Mass victimization and restorative justice in Colombia: Pathways towards peace and reconciliation?

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Abbreviations

ACR: Alta Consejería para la Reintegración - Office of the High Counselor for Reintegration

ADR: Alternative Dispute Resolution processes

AUC: Autodefensas Unidas de Colombia

BACRIM: Bandas Criminales Emergentes

CAVR: Comissão de Acolhimento, Verdade e Reconciliação - Commission for Reception, Truth and Reconciliation

CNRR: National Reparation and Reconciliation Commission

CRP: Community Reconciliation Process

DANE: Departamento Administrativo Nacional de Estadística

DDR: Disarmament, Demobilization and Reintegration

ELN: Ejército de Liberación Nacional

FGC: Family Group Conferencing

FARC: Fuerzas Armadas Revolucionarias de Colombia

GAULA: Grupos de Acción Unificada por la Libertad Personal - Unified Action Groups for Personal Liberty
ICC: International Criminal Court

ICTJ: International Center for Transitional Justice

ICTR: International Criminal Tribunal for Rwanda

ICTY: International Criminal Tribunal for the Former Yugoslavia

INPEC: Instituto Nacional Penitenciario y Carcelario

JPL: Justice and Peace Law

MAPP/OAS: Mission to Support the Peace Process in Colombia - Organization of American States

NGO: Non-Governmental Organizations

SPSC: Special Panels for Serious Crimes

TARR: Truth, Accountability, Reparation and Reconciliation

TC: Truth Commission

TRC: Truth and Reconciliation Commission

UN: United Nations

VOC: Victim Offender Conferencing

VOM: Victim Offender Mediation

VORP: Victim Offender Reconciliation Program
Introduction

How could a country with an ongoing conflict deal with the overwhelming consequences of mass victimization? What type of justice could Colombia apply to promote truth, accountability, reparation and reconciliation? These difficult questions take us to reflect upon the delicate notion of justice, which varies according to each human being. The present research project attempts in fact to deeply explain the concept of restorative justice and the way in which this vision of justice could bring about light to the Colombian complex transitional justice process.

In fact, for more than four decades the Colombian society has experienced a cruel ongoing conflict that has implied thousands of victims and perpetrators. The three main illegal armed groups in Colombia (the FARC - Fuerzas Armadas Revolucionarias de Colombia, the ELN - Ejército de Liberación Nacional, and the AUC - Autodefensas Unidas de Colombia) have deliberately committed violent political crimes such as killing civilians and combatants hors de combat, torture, child soldiers recruitment, forced displacement, hostage-taking, among others.

Today, the Colombian society is still struggling to find the best ways to address the atrocities that daily take place. Despite the ongoing characteristic of the conflict, Colombia has created state-organized transitional justice mechanisms: the “Justice and Peace Law”, adopted the 21st of June 2005 by the Colombian Congress, and whose main objective is to “ease the peace negotiations with the armed groups and the individual and collective reincorporation of the members into civil life, guaranteeing that the victims will have the right to truth, justice and reparation” (Article 1, Law 975/2005), established a “National Reparation and Reconciliation Commission” as well as special tribunals for “Justice and Peace”. As we will see, in addition to this historical and controversial law, Colombia has created other mechanisms of transitional justice such as the “Victim’s Law” and the disarmament, demobilization and reintegration (DDR) program.

As new mechanisms are being put into place and constant reformations occur, the debate on how to deal with the issues of transitional justice remains of high relevance to the victims and offenders, institutions and the Colombian society. In fact, the question of “transitional justice”, which refers to “the full range of processes and mechanisms
associated with a society's attempts to come to terms with a legacy of large-scale past abuses, in order to ensure, accountability, serve justice and achieve reconciliation" (United Nations, 2004, p. 4) is relatively young, and therefore, its conceptual and procedural rapid evolution is not surprising. From the well-known Nuremberg trials in 1945 to the creation of the historical International Criminal Court (ICC) in 2002, transitional justice has experienced various phases marked by a rich variety of mechanisms; due to the particular and unique characteristics of each conflict, the transitional justice processes and mechanisms “may include both judicial and non-judicial mechanisms, with differing levels of international involvement (or none at all) and individual prosecutions, reparations, truth seeking, institutional reform, vetting and dismissals, or a combination thereof” (United Nations, 2004, p. 4). Each country may opt for the creation of one or various mechanisms to deal with the key issues of transitional justice: searching the truth, ensuring accountability for the acts committed, providing reparation and promoting reconciliation (the TARR model; Parmentier, 2003).

In spite of the various existing mechanisms of transitional justice, there is a fundamental question regarding the approach applied to deal with mass victimization; whereas some emphasize the need for the dominant retributive-oriented approach via criminal trials, others consider restorative justice a better approach, and support, thus, other mechanisms like truth commissions. This thesis defends in fact restorative justice as an approach to justice susceptible of dealing with the issues of transitional justice in a more pragmatic way than the conventional retributive justice approach. However, defining restorative justice is far from being an easy task; as Walgrave rightly explains, restorative justice is not a finished product and remains a very complex concept (Walgrave, 2008a). But still, although restorative justice has suffered from a general misunderstanding due to its lack of common definition, this research presents it as a way of doing justice that intends to restore, as much as possible, the harm that has been committed by an offense.

Accordingly, besides from focusing on the figure of the victim by trying to meet his/her interests and needs, restorative justice encourages an active, constructive and future-oriented form of accountability. In fact, unlike the retributive-oriented legal justice system, the restorative approach offers the means to the offender to reintegrate into society in exchange of his/her active contribution in repairing directly or indirectly the
harm inflicted to the victim, to society and to him/her self, through reparative measures like full disclosure of the past, by handing in the illegally obtained goods, by stopping any criminal activities, among others. In other words, restorative justice takes away the intention to inflict punishment to the offender (Walgrave, 2008a) in exchange of an active participation in repairing the harm and the capacity to stop re-offending. However, if the offender doesn’t comply with these obligations, he or she shall be deprived from freedom, but in a humane and restorative way.

Surprisingly, until now, both the field of transitional justice and the approach of restorative justice have been largely and thoroughly developed independently, but little has been said about their theoretical and practical coalition. So, could restorative justice be applied during the Colombian particular transitional justice process? What could be the role of restorative justice principles in the process of dealing with an ongoing conflict situation that includes mass victimization? In fact, restorative justice theories and practices, which have been mainly developed in the field of common crimes, are increasingly attracting the attention of institutions and practitioners working in the field of transitional justice (Parmentier, 2003). There is thus a rising interest in knowing how restorative justice principles could bring an added value to the transitional justice processes and how they could support societies struggling to repair the damage suffered in the past in a forward-looking manner that may contribute to sustainable peace.

Colombia has indeed developed great interest in restorative justice as an instrument to develop and further improve the traditional legalistic approach to justice; in addition to being introduced in the Colombian Political Constitution, the Code of Criminal Procedure and in the Law for the Welfare of Children and Youth (of 2006), restorative justice has been thought as a better way to deal with serious violations of human rights caused by the internal ongoing conflict. The effort towards building a coalition between restorative justice and transitional justice was tangibly seen through the government’s first draft bill known as the Law on Alternative Sentencing (Law 085 of 2003), which intended to introduce a restorative approach to the transitional justice process and notably replace prison sentences for other forms of accountability. However, the alternative sentencing law was rapidly withdrawn due to great controversy and criticisms triggered by this different approach of justice, which according to some, constituted some sort of impunity (Felipe Gomez, 2010). Further, a Colombian civil society initiative, accompanied with the
political support of the previous government, demonstrated its interest on restorative justice by organizing an international symposium on “Restorative Justice and Peace in Colombia” in Cali, on February 2005, in which an extraordinary South African delegation exposed to Colombians their renown transitional justice process.

