THE PEACE PROCESS IN COLOMBIA

Practical Notes by Lawyers Without Borders Canada

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THE PEACE PROCESS IN COLOMBIA

PRACTICAL NOTES BY LAWYERS WITHOUT BORDERS CANADA

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What is the Colombian conflict?
War has raged for more than 50 years in Colombia. It mainly involves governmental armed forces and guerilla groups, as well as other illegal armed groups – including paramilitary organizations and trafficking cartels –. Atrocities have been committed during the conflict, which have resulted in hundreds of thousands of deaths and millions of enforced displacements. The impact of these atrocities has been felt across the Americas and the wider world.

What is happening now?
The Colombian government and the Revolutionary Armed Forces of Colombia (FARC-EP) have reached a peace accord which seeks to end state of their conflict.

Who are the FARC-EP?
The Revolutionary Armed Forces of Colombia (FARC-EP) are the most significant Colombian guerilla group. The group’s power peaked in the early 2000s, when its membership included more than 20,000 combatants.
04 Why is this event important for Canada?

It has become cliché to state that we live in a globalised and interconnected age. This cliché is nonetheless applicable in the case of Colombia and Canada. The flowers you buy on Valentine’s Day are likely to have been imported from Colombia. Unfortunately, it’s also possible that the drugs sold on the streets of your city are Colombian as well, and that the conflict has facilitated their production and exportation.

Armed conflicts give rise to terror and destruction, cause serious human rights violations, impede development, foster trafficking, and threaten economic investment. Due to the fact that practically all active armed groups in Colombia have financed their activities through various illegal enterprises (notably trafficking in drugs, weapons, and persons), the country has come to represent a locus of organized crime and a security threat to the Americas and the wider world. Achieving peace in Colombia may allow the state to better control its borders and to track the organised criminal groups who have thus far operated with the complicity of the belligerents. This would contribute to making the Americas, to which Canada belongs, a more stable region.

In spite of its wealth of natural resources (notably petrol, wood, and precious metals), Colombia has been unable to meet its development potential and has been considered an investment risk for its partners - including Canadian businesses - partially because of the conflict. We may hope that peace facilitates a form of economic development which is more equitable and beneficial to Colombians and their partners from Canada and elsewhere.

If the implementation of the global agreement proves to be effective in responding to the expectations of Colombians, Colombia could become a peacebuilding model and a source of hope for the world.
05 Is peace guaranteed by the agreement?
This agreement with the FARC is undoubtedly an important step forward, but will have to be ratified by plebiscite. The agreement seems to enjoy popular support but still faces some opposition. Furthermore, the peace agreement with the FARC does not exempt the government from negotiating with other armed groups, notably the National Liberation Army (ELN), which has continued to engage in armed opposition to the state.

06 Who are the victims of the conflict, and what does the peace agreement mean for them?
The Colombian conflict has victimised millions of people, especially in rural areas. While some groups of the population have been more affected than others by the war (notably, indigenous and Afro-Colombian peoples and farmers), no one has escaped its impact.

07 Will we know the truth about the conflict and its consequences?
It would be unrealistic to think that all crimes committed during the conflict will come to light. Nevertheless, it may be reasonably hoped that a significant portion of these crimes will be covered by the special justice mechanisms which will be implemented. Such measures may include, for example, that the parents of people forcibly ‘disappeared’ will be informed of what happened to their sons and daughters. Furthermore, the anticipated creation of a Truth Commission will allow different actors in the conflict to recount what they know.

08 Will there be justice for the serious violations committed?
It is expected that the perpetrators of serious crimes will probably be sanctioned and thus given sentences that they will have to serve. However, in cases where the perpetrators have accepted responsibility for their crimes and have cooperated with the justice process, they may avoid imprisonment. This would not mean that they would not face the consequences of their actions; alternative punishments with restrictions on their liberty could be imposed.

09 What about cocaine production?
The hope is that there will be a reduction in the production of cocaine in regions controlled by the FARC. It is widely acknowledged that the FARC have financed an important part of their activities by trafficking drugs.

