the peace agreement could become more individualized through local input and garner greater support, resulting in better acceptance. The underlying notion is that proper acceptance and implementation of the peace agreement would naturally lead to a reduction in the presence of organized crime-related violence. However, what is interesting is that transformative justice focuses on the process rather than the outcomes. This means that the peace agreement becomes somewhat “malleable”. Through local feedback, the peace agreement can be adjusted to meet the specific needs of communities, leading to better effectiveness. However, the danger lies in ensuring a harmonization between different areas. It is important to strike a balance between national and local input, avoiding potential conflicts. Additionally, the aspect of stability should not be overlooked. It would not be ideal if the peace agreement were to constantly change.

7 Conclusion and discussion

This master's thesis aimed to contribute to the state of the art regarding the approach to organized crime during times of conflict, particularly in Colombia. During this study, the theoretical foundations and objectives of transitional justice were reexamined. It was found that transitional justice has a long history in peacebuilding. However, around the turn of the century, it received criticism for its approach to peace, accused of focusing solely on liberal Western peace while neglecting "positive peace." This criticism led to a paradigm shift towards a more holistic and locally rooted approach. Nevertheless, this shift also faced significant criticism. The holistic approach was criticized for being overly comprehensive without a clear vision, and the transitional justice framework was accused of employing a one-size-fits-all approach that failed to consider local differences, fractures in social cohesion, and the complex relationship between national and local actors. Furthermore, there was uncertainty about the extent to which transitional justice has undergone this shift. There is indeed a broadening in the way peacebuilding is approached, but not so much a shift in priorities.

The case study of this master's thesis focused on the Colombian conflict between the Colombian government and the FARC, which was officially concluded by a peace agreement in 2016 developed within the framework of transitional justice. The peace agreement held significant potential. It embraced a holistic and locally-centered approach, aligning with the new principles of transitional justice, to address the structural issues in local communities. Alongside the demobilization of the FARC, the peace agreement aimed to tackle poverty in rural areas and confront the presence of armed actors. However, instead of the state, the demobilization of the FARC resulted in armed actors filling the void. There was a surge in the targeted killings of social leaders following the peace agreement. Furthermore, not all parties, including armed actors and civilians, placed their trust in the peace agreement, with some armed actors viewing it as an opportunity to expand their power.

The analysis of the peace agreement, empirically supported by qualitative interviews, showed that the peace agreement did not consider local differences and resistance. Colombia has long had an imbalance between local and national levels in terms of state capacity, innovation, and economy. In addition, previous negative experiences with decentralization led the state and FARC to opt for centralized work this time, with the idea that everything would blow over from the center to the rural areas. Like the criticism of transitional justice, there is also criticism of the one-size-fits-all approach here, without considering local differences and local authority in the process. In addition, the peace agreement worked from the idea that the period after a conflict is characterized by unity, rather than resistance, a criticism also found in the transitional justice paradigm.

This master's thesis aimed to investigate the extent to which transformative justice could contribute to the approach of the growing presence of organized crime in post-conflict Colombia. Transformative justice works from a Human Rights-Based Approach to Development and an actor-oriented approach. The goal of transformative justice is to 1) restore the conflict from a community-oriented approach, 2) transform the underlying causes of the conflict in which both the community and the individual have their situation changed, 3) achieve reconciliation between the victim, perpetrator, and the state. The focus is on the process rather than outcomes, where the victim plays an active role in the process and should be able to enforce their rights in the long term. The example of transformative justice in Northern Ireland showed that this approach has the potential to restore social cohesion (both vertically and horizontally) in communities facing a culture of violence. This sounds promising for the case of Colombia, which also faces communities that suffer from a culture of violence and a lack of trust in the government.

However, some nuances must be made. First, the case of Northern Ireland and theory show that theoretically, transformative justice can contribute to the fight against wartime organized crime. Nevertheless, each case must be examined separately. Colombia faces physical barriers where in some areas, there is no state presence at all. Local elites are in charge in certain places, making a community-oriented approach not possible. There is a need for a strong state, that can ensure security in areas.