Nevertheless, despite such interest, restorative justice was not recognized and accepted as one could have expected. Although the Colombian transitional justice process contains restorative justice components, the strong influence of the retributive justice approach, particularly represented by the ICC at the international level, affected the implementation of restorative justice in Colombia. This restorative vision of justice remains of great importance to the Colombian transitional justice process, whose future might be hopefully brightened.

It is in this particular context that we will attempt to analyze the following main research question: Why and how could restorative justice be applied during the Colombian transitional justice context? In order to explain why restorative justice could be applied in Colombia, we will examine the advantages of the restorative approach over the conventional justice approach when dealing with the issues of transitional justice. In our opinion, a restorative approach to transitional justice, or as we have called it, a “restorative transitional justice” system, constitutes the right approach for transitional justice to deal with its issues, and therefore, to reach the ultimate goal of establishing sustainable peace.

In order to answer these questions we will explain the various parts composing this research dissertation, which as a matter of fact correspond to our aims and objectives.

In first place, we will build-up a theoretical coalition between transitional justice and restorative justice. Accordingly, Part I of this research dissertation will be composed of a general description of the context of transitional justice, a critical and thorough analysis of the approach of restorative justice, and a theoretical framework of both the field of transitional justice and the approach of restorative justice, in which additional characteristics of transitional contexts are taken into account to justify the application of restorative justice to the expenses of the conventional way of doing justice. In doing so,
Introduction

this research aims to fill in the existing theoretical gap between transitional justice and restorative justice.

Part II of this doctoral dissertation will illustrate, on the one hand, the difficult road towards peace in Colombia through a deep explanation of the conflict and the peace negotiations processes that have taken place in the country, and on the other hand, the actual transitional justice process, particularly symbolized by the well known Justice and Peace Law of 2005 and influenced by the imminent presence of the ICC. The Colombian conflict will be further studied in part III through the empirical findings based on the interviews and focus groups carried out with 31 victims and 25 ex-combatants of the Colombian conflict. In fact, besides from explaining the methods applied to the project and the reasons behind the methodological choices (a qualitative research on grounded theory), part III deeply illustrates the perceptions and opinions of the victims and offenders of the Colombian conflict about their experience of the conflict, their understanding of the issues of transitional justice (TARR), and above all, the way in which they have suffered from the conflict as well as the elements that have been useful or that could be useful in their healing process.

Finally, based on the theoretical framework created and the empirical data, part IV of this doctoral dissertation explains why and how restorative justice could deal with the issues of transitional justice in Colombia in a more pragmatic way than the conventional justice system.

I would like to conclude this introduction by clarifying that restorative justice constitutes an ethical and/or normative approach that we may share or not (Aertsen, 2010, personal communication, March 8, 2011). Personally, I fully adhere to this vision of justice. Nevertheless, in no way I intend to convince anyone about a particular understanding of justice, which, as it will be strongly illustrated through the present empirical data, varies according to each human being’s values, spiritual guidance and orientation, education and even the personal experience within the conflict. I would like to make clear that restorative justice is not a shared option of justice to the eyes of Colombians; retribution, as we will see, remains a desired option, although a shy one, either as a means of deterrence or as a vengeful end. Restorative justice faces therefore an ethical and normative obstacle of those who advocate for retribution as the correct way of
responding to wrongdoing. My intention remains, above all, to illuminate as much as possible the phenomenon of transitional justice in Colombia, through the very often-silent voices of those who have lived personally the tragedies of the conflict. I wanted to explore their internal universes and feelings to draw the differences and complexities behind this long conflict, and in this way, examine if there is a space or not for a type of justice that aims at restoring the harm of millions of victims and offenders.

**Part I: Towards a “restorative transitional justice” system**

Despite the multiple conflict situations that have tailored human history, dealing with the terrible consequences of mass atrocity remains one of the most challenging tasks humanity has to face; the question of “dealing with the past” or “transitional justice” refers to the administration of large-scale mass abuses that have taken place in war-torn societies marked by broken institutions, weakened security and financial resources, and above all, a divided and traumatized harmed population. Typically raised in most Latin American countries recovering from repressive regimes in the late 1970s and early 1980s, in Central and Eastern Europe countries of post 1989, and in multiple countries marked by past or ongoing genocides, ethnic-religious conflicts and civil wars, transitional justice deals with complexes issues such as searching for the truth of past atrocities, holding the perpetrators accountable for their acts, repairing the victims, reintegrating both victims and offenders to society and promoting peace and reconciliation.

Even though these issues may be dealt with in a rich variety of ways, special emphasis will be made on the role restorative justice could play in dealing with them. Although restorative justice has been broadly developed in non-transitional justice contexts that exclude large-scale mass abuses, this vision of justice has increasingly, albeit scarcely, drawn the attention of intellectuals and institutions working in the field of transitional justice (Wietekamp & Parmentier, 2006). As an emerging approach within the criminological sciences that intends to find solutions to the dominant conventional justice system, restorative justice offers an innovative and coherent vision of justice based on the substantive goal of restoring the harm that has been caused by an offense (Walgrave, 2008a), whether applied to common crimes in times of peace or non-transitional justice
contexts or to serious violations of human rights during conflict or post-conflict situations.

Before building-up a theoretical coalition between transitional justice and restorative justice, both concepts will be explained separately. Accordingly, a general description of the context of transitional justice will be made and followed, on the one hand, by a critical and thorough analysis of the approach of restorative justice as a better approach to justice than the conventional justice system, and on the other hand, by a theoretical framework of both the field of transitional justice and the approach of restorative justice, in which additional arguments of the extraordinary contexts of transition, will be highlighted to justify the application of restorative justice to the expenses of the conventional way of doing justice.
Chapter 1. The concept of transitional justice

The question of how to deal with the heavy burden of large-scale mass abuses has increasingly gained the attention of academia, NGO's and international actors, resulting in an increasingly rich amount of literature and varied projects on transitional justice. Although transitional justice has recently blossomed in the past two decades, its origins date from the beginning of the 20th century; according to expert Rutti Teitel in her article “Transitional Justice Genealogy”, transitional justice trajectory can be traced into three different phases: while the origins of modern transitional justice can be found in World War I, phase I began in 1945, with its well-known Nuremberg international trials, in which the Nazi leaders were held accountable for their actions in a retributive way. Triggered by the decline and final disintegration of the Soviet Union, according to the author, phase II of transitional justice was characterized by a wave of democratic transitions that started in South America and were followed by transitions in Eastern Europa, Africa and Central America, in which, on the one hand, different conceptions of justice emerged and, on the other hand, national mechanisms replaced international ones. In fact, according to Teitel, phase II went beyond the historical retributive-oriented understanding of justice. In fact, the goals of truth and peace gained importance during this phase II, and therefore, amnesties played a mayor role to the expenses of individual accountability. Today, transitional justice is experiencing its phase III; a phase of “steady-state transitional justice” symbolized by the first permanent International Criminal Court (Teitel, 2003).

As transitional justice evolves, there is increased pressure to deal with past abuses and establish accountability (Kritz, 2002). In fact, since the 1988 decision of the Inter-American Court of Human Rights in the case of Velásquez Rodríguez vs. Honduras, states are under the international law obligation not only to prevent human rights violations, but also to investigate them when they occur, to hold accountable the responsible ones and to ensure reparation for the victims whose human rights have been violated (IACHR, 29 July 1988). This international obligation of fighting against impunity of the most heinous crimes has been also explicitly confirmed by the 1998 statute of the ICC, which leads us to the assumption that amnesties will no longer be a possible way in dealing with mass victimization.
In fact, given the cruelty of mass atrocities, the international community does not remain silent, neither immobile; as Aukerman rightly notes, “the international community does have both a role and an interest in transitional justice. Just as ordinary crime is not simply an offense against an individual victim but against the entire society, so extraordinary evil is not merely an assault on the particular traumatized society but on humanity as a whole” (Aukerman, 2002, p. 46). However, the difficulties and unique characteristics of each war-torn society encourage a rich variety of mechanisms to the expenses of a unique globalized mechanism of transitional justice.