Resources which until now have been dedicated to the conflict could be redirected toward the struggle against drug production and trafficking. This does not mean that cocaine production will disappear overnight, but a reduction could occur, especially if the state is capable of offering alternatives to the farmers who plant and harvest cocoa leaves in order to feed their families.

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with the financial support of:

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Affaires mondiales Canada

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THE INTERNAL ARMED CONFLICT IN COLOMBIA

A REALITY OF IMPRECISE PARAMETERS

01 WHAT ARE THE ORIGINS OF THE CONFLICT?

While the Colombian armed conflict is one of the longest in contemporary history, its origin is not universally agreed upon. Some claim that the war originated from the period of violent rivalry between traditional (liberal and conservative) political parties in the 1940s and 50s – in particular, from the assassination of the liberal candidate during the presidential election of 1948. Others argue that the conflict began in earnest during the 1960s when the first Marxist guerilla movements were formed.

Colombia continues to be a country marked by profound inequality. Limited access to resources and to the wealth derived from them contribute to a feeling of alienation in the poorest sectors of Colombian society – notably in rural areas – and help explain the emergence of rebel movements.

02 WHICH ACTORS ARE INVOLVED?

The conflict is distinguished by the multiplicity of actors involved. Over the course of time, state security forces including the army and police, several guerrilla movements, so-called “self-defence” paramilitary groups, and criminal gangs involved in various trafficking operations (notably drugs, weapons, and persons) have all been in opposition to each other. Also implicated are these groups’ backers from the political and economic elites, whose support has aggravated and prolonged the conflict. The relationships between actors are further complicated by the mutable alliances which they periodically form.
The Peace Process in Colombia

03. WHEN WERE THE FARC FORMED?

The formation of the Revolutionary Armed Forces of the People of Colombia (known by their Spanish acronym of FARC-EP) is said to have been prompted by the events of 1964, when the regular armed forces launched their first major offensive against the autonomous zones which communist militants had seized from the state. The repressiveness of the army during this operation convinced many militants of the necessity of armed resistance. The FARC-EP was only formally founded in 1966, however.

04. ARE THE FARC THE SOLE REBEL GROUP IN COLOMBIA?

The FARC-EP are not the sole rebel group in Colombia. The National Liberation Army (ELN), which was also founded in the 1960s, remains active today in spite of having announced its intent to initiate peace talks with the government. There is a precedent of guerilla movements laying down their arms in favour of peace talks. For example, the Movement of April 19th (M-19) and the Popular Liberation Army (EPL) formally demobilized in 1990 under the auspices of the process which gave rise to the Constituent Assembly and the adoption of the Constitution in 1991 (which is still in place today). The FARC-EP is nevertheless the most powerful and organized insurgent group to lay down its arms.

05. WHO ARE THE PARAMILITARY FORCES?

The paramilitary forces are armed groups of civilians who were originally created by governmental decree in 1965 to aid the Colombian military in its counter-insurgency operations. Throughout the 1980s, the so-called “self-defence” groups grew increasingly powerful and began trafficking operations as well as extorting civilian populations accused of supporting guerillas.

The paramilitary phenomenon reached its peak at the turn of the century, when nearly all active units across the country were affiliated with the United Self-Defence Forces of Colombia (AUC).

Paramilitary groups are responsible for the majority of serious human rights violations committed during the armed conflict. Several members of the police, the army, and the political establishment collaborated with paramilitary groups or permitted the violations to take place.

The Justice and Peace Law was adopted in 2005 under former President Alvaro Uribe’s framework of paramilitary demobilisation. The Law called on paramilitary members responsible for human rights violations to acknowledge their culpability and to contribute to the truth and paramilitary demobilisation processes in exchange for reduced sentences.

The past few years have seen an emergence of criminal drug trafficking gangs whose zones of operation correspond in large part with those of the AUC before its formal demobilisation. These gangs, which have perpetrated several attacks against human rights advocates, are widely considered to be comprised of former paramilitary members and leadership.
WHAT ARE THE ARMED CONFLICT’S REPERCUSSIONS WITH REGARD TO HUMAN RIGHTS?

For more than 50 years the Colombian armed conflict has caused a multitude of serious human rights violations which have affected millions of victims in various ways and which remain largely unpunished. Civilian populations - particularly in rural areas - are the most affected by the conflict which has lead to the death of over 200,000 people, of which 80% were civilians.