Second, this master's thesis does not claim that transformative justice works for the Colombian case. To see if it does work, it is necessary to test the measures in practice. This is beyond the scope of this master's thesis. What the thesis aims to do is to contribute to the state of the art on the approach to organized crime in conflict areas, particularly in Colombia. Although this thesis cannot contribute to whether transformative justice works, it can broaden the lens on which organized crime is fought in Colombia. The country faces mistrust regarding a decentralized approach. However, this thesis shows that the solution may lie precisely therein. When the theory of transitional justice, the criticisms of the peace agreement, and the theory of transformative justice are compared, possibilities exist in which transformative justice can be an extension of the current approach.

Thirdly, more research needs to be conducted on how social cohesion contributes to a reduction in the presence and violence of organized crime. While it is indeed linked to increased acceptance of the peace agreement, does it also lead to greater resistance towards organized crime?

Finally, there are some recommendations:

Firstly, research should be conducted into the extent to which transitional justice and transformative justice are compatible with each other. This master's thesis goes too fast by saying that they complement each other. Difficulties can arise between a top-down approach and a bottom-up approach. A balance between the two must be sought, in which both complement each other.

Secondly, during the writing of this master's thesis, it became apparent that the situation in Colombia is very complex. The relationship between civilians, armed actors, and the state needs further investigation. It is assumed, based on the literature, that social cohesion would contribute to the fight against organized crime, but this aspect could be better explored. What mechanisms enable armed actors to operate freely in certain areas? Furthermore, the relationship between organized crime and political armed actors could be further examined. How do they interact, oppose each other, and collaborate? The term "armed actors" is frequently used, but its definition remains unclear.

Finally, the respondents for this thesis were sampled from the idea that people who helped create the peace agreement have the most knowledge about the situation. However, it would be interesting to interview people who are part of the communities themselves. It would be interesting to gather the experiences of local actors regarding organized crime and the peace agreement, and to see how they perceive the peace agreement. Additionally, people who have experience with transformative justice could also be interviewed.

It can be concluded that the relationship between transitional justice, transformative justice, the peace agreement, and armed actors is an area that still requires further research, which provides hope for a solution to the conflict.

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9 Dutch press text

Kan transformative justice bijdragen aan het vredesakkoord in Colombia?

Kritiek op het vredesakkoord vanwege gebrekkige implementatie en omgang met lokale gemeenschappen

In 2023 voerde een student aan de Universiteit Gent een studie uit om te onderzoeken in hoeverre transformative justice kan bijdragen aan het vredesakkoord tussen de Colombiaanse regering en de FARC. Deze studie kwam tot stand nadat Post-Conflict Colombia te kampen had met structureel geweld en een stijgende drugproductie, waardoor het vredesakkoord kritiek kreeg vanwege de gebrekkige implementatie en de manier waarop het omgaat met lokale gemeenschappen en actoren.

Theoretische mogelijkheden van transformative justice als antwoord op gebreken in het vredesakkoord

De studie maakte gebruik van een systematische literatuurstudie en expertinterviews. Daaruit bleek dat het vredesakkoord zich te veel concentreerde op een statelijke en gecentraliseerde aanpak, waarbij werd aangenomen dat post-conflict Colombia gepaard ging met eenheid. Ondanks deze aanpak stuitte het vredesakkoord op veel weerstand vanwege een gebrek aan sociale cohesie, zowel tussen staat en burger, alsook tussen burgers onderling, en een gebrek aan statelijke aanwezigheid in lokale gebieden. Hierdoor wordt het makkelijk voor gewapende actoren, zoals drugkartels om controle te krijgen over bepaalde gebieden. Theoretisch zou transformative justice hierop een antwoord kunnen bieden door lokale inbreng en middelen te benadrukken, prioriteit te geven aan het proces boven de uitkomst en ongelijke machtsverhoudingen en uitsluitingsstructuren uit te dagen. Concepten zoals empowerment, verzet en participatie door slachtoffers en gemeenschappen, staan hierbij centraal.