In order to illustrate the diverse and expanding trajectory of transitional justice, its conceptual, disciplinary debates as well as its various practices will be presented and followed by a brief description of the so called “key issues” of transitional justice.

1. Transitional justice: An evolving field of study

Since the emergence of modern transitional justice in 1945, this concept has gone through a general evolution process regarding its definition, the various disciplines that have developed an interest towards this field, and finally, the transitional mechanisms.

1.1. The widening definition of transitional justice

The question of “transitional justice” is relatively young, and therefore, its conceptual rapid evolution is not surprising. Its meaning, thus, can be understood in various ways: in a narrowed way focusing on legal responses to mass atrocities of the past, or in a broader way, according to which other forms of responses are accepted into the field of transitional justice. As it will be further developed, the field of transitional justice was at the beginning uniquely tainted by an omnipresent legal approach that little by little, although hardly and not yet fully, has given space for other disciplines and practices to conquer the field of transitional justice. As to the first narrowed conception, Ruti Tietel proposes a legalistic vision of transitional justice “defined as the conception of justice associated with periods of political change, characterized by legal responses to confront the wrongdoings of repressive predecessor regimes” (Teitel, 2003, p. 69). Consequently,
apart from being exclusively legally oriented, while referring to “the wrongdoings of repressive predecessor regimes”, this definition limits the scope of application of transitional justice to post-conflict situations. Later, though, a broader conception of transitional justice has been offered by Roht-Arriaza, according to which “transitional justice includes that set of practices, mechanisms and concerns that arise following a period of conflict, civil strife or repression, and that are aimed directly at confronting and dealing with past violations of human rights and humanitarian law” (Roht-Arriaza, 2006)¹. This broader conception of transitional justice embraces other practices than legal and may involve “past violations” that, in our interpretation of the definition, may take place either in ongoing conflict or post-conflict societies. Along the same lines, the UN well-known definition of Transitional justice joins this broader conception by referring to “the full range of processes and mechanisms associated with a society's attempts to come to terms with a legacy of large-scale past abuses, in order to ensure, accountability, serve justice and achieve reconciliation” (United Nations, 2004, p.4).

Since its emergence, the question of time has gained great attention and generated debatable discussions among practitioners and experts in the field of transitional justice; frequently, authors refer to the concept of transitional justice exclusively in cases of post-conflict situations, that is when the conflict has come to an end usually by moving from an authoritarian regime to a democratic one or from times of war to times of peace. As a result, some prefer using the concept “post-conflict justice”, to the expenses of “transitional justice”. However, mechanisms to deal with past atrocities have been also created in ongoing conflict societies. The Colombian particular case provides an example of a formally democratic society that is currently dealing with the issues of transitional justice during its ongoing conflict. Despite its long lasting conflict, Colombia has not hesitated in creating official mechanisms such as prosecutorial trails for the responsible of mass abuses, reparative measures for the victims, a DDR process, among others. For those who refer to transitional justice only in post-conflict situations, since this country has not yet gone through a transition from a conflict situation to a post-conflict situation, the Colombian case would not fit into the category of transitional justice, but into a category of a country going through a process towards transitional justice, towards a post-conflict situation. In the words of Diaz, though, “the Colombian context vividly

¹ Retrieved from http://assets.cambridge.org/97805218/60109/excerpt/9780521860109_excerpt.htm
illustrates that contemporary transitional justice should not simply be viewed as synonymous with political transition from oppressive regimes to democratic ones or with negotiated ends of armed conflict” (Diaz, 2007, p. 497). Along the same lines, while referring to civil society truth-seeking initiatives in the conflict Israeli-Palestinian, Dudai and Cohen explain that these projects show that dealing with the past could, and sometimes should, take place before the end of the conflict (Dudai & Cohen, 2010).

Differently put, in our opinion, transitional justice should also embrace those cases in which mechanisms, designed to deal with mass abuses, are created during an ongoing conflict.

Additionally, the conceptual debate has conducted other authors to use other terminologies such as “dealing with the past” (Huyse, 2008; Dudai & Cohen, 2010). According to Dudai & Cohen, for example, the term transitional justice could be an inaccurate and misleading label (Dudai & Cohen, 2010). Although we certainly agree with the misleading nature of “transitional justice” due to the various connotations both constitutive words, “transitional” and “justice”, may have, we will still use this terminology but in a very broad way; of great importance in this doctoral dissertation, our understanding of transitional justice is broad enough to include and encourage all sorts of practices, legal and non-legal, national, international, mixed, local or social practices that may take place during ongoing conflicts and/or post-conflict situations. However, regarding our position about the approach, as it will be further sustained, we remain very much narrowly oriented towards restorative justice as a better way of dealing with past atrocities.

1.2. Towards a booming multidisciplinary field

By dealing with such broad human issues, transitional justice is by nature a multidisciplinary field of study. As Kritz explains, various disciplines like law, political sciences, anthropology, the arts, among others, have developed great interest in projects on justice and reconciliation involving mass victimisation (Kritz, 2002). However, until now, transitional justice has been strikingly tainted by international law to the expenses of other social sciences. In Liwerant’s words, “with the exception of juridical and historical
works, social sciences barely considered collective murders until the turn of the 21st century” (Liwerant, 2007, p. 919).

The dominant role of international law in the literature and practice of transitional justice has generated disputes with other disciplines that share different interests than those promoted by law. This is precisely reflected between the interests of international lawyers and conflict resolution practitioners; as Lambourne argues, the efforts of international peace practitioners to establish peace and a climate of reconciliation are juxtaposed against the interests of human rights advocates to prosecute the perpetrators of human rights violations and establish a respectful culture of the rule of law (Lambourne, 2006).

Even more surprising is the absence of criminology that until now has remained practically silent (Liwerant, 2007). How could we possible deal with victims and perpetrators of mass victimization without understanding the causes of mass atrocities? How could we deal with these causes if they are not known? How could reparations take place without the understanding of the harm of both victims and perpetrators through their own voices? We argue that transitional justice, being exclusively governed by law, without the assistance of other social sciences close to human beings and interested in human behavior, would remain an abstract and incomplete field of study and practice.

However, little by little the silent disciplines such as criminology, psychology and anthropology, among others, are starting to become active in the field of transitional justice, offering and illuminating, thus, additional ways of doing justice through different mechanisms such as truth commissions and traditional or local justice mechanisms. But still, time and scientific empirical data will be needed to convince lawyers of the vital importance of including other human disciplines into the field of transitional justice. In fact, the phenomenon of mass victimization touches every aspect of human nature and the affected society as a whole, and therefore, other disciplines become indispensable in the good administration and execution of the issues transitional justice. In other words, we argue that law must leave an important space for other disciplines to work with the issues of transitional justice.
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1.3. The development of transitional justice mechanisms

After presenting a general overview of the existing transitional justice mechanisms, for the interests of this research topic and considering the particularities of the Colombian transitional justice process, emphasis will be done on the conventional legal trials, truth commissions and local or traditional mechanisms of transitional justice.