265,708 PEOPLE MURDERED
THOUSANDS OF MASSACRES OF NUMEROUS VICTIMS
OVER 46,000 CASES OF FORCED DISAPPEARANCE
6,827,447 DISPLACED PERSONS
OVER 28,000 VICTIMS OF KIDNAPPING
10,964 KILLED OR INJURED BY ANTI-PERSONNEL MINES
14,847 VICTIMS OF SEXUAL VIOLENCE
7,964 FORCIBLY-RECRUITED MINORS
OVER 9,800 CASES OF TORTURE

*Sources: The National Centre of Historical Memory and the Victim Registry

The conflict is characterised by a significant regional disparity, having mostly been contested in rural areas. Cities absorbed millions of displaced persons and were the scenes of other types of violence. These repeated violations place civilian populations in situations of vulnerability and force them to search for refuge elsewhere. Colombia has the highest number of refugees of any Latin American country, and at more than 6 million people, the highest number of internally displaced persons in the world.
1. WHAT PREVIOUS ATTEMPTS HAVE BEEN MADE TO NEGOTIATE A PEACE DEAL?

1984-1991

In 1984, following an agreement to put an end to the armed conflict, the Patriotic Union party (UP) was created in an attempt to integrate in the political arena former FARC-EP (Revolutionary Armed Forces of Colombia) members and supporters. However, as a result of the large number of party members assassinated for the sole reason of their political affiliation to the UP (more than 3000 members, including 2 presidential candidates and 13 members of parliament), the FARC-EP broke off the talks with the government and rearmed.

Colombia has held several peace talks. In the 1990, different armed groups agreed to demobilize as part of peace accords. These armed groups included the indigenous guerrilla group known as the “Quintín Lame”, the worker’s revolutionary party, the people’s liberation army (EPL) and the movement of urban guerrilla “of the 19th of April”, also called (M-19).

Most of these previous attempts did not, however, lead to a concrete peace accord.

1998-2002

The Colombian government initiated again a dialogue with the FARC-EP and agreed to hand over to the guerilla organization exclusive control over a 42 000 square miles demilitarized zone. The dialogue took place in this area also known as “El Caguán”. However, the FARC-EP leadership’s weak commitment to move the peace talks forward and indications that the demilitarised zone was in fact being used by the guerilla to hold hostages, severely undermined public support of the peace process.

2002-2012

Following the election of Álvaro Uribe as Colombia’s new president in 2002, the government retook “El Caguán”, which led to an intensification of hostilities. Simultaneously, as a result of increased military support from the United States, as part of the “Plan Colombia” (a strategy whose stated objective was the eradication of the production and the trafficking of narcotics), the government reinforced its capabilities to combat the guerilla.
2. WHO PARTICIPATED IN THE SIGNING OF THE CURRENT PEACE DEAL?

The Colombian government and the FARC-EP reached the historic peace agreement, which puts an end to decades of armed conflict.

PARTICIPATION OF CIVIL SOCIETY AND VICTIMS

Although the peace talks were held in private, around sixty victims of human rights violations perpetrated at the hand of different armed groups flew to Havana to take part and share their struggles and demands. Throughout the country, regional and national forums were organized, which focused on the themes discussed in Havana. Several meetings took place between the parties and representatives of several indigenous and afro-Colombian groups. Proposals were sent to the negotiating table and experts were consulted.

3. WHERE DID THE NEGOTIATIONS TAKE PLACE?

The current negotiations took place in Havana (Cuba) under the auspices of the international community. The Cuban and Norwegian governments acted as guarantors, while Venezuela and Chile accompanied the process.

4. WHAT ARE THE MILESTONES OF THE CURRENT ACCORD?

Prior to these peace negotiations, between 2002 and 2010, president Álvaro Uribe’s administration engaged in a frontal war with the different guerilla organizations. The reinforcement of the government’s military capabilities and the expansion of paramilitary groups, forced the FARC-EP out of the areas that it had traditionally controlled and resulted in the death of several of its most highly ranked leaders. Since taking power in 2010, Juan Manuel Santos continued the military offensive while initiating contacts with the aim of beginning a new round of talks.
2011
The government and the FARC initiated in secret an exploratory phase of talks in order to launch a new round of negotiations, which would lead to the peaceful end of the armed conflict.