Potentiële voordelen van transformative justice voor lokale gemeenschappen in de strijd tegen georganiseerde misdaad

Met behulp van transformative justice zouden lokale gemeenschappen kunnen worden getransformeerd tot functionele gemeenschappen, waardoor de democratie als het ware tot bij hen wordt gebracht. Dit zou de sociale cohesie kunnen verbeteren en het vertrouwen in het vredesakkoord vergroten. Op deze manier kan de relatie tussen de staat en de lokale gemeenschappen worden versterkt en kan lokale input binnen het nationale debat worden vergroot. Gemeenschappen zouden op deze manier beter wapend worden in de strijd tegen georganiseerde misdaad.

Toekomstig onderzoek naar de strijd tegen georganiseerde misdaad.

De studie toont aan dat transformatieve justice, theoretisch gezien, een potentieel heeft om bij te dragen aan de aanpak van post-conflict geweld vanuit de georganiseerde misdaad in Colombia. Echter, blijft er nog steeds meer onderzoek nodig naar de relatie tussen lokale gemeenschappen en georganiseerde misdaad en de verhouding tussen transitional justice en transformatieve justice in de praktijk. Desondanks blijft deze studie hoopvol in de strijd tegen georganiseerde misdaad in Post-Conflict Colombia.

10 Annexes

10.1 Annex 1: Topic List Interviews

Topic questions:

- What is transitional justice according to you?
- What type of measures belong to the framework of transitional justice?
- How is transitional justice connected with the peace treaty?
- What are some of the advantages of transitional justice? And what are some of the disadvantages?
- What are some of the advantages of the peace treaty? And what are some of the disadvantages?
- How does it benefit the FARC? How does the peace agreement disadvantage the FARC?
- How does the peace treaty want to tackle organized crime and how does it succeed in that?

10.2 Annex 2: Information Letter

Research Transitional Justice and the Colombian Peace Agreement

Dear,

I hope this letter finds you well. My name is Elias Dessantis, and I am currently pursuing my Master's degree in Criminology at the University of Ghent. I am writing to you because I am interested in conducting research for my Master's thesis and believe that your expertise can be of great help to me.

My Master's thesis aims to evaluate the peace agreement that was established in 2016 between the FARC and the Colombian Government. Specifically, I would like to examine the ways in which transformative justice can contribute to how transitional justice deals with reintegration of the FARC and tackling organized crime. As someone who has an extensive knowledge of the peace agreement, I believe your insights would be invaluable to my research.

In doing so, I would like to discuss the peace agreement with you using a topic list interview, with a number of questions prepared in advance. However, these questions only serve as a guide during the interview and are only about the peace agreement (and your insights) itself. The interview will be conducted through MS teams and will take about approximately 1h. The interview will be recorded anonymously with your permission and will later be processed in my Master's thesis. The purpose of the interview is to analyze the peace agreement and to look for its bottlenecks, as well as its strengths. On top of that, with this research I hope to contribute to the scientific research around transitional and transformative justice.

Please be assured that all the data collected during the interview will be kept anonymous and will be processed according to the methods of Ghent University. The data will be stored on a secured drive and will be deleted after one year.

Your participation as a respondent in this research would be greatly appreciated and make a significant contribution to my work. Thank you for your time, and I look forward to hearing from you.

Sincerely,

Dessantis Elias,

Master student Criminology
Elias.dessantis@ugent.be

Promoter/supervisor: Prof. Dr. Jelle Janssens

10.3 Annex 3: Informed Consent Form

‘INFORMED CONSENT’

RESEARCHER/STUDENT Elias Dessantis, Master’s Criminology Ghent University.

I, the undersigned, hereby declare that I, as a participant in the research of transitional justice and the peace agreement between the Colombian Government and the FARC, with Master’s student Elias Dessantis:

- (1) That I am clearly informed and that I have been given the opportunity to ask questions and received a satisfactory answer.
- (2) That I understand the research I have been asked to participate in.
- (3) That I am participating in the research completely voluntarily.
- (4) That I give permission to store, process, and report the results of the interview in an anonymous manner.
- (5) That I give permission to process and store the results of the research in a confidential and discrete manner. Of course, the material will be anonymized if (parts of it) are used for publication.
- (6) That I give permission to the researcher to record the conversations.
- (7) That I am aware of the possibility to withdraw from the research at any time.
- (8) That I am aware that I can obtain a summary of the research findings from the researcher upon request.