1.3.1. A general overview

Due to the particular and unique characteristics of each conflict, a variety of approaches have been developed to deal with the issues of mass victimization. Therefore, transitional justice processes and mechanisms “may include both judicial and non-judicial mechanisms, with differing levels of international involvement (or none at all) and individual prosecutions, reparations, truth seeking, institutional reform, vetting and dismissals, or a combination thereof” (United Nations, 2004, p. 4). Accordingly, a society experiencing a context of transitional justice may implement various and simultaneous instruments to deal with the past; Rwanda, through the International Criminal Tribunal for Rwanda (ICTR), national courts and local-level forms of justice, known as the gacaca courts, provides an example of a combination of simultaneous different mechanisms. Whereas in some countries the mechanisms may operate simultaneously, in other countries, they may operate at different times, like in Argentina where the truth commission preceded prosecutions. Besides the legal or non-legal distinction, transitional justice mechanisms may be national, like the Colombian Justice and Peace tribunals, international like the international ad hoc tribunal for the former Yugoslavia (ICTY) and Rwanda and the ICC, or a mixture of both, such as the Guatemalan Historical Clarification Commission and the hybrid courts in Sierra Leone and Cambodia.

Moreover, transitional democracies may implement lustration or vetting techniques to deal with officials who had been tainted by complicity with prior dubious governments. The question of dealing with previous non-democratic regime’s functionaries and collaborators gained particular interest in post-Communist Eastern Europe. Countries like Czech Republic, Hungary and Poland used these measures to exclude from public service officials who collaborated with the Communist era security services. Furthermore, often forgotten by the transitional justice discourse, disarmament,
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1.4. Demobilization and reintegration processes, as well as civil society initiatives, constitute fundamental mechanisms of transitional justice. On the one hand, as the 2004 report of the Secretary General rightly notes, “[d]isarmament, demobilization and reintegration processes are one of the keys to a transition out of conflict and back to normalcy. For populations traumatized by war, those processes are among the most visible signs of the gradual return of peace and security” (Report of the Secretary General, 2004, p. 11). On the other hand, civil society initiatives have played a great role in dealing with the past, particularly in terms of truth-seeking, in contexts in which no other mechanism would confront the past like the report carried out by a Russian NGO “Memorial” on the Soviet abuse, or in contexts in which they have worked together with truth commissions, like in Guatemala, Morocco and South Africa (Dudai & Cohen, 2010).

Finally, a fundamental distinction resides in the approach chosen by the mechanisms; whereas some emphasize the need for implementing a conventional form of justice via criminal trial, others prefer alternative ways of doing justice, like restorative justice. This difficult debate, which constitutes the hard core of our theoretical framework, will be further developed in great detail.

1.3.2. The conventional legal criminal trials

In their duty to bringing those responsible for serious violations of human rights and humanitarian law to justice, legal criminal trials, either national or international, have played a significant role in dealing with the past. However, despite the great visibility of international tribunals, domestic justice systems have been the first resort in pursuit of accountability, instead of international institutions. As Drumbl notes, “[i]nternational institutions are designed to prosecute individuals alleged to bear the greatest responsibility for atrocity and, therefore, are intended to focus on leaders and organizers although, in practice, they do prosecute lower-level offenders (as was routinely the case in East Timor)” (Drumbl, 2007, p.68).

The role of the international community, meaning the international institutions like the United Nations (UN) and the ICC, becomes crucial particularly in cases in which the national authorities are unwilling or unable to prosecute violators at home; in such contexts, the international community may intervene by creating an ad hoc tribunal or, since 2002, through the ICC. In addition to these forms of jurisdiction, third-party states...
have not hesitated, succeeding or not, to try to prosecute those responsible for the most heinous crimes under the basis of universal jurisdiction; in fact, according to this exceptional form of jurisdiction, some violations of human rights are considered so serious, that all countries have an interest in prosecuting them, as long as the country in which such violations took place is unwilling or unable to prosecute them (Report of the Secretary General, 2004)

Until now, the international community has remained predominately interested in criminal trials as better means to deal with mass victimization, notably in the former Yugoslavia, Rwanda and Iraq (Lambourne, 2006). In the past two decades, several international or hybrid institutions have been established, notably the ad hoc international criminal tribunals established by the Security Council for the former Yugoslavia in 1993 and for Rwanda in 1994, the Special Court for Sierra Leone in 2002, a mixed tribunal for Cambodia in 2004, among others.

However, undoubtedly, the most significant achievement of the international community in the field of transitional justice is the establishment of the first permanent international tribunal, the International Criminal Court, through the 1998 Rome Statute that entered into force on 1 July 2002. Henceforth, the ICC is competent to judge individuals for having committed crimes against humanity, war crimes, genocide or crimes of aggression after 1 July 2002, through referrals done by state parties, the Public Prosecutor him or herself or by the Security Council, even in cases in which the countries concerned are not States parties to the Statute of the Court. However, differing from its predecessors, the ad hoc tribunals, the ICC may only exercise its competence on the basis of the subsidiary principle, meaning in cases in which the concerned country is “unwilling or unable” to prosecute those responsible of serious violations of human rights. Only time will illustrate how exactly does “unwilling and unable” should be interpreted.

1.3.3. Truth commissions

Often considered “second best” options, truth commissions (TC’s) have gained great attention in the field of transitional justice for their interest in establishing the truth about
the past and seeking reconciliation in a different and less dividing way than criminal trials. These instruments are official non-judicial bodies established to enquire into human rights violations committed over a certain period of time. According to Priscilla B. Hayner, a truth commission focuses on the past, tries to describe the violations of human rights that have taken place over a certain period of time, generally exists for a pre-defined period of time which ends up with the submission of the resulting report and is vested with authority (Hayner, 1994). However, according to some authors, truth commissions could also be permanent (Braithwaite, 2012). Although they will differ from one country to the other because they intend to respond to the unique characteristics of each conflict, truth commissions usually share three elements: first of all, the government should have the political will to set up a truth commission, secondly, for security reasons, the conflict situation must have come to an end and thirdly and finally, victims and witnesses should be interested in having and in cooperating with the truth commission (United Nations, 2006).

As previously mentioned transitional justice mechanisms may vary in nature, they could be legal or not, but they could also be national or international. This is the case scenario of truth commissions. For instance, whereas the Salvadoran commission (The Truth Commission for El Salvador) comprised foreign national members, the South African comprised only national ones. Moreover, these institutions may be hybrid, with international and national components, like the Sierra Leone’s TRC. In fact, truth commissions may be established by international organizations, non-governmental organizations (NGO’s), or by national governments.

Given the impossibility of prosecuting all the perpetrator of mass abuses, TC’s were thought as a different way of dealing with these crimes, susceptible of speeding up processes and bringing about paths towards truth, reparation and reconciliation. In fact, in contrast to criminal trials for which there are defined international standards that should be respected, truth commissions may be more flexible to meet the needs of victims and offenders. Although TC’s may be empowered to assign individual or group responsibility, their approach is more restorative oriented than retributive since they search above all to attain the goals of TARR without focusing on punishment infliction. In fact, the TC's main objective is to design a framework of violations of human rights
based on the testimonies of participants, acknowledge the suffering of victims, further study the causes and nature of the crimes and propose reparation measures as well as reforms to avoid the repetition of such atrocities. In other words, unlike tribunals, TC’s do not aim at inflicting punishment.

As a result, the victims’ testimonies do not aim at justifying the offender’s punishment like in the case of conventional legal tribunals, but at unveiling the truth to heal the victim and build up a historical memory. It is not surprising therefore to see commissioners, like Desmond Tutu, accompany emotionally the victims in their pain and sorrow. Such attitude is not compatible with prosecutorial processes in which judges must remain insensitive to be objective and express their doubts regarding some testimonies (Jaudel, 2009). TC’s offer thus, a more humane space where participants can freely express their experiences and feelings in presence of more compassionate commissioners; in fact, besides of being composed of jurists, truth commissions generally involve respected and inspiring citizens such as spiritual leaders, experts on victims of atrocity, professors and psychologists, among others.