26 AUGUST 2012
The parties decided to begin direct talks. They signed an agreement that established the operating rules and defined the six issues on which the talks would focus.

TIMETABLE OF NEGOTIATIONS
1) Policy of agrarian development
2) Political participation
3) Solution to the problems of drugs
4) End of the conflict
5) Victims
6) Implementation, verification and approval of the agreement

16 MAY 2014
Conclusion of a preliminary agreement on the item 3 of the agenda “Solution to the problems of drugs”. The parties recognize that the cultivation, production and commercialization of drugs have deeply affected Colombian society and have thus fueled and financed the conflict. The agreement provides for initiatives aimed at promoting the voluntary substitution of these substances, tackling the problems of drug consumption as a public health problem rather than a public order problem, and intensifying the fight against organized crime.

6 JUNE 2014
Conclusion of a preliminary agreement on item 1 of the agenda. “Policy of agrarian development”. The parties recognize that the concentration of property and land titles in the hands of a minority, the ambiguity in the determination of land titles and the prevalent poverty in rural areas constitute many of problems that have fostered continued violence. The agreement provides for an agrarian reform with the aim of improving the living conditions in rural areas and the construction of a stable and sustainable peace.
6 NOV. 2014

Conclusion of a preliminary agreement on item 2 of the agenda “Political participation”. The parties recognize the necessity of allowing the emergence of new political forces in order to strengthen democracy in Colombia and to banish the use of arms as a mode of pursuing social claims. The agreement provides for the establishment of a set of rules that permits participation in the political life in a safe and fair manner.

15 DEC. 2015

Conclusion of a preliminary agreement on item 5 of the agenda “victims”. The agreement provides for the creation of an integral system of truth, justice, reparation and non-repetition, which includes judicial and non-judicial mechanisms. The agreement aims at delivering justice and ensuring accountability for human rights violations and breaches of international humanitarian law committed during the conflict. Moreover, it provides for the establishment of a truth and reconciliation commission as well as the creation of a special tribunal to try crimes committed during the conflict.

MAY 2016

The parties agree on the immediate end of the practice of recruiting and using minors under the age of 15, as well as a roadmap for the swift demobilization and reintegration of minors aged between 15-18. They further agree on the ways on which to ensure the integration of the peace agreement into Colombia’s legislative framework.

23 JUNE 2016

The government and the FARC-EP announced the signing of a preliminary agreement concerning item 4 “End of the conflict” and item 6 “Implementation, verification and approval of the agreement” on the negotiation’s agenda. As a result of this agreement, the parties agree on a roadmap to bilaterally end military offensives and any act which may harm the civilian population. The FARC-EP undertakes to demobilize, disarm and to progressively reintegrate into civil life.

To ensure compliance with these commitments, the parties agree to implement a system of monitoring and reporting made up of representatives of the Colombian army, the FARC-EP and the international community. They further agree to intensify the fight against organized crime to establish zones, which would allow the facilitation of the guerilla transition into civilian life.

By its resolution 2261 of 2016, the Security Council of the United Nations has approved a political mission, without military intervention, that will take an active role in monitoring the disarmament process.

5. PROSPECTS FOR PEACE IN COLOMBIA?

The conclusion of the final peace agreement in Colombia between the government and the FARC-EP is a key step in ending the armed conflict. This agreement does not necessarily mean the end of the conflict in Colombia, given that the government remains in ongoing talks since March 2016 with another guerilla group, the ELN (el Ejército de Liberación Nacional – National Liberation Army).

Furthermore, the agreement will be subject to a referendum. The population will have the opportunity to approve or reject the final peace agreement. As for the government, it has pledged to comply with the guidelines set down by the Constitutional Court for this referendum.