Read and approved at (place)

On date of

Signature of the participant

10.4 Annex 4: Data Management Plan

What Lurks in the Shadows: Can Transitional Justice Help Deal With Wartime Organized Crime in Post-Conflict Colombia?

A Data Management Plan created using DMPonline.be

Creator: Elias Dessantis

Affiliation: Ghent University (UGent - UZ Gent)

Template: Faculty of Law & Criminology DMP +

ID: 198226

Start date: 01-10-2022

End date: 15-05-2023

Project abstract:

A master's thesis on to what extent transformative justice can contribute to tackling wartime-organised crime. It revisits the concepts of transitional justice and transformative justice. The case study of this master's thesis is the peace agreement between the Colombian government and the FARC, looking at the extent to which transformative justice can contribute to reintegrating the FARC and tackling organised crime in Colombia.

Last modified: 04-04-2023

What Lurks in the Shadows: Can Transitional Justice Help Deal With Wartime Organized Crime in Post-Conflict Colombia?

Law & Criminology DMP +

10.4.1 Administrative Data

Date of first version

30/03/2023

Date of last update

30/03/2023

1. Data Collection

1.1 What data will you collect or create?

The focus of this research is on creating and collecting qualitative data. The data created consists of insights from expertise on the the concept of transitional justice, its application in Colombia and the peace agreement and to what extent the agreement has contributed to peace in Colombia, reintegration of the FARC and tackling organised crime. The data collected consists of files, working papers, reports, internal, legal documents on the peace accord in Colombia and its implementation. In addition, this data also consists of scholarly articles on the concepts of transitional justice and transformative justice.

1.2 How will the data be collected or created?

- Primary data consists of semi-structured interviews, which will all be digitalized and transcribed. If the interviewee consents, an audio and/or video recording will be made. Because of the personal information gathered, identifying information will be deleted and these files will be stored encrypted and secure. After transcription, recordings will be deleted whatsoever.
- Secondary data will be collected from files, work documents, reports, intern, legal documents provided by interviewees, collaborating organizations or the Colombian government. These will be stored and collected on the work computer and in a bibliographical database (e.g. Mendeley or Citavi) and analyzed (and coded) through a coding software program (e.g. Nvivo - nvp. - or Citavi).

2. Data Documentation and Metadata

2.1 How will you document the data?

The data (collected for this master's thesis) will take the form of a scientific article. At the end of this study, all information collected as part of this research will be destroyed. This will make it impossible for third parties to (re)use this collected data in the future.

3. Ethics, Legal Issues and Confidentiality

3.1 How will you manage ethics? Choose one of the options from the dropdown menu and briefly motivate your choice in the 'Comment' box below.

- Approval by the Ethical Committee of the Faculty is neither required nor desirable

3.2 How will you manage any confidentiality issues?

All personal data collected will be kept on the researcher's personal H drive if necessary. This can only be accessed via a personal login. Regarding pseudonymisation, the researcher proceeded as follows: the interviewees are represented in the master thesis as respondent 1, respondent 2, and so on. But because they are different types of experts in different fields, they are initially shown as, for example, respondent 1 expert in Transitional justice.

3.3 How will you manage intellectual property rights issues?

The data collected as part of this master's thesis will not be used for other purposes. Only at the request of the initiator, with the researcher's own permission, can this data be shared. Several secondary sources were consulted for the literature review. These sources were always correctly referenced. Primary data sources, such as transcribed interviews, were always referred to pseudonymously. Finally, the respondents gave permission via the informed consent form to include certain quotes from the transcripts in the master's thesis.

4. Data Storage and Backup during Research

4.1 How will you store and backup data during research?

The data collected (transcripts, signed informed consent forms, audio files and encrypted transcripts) will be stored on the researcher's personal H drive, which can only be accessed via a personal login. In addition, the researcher also provides a USB stick for storing these important documents as part of the master's thesis.