With time the field of application of TC’s in transitional justice contexts has become wider: whereas some TC’s were limited to certain forms of offenses, like in Argentina, Bolivia and Sri Lanka whose competence was limited to crimes related to disappearances, today, besides of investigating various sorts of human rights violations, truth commissions study the causes and the nature of such atrocities (Jaudel, 2009). Moreover, although it is highly recommended to establish a TC once the conflict has come to an end (in post-conflict situations), in our opinion, TC’s could also be implemented in contexts of ongoing conflict, like the Colombian one, as long as they respect security and secrecy measures. As it is known, whereas some of the South African testimonies took place in public hearings, those in Argentina, Bolivia and El Salvador took place behind closed doors (Jaudel, 2009). TC’s are generally allowed to carry out anonymous testimonies and closed hearings, notably regarding cases of sexual assault in countries in which women are further stigmatized for having gone through such form of victimization. Furthermore, TC’s may use various techniques to ensure the identity of participants remains concealed. For instance, the Commission for Reception, Truth and Reconciliation in East Timor codified in its report, entitled Chega, the names
of those responsible of human rights violations and only communicated them to the prosecutorial authorities. In fact, the mandate of various commissions forbids them to communicate the names of offenders.

1.3.4. The implementation of local-level justice systems

Parallel to the conceptual and practical debates on how to deal with extraordinary contexts, transitional justice has recently faced a different, though very sensitive and important debate, on how to integrate culturally based practices of indigenous communities. Often known as local-level, traditional justice and “bottom up” mechanisms, these additional practices to the “toolkit” of transitional justice have been praised for being simplified mechanisms, easier to understand by the locals and therefore, susceptible of accelerating proceedings and reduce costs drastically. After examining the role-played by traditional justice mechanisms in dealing with the legacy of violent conflicts in five African countries, Rwanda, Mozambique, Uganda, Sierra Leone and Burundi, International IDEA points out the increasing international attention to the potential role of traditional mechanisms in reconciliation and transitional justice strategies. As Helgesen notes, “in some circumstances traditional mechanisms can effectively complement conventional judicial systems and represent a real potential for promoting justice, reconciliation and a culture of democracy” (Helgesen, 2008, preface III-IV).

When talking about local-level forms of justice in the field of transitional justice, the Rwandan case remains the example par excellence; Gacaca, meaning “justice on the grass”, is a traditional Rwandan method of conflict resolution that the Rwandan government has used, yet strongly adapted, to address the legacy of the genocide of 1994. In addition to trying to apply a local tradition different from foreign practices, gacaca courts were necessary to speed up the numerous cases of those involved in the genocide. However, as it will be further explained, gacaca were significantly modified, replacing their real traditional essence for a more or less conventional mechanism in which retribution had a principal role. In fact, gacaca courts applied the same substantive law that the one applied by national courts in cases of mass victimization (Drumbl, 2007).
This tendency to implement indigenous and less formal traditions for administering justice has been also practiced in other non African countries, such as East Timor, in which Community Reconciliation Procedures were organized by the TC with low-level perpetrators responsible for having committed less serious offenses. As it will be further developed, these offenders were granted immunity from formal prosecution in exchange of participating at a community-level hearing, in which they recounted their offenses and carried out measures imposed by the community itself including apologies, financial reparations and community service (Roht-Arríaza, 2006)².

Despite the blooming tendency of local-level initiatives, there is however a big knowledge vacuum on the existing multiple local-level mechanisms around the globe. The mechanisms of conflict resolution of the indigenous people of the Sierra Nevada in Colombia provide a great example of unknown practices that could be possibly playing a role in dealing with the atrocities occurring in their country. Despite their prolonged history, these practices remain unknown, due, on the one hand, to the lack of real sharing communication between the Western world and the indigenous communities, and on the other hand, to the absence of written literature about them; the Arhuacos, for example, transfer their knowledge from the elder guides to the younger generation in an oral way instead of a written one. Although nowadays the language is no longer a barrier between the Spanish speakers and the Arhuacos, amongst whom many speak perfectly Spanish, the absence of written literature about their conflict resolution practices constitutes without doubt a big breach in getting to know them.

The field of traditional justice remains thus highly undiscovered and may therefore hide multiple examples of “good” practices that could inspire or influence the Western world in creating transitional justice strategies different from the already known. In addition to adding a creative touch to the conventional techniques, local-level practices may also learn from western existing practices or even from other local practices, getting in this way the best possible combinations to deal with the difficult challenges of a transitional justice society. Without doubt, time will take us to discover these new ways of doing justice.

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² Retrieved from http://assets.cambridge.org/97805218/60109/excerpt/9780521860109_excerpt.htm
2. Key issues of transitional justice

The goals of transitional justice consisting in dealing with a legacy of mass victimisation in an effective way, and creating a stable society capable of avoiding atrocity, are best pursued through its four key issues: searching the truth, ensuring accountability for the acts committed, providing reparation to victims and promoting reconciliation in society (the TARR model; Parmentier, 2003). Although we do not intend to go into detail on these issues because they will be further developed from a restorative justice perspective, we will however present them in a general way to draw a global picture of the challenging key issues transitional justice must deal with.

First, seeking the truth of the past abuses has become one of the most frequently cited issues of transitional justice. Revealing the truth has proven to be indispensable for most victims to be able to move on and overcome the tragedies through which they have gone through, particularly for those victims who lost track of their disappeared beloved ones, and for societies to close the chapter of a devastating past. Breaking silence can be in fact one of the most difficult tasks for overwhelmed traumatized victims, and therefore, it is common to avoid dealing with it. However, as stated in the TRC report “[u]nfortunately such avoidance further isolates the individual or the community, entrenching the feeling of alienation and vulnerability often experienced by those who have been in the hands of torturers and killers. The silence may leave the ‘sufferers’ with no option but to repress their pain, there by delaying the desired complex healing process from being initiated” (TRC report, 2003, p. 138)

In this sense, revealing the truth and getting to know it, constitute an essential step towards the individual and social reconstruction long process, and a necessary element of avoiding the reoccurrence of the past. Therefore, multiple mechanisms of transitional justice, criminal tribunal, truth commissions and civil society initiatives, have hardly worked in unearthing the truth about the past. The truth remains though a complex concept susceptible of multiple interpretations and meanings. Accordingly, the South African TRC has distinguished four different notions of truth: (1) factual or forensic truth; (2) personal and narrative truth; (3) social or dialogue truth; and (4) healing and restorative truth (TRC Report, 1998).
Secondly, another central question that arises during a large-scale conflict is how to hold accountable the offenders of mass abuses. How should perpetrators assume the responsibility of their acts? Who is considered perpetrator? Who should be called to account amongst all perpetrators? Should a punitive or a restorative approach be applied? These challenging questions, which constitute the hard core of this thesis dissertation, will be further analyzed in great detail from both a retributive and restorative perspective.

Thirdly, how could the victims of the most serious crimes be compensated or repaired? How should reparation of the “irreparable” take place? Who should be repaired and who should provide reparation? Which victims should be included in the reparation processes? Should the perpetrators repair the victims, if so, which perpetrators and to what extent? Should the perpetrators receive reparation? These are all extremely complex questions that normally do not go without controversy. According to the 2005 UN Basic Principles and Guidelines on the Right to a Remedy and Reparation, on the one hand, the term victim includes not only the direct victims but also “where appropriate, and in accordance with domestic law, the term “victim” also includes the immediate family or dependants of the direct victim and persons who have suffered harm in intervening to assist victims in distress or to prevent victimization” (Article 8), and on the other hand, the concept of reparation encompasses multiple aspects such as “restitution, compensation, rehabilitation, satisfaction and guarantees of non-repetition” (Article 18).