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THE JUSTICE DIMENSION OF THE PEACE AGREEMENT

1. WHAT DOES THE PEACE AGREEMENT PROVIDE VICTIMS?

The parties have recognized the necessity of satisfying, in a comprehensive and global way, the victims’ demands for truth and justice. To do this, the agreement foresees the creation of a set of both judicial and non-judicial mechanisms. These mechanisms - detailed in the present note - would only be put in place after the eventual approval of the final peace agreement by Colombians in a referendum that should take place on October 2nd.

THE AGREEMENT’S 5 MECHANISMS OF TRANSITIONAL JUSTICE

1) A Commission to clarify the facts and to promote coexistence and non-repetition (“Truth Commission”)

2) A special unit to search for people who went missing in the context of the armed conflict

3) The Special Jurisdiction for Peace (SJP)

4) Full reparation measures for the construction of peace

5) Guarantees of non-repetition
2. WHAT IS THE GOAL OF THE TRUTH COMMISSION?

The Commission seeks to establish a set of facts, clarify the circumstances surrounding the perpetration of grave violations of human rights during the conflict, promote the recognition of the rights of victims and the responsibility of the authors of these crimes, and foster peaceful coexistence to prevent the resurgence of violence. At the end of its 3-year mandate, the Commission will produce a final report, which will include a set of recommendations. The Commission will not have judicial functions, the power to bring criminal charges, or be authorized to transfer information to judicial authorities.

3. HOW WILL THE QUESTION OF DISAPPEARED PERSONS BE DEALT WITH?

A special unit will be created to search for and identify people who went missing during the conflict. This unit will inform the family members of the results of their work, and, in cases of the death of the missing person, will return their remains.

4. HOW WILL THE VICTIMS BE COMPENSATED?

Those responsible for violations of human rights will be obliged to remedy the wrongs they committed. These reparations may take the form of monetary compensation, and may also include public acts of recognition of collective responsibility by the different armed groups of the conflict. These measures will reinforce and complement the programs already developed by the State, which include reparation measures for collectives, the implementation of plans for the return of victims living abroad, community rehabilitation strategies, psycho-social health care, as well as infrastructure repairs in communities affected by the conflict.

5. HOW WILL THE NON-REPETITION OF VIOLENCE BE GUARANTEED?

The set of measures adopted in the framework of this final agreement represent guarantees seeking to ensure that grave violations of human rights of the kind perpetrated in the armed conflict do not re-occur. Without being perfect, it appears that the agreement offers sufficient concessions on questions such as land reform to the FARC that they will agree to lay down their arms.

The manner in which the terms of the accord are implemented will determine whether the re-occurrence of violence is likely or not.
6. WHAT SORT OF JUSTICE CAN THE VICTIMS EXPECT? WHICH PERPETRATORS ARE TARGETED?

The Special Jurisdiction for Peace (SJP) is the judicial component of the system, with a mandate to determine the criminal responsibility of the following persons with regards to grave violations of international humanitarian law or human rights:

1) Members of guerrilla groups that have signed the final peace accord;

2) Members of the State who have committed crimes related to or in the context of the armed conflict;

3) Persons accused of having financed or collaborated with paramilitaries who “participated in a significant or regular manner in the commission of crimes (…)”

The SJP will be primarily composed of Colombian judges, but may contain up to six foreign judges. Their mission is to bring an end to impunity, establish the truth, compensate the victims for the harm they have suffered, and to judge and sanction, as appropriate, those responsible for the commission of grave crimes during the armed conflict.
7. WILL THOSE RESPONSIBLE FOR GRAVE CRIMES BE GIVEN AMNESTY?

As a principle, the agreement excludes the application of amnesties and pardons for grave crimes, such as crimes against humanity, genocide, war crimes, hostage taking and other grave deprivations of liberty, torture, homicide, forced disappearance, all forms of sexual violence, the forced recruitment of minors, and forced displacement, in conformity with international law.

Amnesties or pardons may only be granted to those who have committed offenses of a political nature (for example, the offense of rebellion or the illegal possession of arms), as well as to those who have caused deaths in combat in a manner compatible with international humanitarian law.

8. IS IT POSSIBLE THAT THOSE RESPONSIBLE FOR HUMAN RIGHTS VIOLATIONS WILL NOT BE SANCTIONED?

The authors of human rights violations will, in principle, be subjected to sanctions; however, it is effectively possible that some may avoid prison sentences. The nature and duration of their punishment will vary according to whether or not they have recognized their responsibility and whether or not they have cooperated in the search for truth.