4.2 How will you ensure that stored data are secure?

The collected data is stored on the researcher's personal H drive, which can only be accessed via a personal login. In addition, the researcher also provides a USB stick for storing important documents within the framework of the master's thesis. Finally, qualitative data obtained from the interviews are also kept pseudonymised in an encrypted file.

5. Data Selection and Preservation after Research

5.1 Which data should be retained for preservation and/or sharing?

This research mainly gathers insights and opinions from different experts on transitional justice and the FARC-Colombia peace agreement. The respondents cooperated voluntarily in this research and agreed that I would turn the collected data into quotes with references to the individuals by pseudonymising their names.

5.2 What is the long-term preservation plan for the selected datasets?

The master's thesis will be published by Ghent University, in consultation with the supervisor and researcher, and kept in the (online) university library. Unless otherwise stipulated (e.g. by legal, ethical or other specific obligations), personal data collected will be kept for at least 5 years after completion of the research.

6. Data Sharing

6.1 Are any restrictions on data sharing required?

Data will not be shared with third parties. Only if respondents wish, the master's thesis may be shared with them. It should also be noted that the (pseudonymised) data collected by the researcher may be stored for possible scientific purposes, according to the policy and guidelines of Ghent University.

6.2 How will you share data selected for sharing?

The master's thesis is published by Ghent University, in consultation with the supervisor and the researcher, and is stored in the (online) university library. As mentioned earlier, respondents can, if they wish, receive the master's thesis via e-mail.

7. Responsibilities and Resources

7.1 Who will be responsible for data management?

The researcher (Elias Dessantis) is responsible for the data management plan and the management of the associated data.

7.2 Will you need additional resources to implement your DMP?

No.

What Lurks in the Shadows: Can Transitional Justice Help Deal With Wartime Organized Crime in Post-Conflict Colombia?

GDPR Record

Collection and processing of personal data

1. Are you collecting or processing personal data?

- Yes

Yes, personal data will be processed as part of this master's thesis.

2. In what format are you collecting or processing the personal data?

- Digital

This data is collected and processed digitally.

3. Are you collecting or processing primary personal data and/or secondary personal data?

- Primary personal data

Only primary personal data is processed.

4. If you are processing secondary personal data, will you inform the persons whose personal data are being processed or have they already been informed?

- No

Not using secondary personal data.

5. If no, explain why it is impossible or why it would take a disproportionate effort to inform the persons whose personal data are being processed.

Not applicable, only primary personal data is processed.

6. How will the personal data be processed?

- Pseudonymised (explain below)

Respondents' personal data will be pseudonymised.

7. If you are going to process personal data in a pseudonymised form, describe the method of pseudonymisation, where you will keep the key, and who has access to it.

Respondents' personal data will be pseudonymised. For example, respondents' names will be pseudonymised. Since there are several experts in different fields, their expertise will be referred to at the beginning. For example interviewee 1, expert in transitional justice.

Categories of personal data & data subjects

8. Are you collecting/processing any of the following special categories of data?

- Data revealing racial or ethnic origin, political opinions, religious or philosophical beliefs, or trade union memberships

The data contains opinions on the Colombian peace agreement, which may therefore be politically sensitive.

9. Which other categories of personal data are you collecting/processing?

- Education and training
- Audio and video recordings
- Occupation and profession
- Nationality
- Identification data (names, titles, addresses, phone numbers, passport numbers, IP addresses, cookies, electronic location data (GPS, mobile phone)...))

Different insights and expertise on the Colombian peace agreement are sought as part of this study. As a result, respondents are asked to introduce themselves and to what extent they possess expertise.

10. Whose personal data are you collecting/processing?

- Others (please specify below)

The respondents are experts on the peace agreement in Colombia.

11. Will your research be seriously hampered if the persons whose personal data are being collected/processed exercise their right to access, to rectification, to restriction of processing, to be forgotten, to data portability and/or to object?

- Yes

The insights of these people are of great importance for research.

12. If yes, please justify the need to deviate from one or more of the rights mentioned in question 11. A justification is required for each deviation.

Their insights are of great importance to research. However, it does not lead to the fact that this master's thesis can no longer be conducted. The quality of the master's thesis simply deteriorates.