Finally, the issue of reconciliation constitutes a broad concept that may receive various meanings as illustrated in the South African TRC report, according to which there are four different dimensions of reconciliation: the individual level, the interpersonal level, the community level and the national level. Besides the confusion triggered by these various levels, reconciliation may be susceptible of further misperceptions; often confused with other notions, particularly the notion of peace, we consider reconciliation as an ideal ultimate goal of a long-time conflict-ridden society, which cannot be achieved unless the conflict has come to peaceful terms. In contrast, we understand peace as the absence of violent ways of confrontation. In other words, only when physical peace has been achieved, reconciliation, which in our opinion constitutes an emotional process, can take place. Reconciliation in this sense happens when we come to terms with the past and we
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start to gain trust. This emotional process is what would allow for long-lasting peace. Along these lines, Bar-Tal notes that “[o]nly psychological process of reconciliation that penetrates deep into the societal fabric to be shared by all the segments of the societies that were involved in an intractable conflict can assure and guarantee an establishment of a genuine, legitimate and lasting peace. The outcome of this process is complete reconciliation, which means for the past rivals mutual recognition and acceptance, invested interests and goals in developing peaceful relations, mutual trust, positive attitudes as well as sensitivity and consideration of other party’s needs and interests.” (Daniel Bar-Tal, 1993, p. 2).

Transitional justice mechanisms should therefore respect the goal of peace and promote as much as possible the various different levels of reconciliation. As the Secretary-General report rightly argues, « Justice and peace are not contradictory forces. Rather, properly pursued, they promote and sustain one another » (Report Secretary-General, 2004, p. 8).

So in this first chapter we have explained the way in which transitional justice has rapidly evolved to better deal with the issues of truth, accountability, reparation and reconciliation. In addition to being defined in a broader way, the field of transitional justice has been increasingly conquered, on the one hand, by new disciplines like criminology, psychology and anthropology, and on the other hand, by new instruments such as traditional justice systems and truth commissions. In fact, despite the dominant and influencing role played by law, notably through the ICC, this evolving wave may encourage other approaches to justice, like the restorative justice one.
Chapter 2. Restorative justice: A “necessary” vision of justice

Whether applied to ordinary crimes during times of peace, or to crimes of serious and massive nature during extraordinary times, restorative justice offers a solid and groundbreaking vision of justice that intends to elucidate the way in which criminality should be dealt with; restorative justice, thus, by means of a critical analysis on the weaknesses of existing visions of justice, particularly on the dominant conventional retributive-oriented approach, offers solutions susceptible of being applied during peaceful and extraordinary contexts.

Crime is in fact a socially constructed phenomenon whose definition is the result of various features such as social history, culture, moral values, and political and economic orientations. Although it varies from one society to another, response to crime is organized in Western societies through a system of legal proceedings and institutions called “criminal law”; a complex structure of tribunals, police, prisons and social assistance working within the framework of rule of law. Since 1960 two phenomena called the attention of public opinion: the rapid increase of grave criminality and the failure of criminal law to deal with it (Picca, 2009). The idea of thinking of other ways of doing justice became, thus, a necessity; restorative justice re-emerged in the late seventies as an effort to address some of the needs and limitations of the conventional criminal justice system; an old-fashioned system that has been operating according to “the abstract philosophical and metaphysical notions of the Age of Enlightenment” (Fattah, 2002, p. 309), a system susceptible of intensifying conflicts instead of promoting peace (Zehr, 2002).

As it will be shown further below, there is a rich variety of understandings about the meaning and nature of restorative justice. Nevertheless, in a general way, advocates of this paradigm argue that the conventional justice system do not meet the needs and interests of victims, perpetrators and communities. There is, thus, a “widespread agreement” that the goal of restorative justice is to transform the vision and the response to crime of contemporary societies (Johnstone & Van Ness, 2007). Restorative justice offers, therefore, a different framework of responding to wrongdoing that intents, as articulated in its own terminology, to restore the harm caused by an offense to victims, offenders and communities. As it will be explained, in our opinion, it is this restorative
intention what marks the essence and uniqueness of restorative justice and what allows for a certain flexibility of the restorative justice model.

Since its re-emergence, the scope of application of restorative justice has rapidly evolved towards including all types of crimes: Initially, restorative justice was thought as a different way of responding to minor common crimes related to the right of property such as burglary. This limited field of application begun to expand towards most serious crimes like rape and murder. Nowadays, there is a growing interest in the role of restorative justice to dealing with the consequences of severe conflicts that have involved mass violence (Parmentier & Weitekamp, 2006; Zehr, 2002). As we can see, restorative justice is a rising social movement that has increasingly captured the attention of intellectuals and practitioners who are investing time at thinking and theorizing a healthier justice system that would better contribute to a peaceful coexistence in social life. However, despite this considerable interest in restorative justice and the support given by some movements like the victims’ rights movement, communitarianism, peacemaking criminology, among others, restorative justice remains a complex area of study that has suffered from a general misunderstanding. It consists of a relatively new paradigm that remains so far unfinished (Walgrave, 2008a) and that will continue to develop with experience (Johnstone & Van Ness, 2007).

Given these difficulties, writing about this approach of justice becomes a challenging task. Therefore, in order to gain some clarity and coherence within the framework of this thesis dissertation, emphasis will be done on the way in which we understand this vision of justice. In first place, restorative justice will be deeply analysed as a vision of justice. In fact, to try to capture what restorative justice consists of, it seems crucially important to mention some of the limitations of the rule of law and the conventional justice system that have inspired advocates to encourage the development of restorative justice. These limitations have been in fact a real incentive for advocates to think in a restorative way of doing justice. We intend therefore to go through a brief historical development of some aspects of the rule of law and the criminal justice system that would allow us to draw a general picture of the evolution of the mentality in the judicial world that leads us today to the restorative mentality. After doing so, restorative justice will be thoroughly examined.
1. The rule of law and the conventional justice system

The rule of law is the general framework in which the conventional justice system operates. The purpose here is to highlight some of the main aspects of the rule of law and the conventional criminal justice system, which have become subject of extensive critique by the restorative justice advocates. We will, however, explain their raison d’être and their strengths, as well as their limitations.

1.1. Incoherencies of the rule of law

Although we do not intend to deeply analyse the complex concept of rule of law, we consider fundamentally important to describe the general framework in which the criminal justice systems of liberal democracies operate. It is in this framework where restorative justice intents to, gradually, find its place. After briefly describing the rule of law concept, emphasis will be made on the relativism of crime established by the principle of legality and a careless character of the law.

1.1.1. The complex framework of the rule of law

Individual freedom had gained considerable importance during the 17th and 18th centuries and was seen as a vital human value; already in 1679, the British writ of habeas corpus was introduced as an important tool for the safeguarding of individual freedom against arbitrary state action. Philosophers such as Thomas Hobbes (1651), John Locke (1689) and Jean-Jacques Rousseau (1762) coined a theory of social contract in which the individuals give up part of their sovereignty to the state or other authority to preserve social order through the rule of law. The law became in fact a necessary guarantee of the individual freedom through the principle of legality, coined by one of the key advocates of classical criminology in the 18th century, Cesare Beccaria. This principle will be further explained.