The agreement provides some details on the conditions of deprivation of liberty of those given alternative sentences, the specific types of alternatives to prison, the determination and gradation of sanctions and the mechanisms that will verify the performance of the sanctions.

The objective pursued by sanctions is not just to punish criminal behaviour, but also to consolidate peace, play a role in victims’ reparations, and to rehabilitate convicted persons.

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<tr>
<th>PROCEDURE</th>
<th>PUNISHMENT</th>
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<tr>
<td>Voluntary recognition of truth and responsibility</td>
<td>Measures of deprivation of liberty other than prison, of a duration of 5 to 8 years (for example: participation in the implementation of infrastructure construction and repairs, electricity and power projects, replacement of illicit crops, environmental rehabilitation, or the elimination of unexploded ammunition and landmines).</td>
</tr>
<tr>
<td>Delayed recognition of truth and responsibility</td>
<td>Prison sentences reduced to a duration of 5 to 8 years</td>
</tr>
<tr>
<td>No recognition of truth and responsibility</td>
<td>Prison sentences granted based on the Colombian Penal Code. In the case of grave crimes, a minimum sentence of 15 years and a maximum sentence of 20 years are prescribed.</td>
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9. WHAT DOES LAWYERS WITHOUT BORDERS CANADA (LWBC) THINK OF THE ALTERNATIVE SANCTIONS OUTLINED IN THE PEACE AGREEMENT?

LWBC supports its partners in emblematic cases, which it is hoped will result in convictions that are proportionate to the gravity of the crime, and to the accused’s degree of responsibility in its commission. The practice of international criminal tribunals shows that prison sentences are generally imposed as sanctions for perpetrators of grave crimes.

The situation in Colombia is unique. The parties to the negotiations seek to bring an end to centuries of armed conflict, while taking into account the right of victims to justice. It is important to note that international law does not require the imposition of prison sentences for the perpetrators of grave human rights violations. The model proposed in the peace agreement does not exclude the imposition of prison sentences, but foresees that those who fully recognize their responsibility may be effectively sanctioned by alternative penalties.

This model is not based on impunity, because those most responsible for grave violations of human rights will be sanctioned. However, it seeks to offer victims a form of justice in a transitional context in which criminal sanctions alone cannot ease their suffering. In fact, the measures of deprivation of liberty that will be imposed on perpetrators of grave crimes who recognise their responsibility will form part of a set of measures which aim to guarantee, in a more comprehensive way, respect for victims’ rights. In this way, alternative sanctions, as one of the elements of this system that seeks to establish truth, justice, and compensate victims, may contribute to the respect of victims’ rights.

Information on the manner in which these sanctions will be implemented in practice is still incomplete. It will be important to monitor the implementation of this system, in order to ensure that the restrictions of the liberty of those given alternative sanctions are serious, proportional to the gravity of the crime committed, and strictly respected, in a way that demonstrates a genuine willingness of the State to do justice for the victims, in conformity with its international obligations. It will be essential to take into account the expectations of the victims.
10. HOW WILL THE ABUSES COMMITTED BY STATE AGENTS BE TREATED (I.E. SOLDIERS, POLICE)?

As a matter of principle, the members of the Colombian army who have committed crimes in the context of the conflict will also fall under the jurisdiction of the SJP. The model of sanctions for this category of actors will be similar to that developed for members of the guerrilla groups.

Certain members of the Colombian army are accused of being involved in extrajudicial killings of civilians who were presented as guerrillas, in order to claim bonuses or other rewards (these crimes have been referred to as “false positives”). However, because the relation between these acts and the armed conflict is difficult to establish, it is not clear whether the SJP will be competent to judge the perpetrators of these crimes.

11. WHAT DOES THE AGREEMENT PROVIDE REGARDING CRIMES COMMITTED AGAINST WOMEN?

The proposed model of justice seeks to respond to the particular needs of girls and women. For example, it establishes a special team to investigate cases of sexual violence. Additionally, the accord prescribes specifically that crimes of a sexual nature may not be granted amnesty.
12. HOW DOES LWBC VIEW THE PEACE AGREEMENT?