Purpose(s) of the processing

13. What is/are the purpose(s) of the personal data processing?

The data contains insights on the peace agreement and leads to a better view of the situation between the FARC and the government in Colombia.

14. What is the legal ground for the processing? If the data are being processed for multiple purposes, you must describe the legal ground for each purpose.

- The individuals participating in the research have freely given their explicit consent for the processing of their personal data for one or more specific purposes.

15. If you are processing special categories of personal data (see question 8), on which exception is this based?

- The data subject has given his or her explicit consent.

GDPR responsibility

16. Which institution(s) is/are involved in the research?

- Ghent University

17. Is there another university, hospital, research institute or partner involved in the research (besides Ghent University and/or Ghent University Hospital)? If yes, specify below.

- No

18. Please specify who determines the purposes ('why') and the means ('how') of the research.

- This is determined within Ghent University: UGent is the data controller.

Data transfers & categories of recipients

19. Are you disclosing/sharing/transferring personal data beyond your project team, either with recipients in UGent or UZ Gent, or with external recipients during or after your research?

- No

The data will not be shared with third parties. Only if respondents wish, the master's thesis can be shared with them. It should also be noted that the (personal) data collected (pseudonymised) by the researcher may be kept for possible scientific purposes, according to the policy and guidelines determined by Ghent University.

20. If yes, to or with which categories of recipients are the personal data being disclosed/shared/transferred?

21. If yes, where are the personal data being disclosed/shared/transferred to?

Question not answered.

22. What is/are the purpose(s) of the data transfer?

The (personal) data collected (pseudonymised) by the researcher may be stored according to Ghent University's policy for (possible) scientific purposes.

23. What is the legal ground for the data transfer? If there will be multiple data transfers, you need to indicate the legal ground for each data transfer.

- The individuals participating in the research have freely given their explicit consent for the transfer of their personal data for one or more specific purposes.

Retention period

24. What is the envisaged retention period for the different categories of personal data? Please motivate.

Unless otherwise stipulated (e.g. by legal, ethical or other specific obligations), personal data collected will be kept for at least 5 years after completion of the study.

Risk analysis

25. To analyse the possible risks associated with the processing of personal data, please tick the boxes that apply to this research.

- Special categories of personal data are processed in this research (see question 8).

26. Does the research constitute a probable high-risk processing? If you ticked two or more boxes in question 25, the answer is 'yes'.

- No

Security measures

27. What technical and organisational security measures are in place to protect personal data?

- I hereby confirm that I carry out my research in accordance with the guidelines on information security of UGent and/or UZ Gent.

28. If you have motivated the need to deviate from one or more of the rights of the persons whose personal data you are collecting/processing in question 11 and 12, please describe which safeguards are put in place to protect their rights and freedoms.

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DPIA

Data Protection Impact Assessment

1. Does your research fall under the scope of a template DPIA?

Question not answered.

2. Provide more details for any of the risks that you have ticked in question 25 under the 'GDPR record' tab, so the overall risks related to your processing are clearly and accurately described.

Question not answered.

3. Explain why the processing of personal data is necessary to achieve the purposes of the research. Include the benefits for individuals and the wider public.

Question not answered.

4. Can the processing or part of the processing reasonably be achieved in a different/alternative way, less detrimental to the privacy of data subjects? Evaluate the possible alternatives.

Question not answered.

5. Describe the steps, measures or controls you are taking to minimise the risk to privacy and safeguard the rights of the persons whose personal data you are collecting.

Question not answered.

6. Describe the steps you have taken to make sure the research is as accurate as possible and there are minimal unintended consequences.

Question not answered.

7. Is the (possible) negative effect or risk for the privacy of the data subjects in reasonable proportion to the processing purposes?

Question not answered.

8. How would you describe the likelihood of the risk(s) after having completed the previous questions in this DPIA?

Question not answered.

9. How would you describe the impact of the risk(s) after having completed the previous questions in this DPIA?

Question not answered.

10. How would you describe the risk(s) after having completed the previous questions in this DPIA?

Question not answered.