Despite a general harmonization of the meaning of through international law in contemporary societies, this concept does not have a precise definition and its meaning varies between different legal traditions; rule of law, état de droit or Rechtsstaat, to mention some among many terms, have had different and parallel histories; their definition has oscillated between a formal and a substantive approach. In fact, behind
these approaches there is a philosophical reasoning of the relation state-law; to give an
example, at the beginning of the twentieth century, whereas the theories of the \textit{état de
droit} and \textit{Rechtsstaat} in France and Germany respectively, where conceived as a formal
hierarchy of norms, the British theory of the rule of law was based on a substantive
approach aiming at the protection of human rights (Chevallier, 2003). In Fact, after the
atrocities of world war II, the theories of \textit{état de droit} and \textit{Rechtsstaat} joined the
substantive element of the British theory of the rule of law; the hierarchy of norms will no
longer be an end in itself but a means to achieve a particular goal: the protection of
individual rights and freedoms articulated in national and international instruments. In
fact, history has proven that a legal order without a substantive goal to protect the rights
and freedoms of human beings can contribute to large-scale mass abuses. Along these
lines, while referring to the Holocaust, the Apartheid and the various forms of racism
against the “Native” and the “Aborigines” in liberal democracies like Canada, Australia and
the US, Cunneen notes, “it was the law that was to provide the operational framework for
policies founded in racist hierarchies of human worth” (Cunneen, 2008, p. 357). In other
words, the law, whose main goal is to protect the rights of human beings, may be
paradoxically manipulated to encourage the violation of such human rights. Today,
fortunately, these various forms of racism and human rights violations are censured by
international law.

The concept of rule of law has been harmonized by international law in a way that
includes the substantive goal of protecting human rights. In this sense, according to the
United Nations, “the rule of law refers to a principle of governance in which all persons,
institutions and entities, public and private, including the state itself, are accountable to
laws that are publicly promulgated, equally enforced and independently adjudicated, and
which are consistent with international human rights norms and standards. It requires, as
well, measures to ensure adherence to the principles of supremacy of law, equality before
the law, accountability to the law, fairness in the application of the law, separation of
powers, participation in decision-making, legal certainty, avoidance of arbitrariness and
procedural and legal transparency” (United Nations, 2004, p. 4). The rule of law is
therefore presented as a political and social organization conceived to apply a law that
must adhere to the international human rights principles and standards.
1.1.2. The relativism of the principle of legality

As we have previously seen, in rule of law societies, everyone is accountable to properly promulgated laws, obviously including the actions or omissions that have been considered as crimes by the law. According to the principle of legality, *nullum crimen nulla poena sine lege*, coined by Beccaria, there is no crime, nor punishment imposed without a pre-existing criminal law. Expressed differently, only what has been previously considered as crime by the law will constitute a crime, and therefore, can be prosecuted. Crime is, thus, a socially constructed phenomenon that varies in time and space according to legal traditions. In this legal sense, crime could be defined as “a wrong to society involving the breach of a legal rule which has criminal consequences attached to it (i.e., prosecution by the state in the criminal courts and the possibility of punishment being imposed)” (Williams, 2008, p. 12).

Often based on technical and obscure laws that are not easily applied to various situations, the principle of legality may ignore various acts that cause harm and criminalize others that do not necessarily do so. As Williams rightly notes, “it is essential that one never forgets that no matter how immoral, reprehensible, damaging or dangerous an act is, it is not a crime unless it is made such by the authorities of the state” (Williams, 2008, p. 12). In fact, in the interacting and globalizing world in which we live, crime evolves in an exceptionally rapid way that poses obstacles to its well administration and control; urbanization, demographic growth, globalization and fast moving technology are key aspects, among others, affecting criminality nowadays. Strikingly enough, it is not the act *per se* what constitutes a crime, but the labelling that it has received by a particular society in a particular historical moment. In other words, focus is made on what the law says and not on the harm caused by a particular act.

The legalistic way of looking at criminality leads to a critical relativism of crime that has encouraged various restorative justice advocates to employ different terms to “crime” such as “offense” or “wrongdoing”; these acts cause harm independently of their inclusion or exclusion by the legal texts. In Zehr’s words, from the restorative perspective, “crime is a violation of people and relationships” rather than a violation of legal rules (Zehr, 1990, p. 181). Along the same lines, Walgrave notes, “restorative censuring does not refer to an abstract ethical or legal rule, but to the obligation to respect quality of social life”
(Walgrave, 2008a, p. 664). By making reference to an offense, restorative justice advocates aim to include all offenses that cause harm and to bring to an end the relativism of crime proposed by the principle of legality.

1.1.3. A careless law

Even though there is a general agreement at the international level upon the right for every human being to “an adequate standard of living for himself and his family, including adequate food, clothing and housing” (Art.1 of the International Covenant on Economic, Social and Cultural Rights), reality proves that there is a great number of citizens, particularly in developing countries, who do not enjoy of such standard of living and who find themselves living in misery and starvation.

Although we do not intend here to embrace and analyse the various existing theories of criminology since we are aware that behind criminality there is “a constellation of factors” (Larguier, 2006), some of these theories, such as Sutherland’s (1939) theory of “differential association” and conflict theories, have constantly insisted on precarious conditions of life as an influential factor on criminal behaviour. In fact, behind this positivistic ontology of criminal behaviour, there is the understanding that a criminal act is not only caused by human free will, but is also influenced by factors over which human beings have little control such as psychological, biological and sociological conditions. According to Villa-Vicencio, we might all have a ‘little perpetrator’ within ourselves who might be affected by the circumstances surrounding us (Villa-Vicencio, 2008).

In our opinion, by ignoring the social and economic conditions of marginalized people and neighborhoods, societies create a propitious offending scenario in which, on the one hand, street crime offenders end-up paying the double price of having a life that lacks of dignity and the price of being severely punished by the justice system, and, on the other hand, the society ends-up condemning them harshly, without assuming its responsibility of providing a dignified lifestyle to all citizens. Criminologists and restorative justice advocates, who inherently have a criminological understanding of crime, have condemned this form of unbalanced relation of citizens-state established by law. As Sullivan and Tifft note, “of course, we recognize the need to hold people accountable for their actions, but this means holding accountable as well those who have constructed the
relational contexts within which “troubled individuals” make their choices to harm others” (Sullivan and Tifft, 2008, p. 13). Along this line, Walgrave asks “why, for example, is penal law predominantly geared to public order, individual security, and property, and not, for example, to social peace, solidarity, and social and economic equity?” (Walgrave, 2008a, p. 651). If we continue under this reasoning, we could ask ourselves, why is it that extreme poverty does not constitute in legal terms a crime engaging the responsibility of states and/or those who have the political power?

1.2. The conventional justice system: A progressive, but still limited, system

Crimes in Western democracies are dealt with by a justice system deemed as the conventional justice system. We will examine here two main aspects of this system that have been condemned by restorative justice advocates: the role of stakeholders and the place of retribution in contemporary criminal trials.

1.2.1. The criminal trial: Reducing the victim to a “nonentity” and the offender to a “thing”

One of the main features that characterize rule of law societies is the accessibility to the judicial branch by every individual, meaning that courts should be accessible to everyone and no one may be denied of justice. In addition, every person accused of crime has the right to a fair trial before an independent and competent judge; as the fourteenth Amendment of the American Constitution states, “no person shall be deprived of life, liberty, or property without the due process of law”. A due process model entail some necessary requirements such as the right to avoid self-incrimination, the right to legal representation, the right for every suspect or accused to be presumed innocent until proven guilty (presumption of innocence), protection against being tried for the same crime twice (“double jeopardy”), rules controlling the powers of the police and state’s agents, among others.

These efforts to bring about a fair trial have not always existed in the “Western world”. In the European Middle Ages, for example, it was believed that God would watch over the good and innocent, whereas the bad and guilty would be submitted to evil forces and end-up punished. This medieval mentality was translated into some of the justice practices of the time, like trials by battle and trials by ordeal. Trials by battle, for example, were used
as a dispute settlement mechanism in which both parties fought in a duel and the winner would end up being innocent, and the loser, guilty. Trials by ordeal determined guilt or innocence by subjecting the accused to extremely painful situations. For example, people were tied up and thrown into rivers or ponds and if they were innocent, then God would allow them to float, otherwise they would drown. These excessive practices were used throughout the European Middle Ages and gradually disappeared in the 16th century. However, as we will see later on, parallel to trials by battle and trials by ordeal, there were other conflict resolution techniques, like those of some indigenous communities, which were restorative-oriented.