LWBC welcomes this historic step in the recognition of the rights of victims, and commends the parties for their efforts towards creating an agreement that is in conformity with international law and creates a system that is respectful of victims’ rights. LWBC is encouraged by the support shown by different sectors of society for this agreement, including Colombian human rights organisations.

In order for this system to be legitimate, the participation of victims must be guaranteed, and their views must be fully reflected in the proposed *transitional justice* (see box opposite) mechanisms.

The SJP will not be able to investigate every single violation committed in the context of a conflict of the length and complexity of the Colombian conflict. Case selection and prioritisation must therefore be exercised in a prudent and non-arbitrary manner, and on the basis of clearly-defined criteria.

It is essential that the search for truth allows the recognition of violence committed against women. There is an urgent need to develop policies on the investigation and judgement of this type of crime in line with the best international practices.

For LWBC, it is vital that there is an absolute prohibition of amnesties for grave violations of human rights and grave infractions of international humanitarian law.

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**TRANSITIONAL JUSTICE**

Transitional justice attempts to establish or re-establish justice following profound crises - for example, armed conflict, popular uprisings, or natural disasters - which have given rise to serious violations of human rights. It provides a host of specific solutions, which may or may not be judicial in nature, to remedy grave offences committed in the territory of a state which has experienced a like period of instability.

Transitional justice has several objectives:

1. Governmental and societal recognition of violations of victims’ rights;
2. The pursuit of justice, be it penal, reparative, or symbolic;
3. The prevention of further crimes;
4. Reconciliation, rehabilitation, peacekeeping or peacebuilding (as applicable), the reinforcement of the rule of law and of democracy through institutional and political reforms.

There are no perfect or universal models of transitional justice. Mechanisms may take many forms which vary in accordance with the context.

The following four pillars define transitional justice conceptually and cover the range of mechanisms available to address victims’ rights in the context of transition:

1. Right to justice: the penal suppression of crimes;
2. Right to truth: the implementation of non-judicial, truth-seeking mechanisms to investigate violations and to bring them to light, as well as to provide recommendations;
3. Right to reparation: reparative mechanisms or measures (or “compensation,” “indemnification,” “restitution”);
4. Guarantees of non-repetition: legislative and administrative reforms designed to avoid the repetition of abuses, to guarantee respect of the rule of law, and to re-establish confidence in public institutions.

Past experience has demonstrated the importance of adopting an approach which combines several transitional justice mechanisms. Given the scope of abuses perpetrated during the Colombian armed conflict, penal justice cannot be the only response to the needs of all victims.

A global approach premised on transitional justice is the best way to respond to victims’ expectations in their struggle for justice. Furthermore, it can contribute to the establishment of conditions favourable to reconciliation and to the foundation of a lasting peace.
13. HOW CAN THE INTERNATIONAL COMMUNITY ASSIST IN THE IMPLEMENTATION OF THIS PEACE ACCORD?

The international community has an important role to play in supporting and monitoring the implementation of the peace agreements. Notably, it could support the development and implementation of public policies, and strengthen State institutions. It must also urge the State to ensure that the full participation of victims, human rights defenders, and civil society. LWBC calls upon the international community to continue to support civil society and the victims of grave crimes in their search for justice, and to ensure that the State respects its international obligations.

14. WHAT IS THE ROLE OF THE INTERNATIONAL CRIMINAL COURT (ICC)?

Since 2004, Colombia has been under preliminary examination by the Office of the Prosecutor of the ICC, with the goal of determining whether the State is genuinely attempting to investigate and sanction those most responsible for war crimes and crimes against humanity committed in the country since it joined the ICC system. LWBC is of the opinion that this supervisory role must continue, in light of the efforts that will be made to implement the transitional justice model in the peace accord.

LWBC will continue its work in Colombia, and hopes to be able to contribute constructively to the efforts of Colombian civil society and the State to ensure that the rights of victims are fully realised. LWBC will offer its support for the implementation of transitional justice mechanisms. It will work to ensure the recognition of the rights of victims, their effective participation in the various transitional justice mechanisms, and the respect of international standards.