Compared to the above-mentioned medieval practices, today’s criminal trials have, fortunately, strikingly progressed. However, despite the efforts to establish a fair process, contemporary criminal trials are subject to widespread critics such as being too long, expensive, inhospitable, exclusive, complex and above all, unable to meet the needs of victims, offenders and the communities. This critical view on contemporary trials is also shared by some justice professionals, such as prosecutors, judges, lawyer and others who often express a sense of frustration (Zehr 2002). In fact, as it has been emphasized by various restorative justice advocates, the criminal justice system has taken the conflict away from the people involved in it (Christie, 1977) and has failed to involve and strengthen those who have been most affected by the crime (Sawin and Zehr, 2007). In addition, the participation of stakeholders has essentially served the interests of the system itself and not their own; In Van Ness’ words, “the victim may participate, but as a witness for the prosecution. The offender may participate, but that involvement will be limited by his or her lawyer’s trial strategies”. (Van Ness, 2002, p. 5). Behind this way of proceeding there is the idea that the conventional criminal justice system has been conceived and designed to inflict punishment to the guilty person who has harmed the state. Accordingly, Zehr argues that in the spirit of the conventional criminal justice, a crime is considered to harm principally the state instead of the direct victim, and therefore, the first one assumes the role of the victim (Zehr, 2002). This need for victims to “be recognized” was manifested in a unique, public and vast organization that took place in Paris during the European day for victims; according to Marie-Ange Le Boulaire, victim herself of rape and the person who took the initiative in the organization of this manifestation, victims need to be recognized as such in order to move beyond the status
of victim (Le Figaro, 22 February 2011). In sum, according to Christie, whereas the victim has been reduced to a “nonentity”, the offender has been reduced to a “thing” (Christie, 1977).

Given these circumstances, it is not surprising to find out studies concluding that the criminal justice system has done very little with regards to the relief process of the victim and the reintegration of the offender into civil society (Walgrave, 2002). Besides of being unable to meet the needs of victims and offenders, the conventional process of justice often increases a sense of shame for all parties (Zehr, 2002). Furthermore, labelling theorists of the 1960s advocated that state criminal justice intervention could even intensify criminality; they believed that labelling and treating lawbreakers as criminals had the consequence of causing the behaviour they were meant to prevent (Lilly, Cullen & Ball, 2002). Tannenbaum, for example, considered that a person becomes what they are described as being. He shows this design through the example of the children who break the law; although “all may be equally guilty”, only those who are caught will go through the criminal tagging process and will see themselves as a different human being than they were before their arrest (Tannenbaum, 1938, as cited in Lilly, Cullen & Ball, 2002). Along the same lines, Lemert’s (1951) “societal reaction” approach considers that there is a primary deviance where individuals do not see themselves as deviants. The response from others towards the situation of primary deviance will conduct a secondary deviance where individuals accept their deviant status (Lemert, 1951, as cited in Lilly, Cullen & Ball, 2002).

1.2.2. From private vengeance to public vengeance

Criminal law is characterized by the infliction of sanctions. Today, the power of coercive force, applied when a crime has been committed, belongs to the state. This case scenario has not always existed: In times were the authority of the state was not fully established, or were states didn’t exist, crime was seen as a private matter between the victim, the offender and their respective families and tribes and dealt through a vindictive oriented technique, at least in the Western world; the vendetta – private vengeance – was a primary legal institution that didn't require the state to implement law; "Vendetta occurred when a person from one clan offended a member of another clan, perhaps wounding or killing him. All the members of the offended family would then seek to kill or
wound any member of the offending family” (Kleinhenz, 2004, p. 621). Due to its unlimited execution without any control, vendetta led to the destruction of entire families and tribes.

When the state started to gain authority, efforts to control *vendetta*, like the *lex talionis* (“an eye for an eye and a tooth for a tooth”) and monetary fines, were practiced. With time, the criminal field became a public affair of the state; it was no longer a private matter between individuals but a matter between the state, assuming the place of the victim, and the offender. Nevertheless, despite the state’s intervention, the spirit of vendetta was still present in the sanction and seen through multiple forms of cruel punishment such as corporal punishment including whipping, mutilation and branding. The vengeance passed in fact from being private to public (Picca, 2009).

As we have previously mentioned, it was in the era of Enlightenment that the criminal law system suffered a significant change. The brutality of the system motivated various intellectuals to think of different ways of sanctioning and leave behind the idea of vengeance. According to Beccaria, a punishment is considered unfair if it is not necessary to the protection of public freedom, therefore, all punishments should be framed by law; *nulla poena sine lege* (no penalty without law). In *On Crimes and Punishment*, Beccaria argues that in a just society, punishment should be proportional in severity to the crime, no harsher than necessary to deter a crime. According to Beccaria, proportionality avoids the creation of other crimes because human beings are self-interested, thus, if punishment were proportional to crime, the individual would take into account, before committing the crime, the risks and consequences of committing a particular crime. In other words, if punishment is not proportional to crime, if the same punishment was inflicted to a less-serious crime than to a more-serious crime, since human nature is selfish, the individual would be likely to choose the more-serious one; he or she would obtain more for the same consequences. Beccaria’s publication became the symbol of the penal revolution and is considered today the charter of modern criminal law (Picca, 2009). Today, advocates for retribution still join the principles of criminal law established by Beccaria. As Ashworth notes, “punishment is justified as the morally appropriate response to crime: those who commit offenses deserve punishment, it is claimed, and the amount of punishment should be proportionate to the degree of wrongdoing” (Ashworth, 1997, p. 1096).
Many are those who have been interested in explaining changes in the form of punishment. According to Garland, the thought about punishment is basically based on two different traditions of punishment, the “penological” and the “philosophical” traditions. Whereas the first one views punishment as a crime control technique, and therefore reasons in terms of effectiveness, the latter views punishment as a moral issue and reasons in terms of justice and fairness rather than effectiveness. In other words, while the penological tradition asks “What works?”, the philosophical tradition asks “What is just”? (Garland, 1991). More recently, a third way of thinking about punishment has been developed; unlike the penological or philosophical traditions, this third way, “the sociology of punishment”, views punishment as a social institution that goes beyond the penological focus of crime control. Like many other social areas, “the penal system has an instrumental purpose, but also a cultural style and an historical tradition, that shapes the way in which that objective is pursued” (Garland, 1991, p.120). Accordingly, culture, economics, politics, amongst others, have an influence over the penal systems and the practices employed to reduce crime.

So, there are different traditions of analyzing punishment. For instance, according to Durkheim, the social function of punishment is to give effect to the emotional humiliation and outrage of a society whose norms have been breached by the offender’s actions. In this sense, Durkheim’s vision of punishment joins more the philosophical than the penological tradition. In fact, Durkheim’s vision of punishment says little about the apparatus and instrumentalities of punishment. From a different perspective, «Foucault’s work takes us straight to the internal workings of the penal apparatus, focusing on the specific technologies of penal power and their mode of operation » (Garland on Durkheim’s and Foucault’s work, 1991)

Differently, Elias believes that « civilised sensibilities » of modern societies, meaning some cultural and psychic structures, have great impact on punishment inflictions. In the « Civilizing Process », Elias explains that since people become more and more dependent on one another, their conduct becomes more restrained and disciplined. In fact, interdependence encourages sympathy for others and constructive relationships, which may explain why violent acts are taken away from the public sphere and punishment become less physically punitive.
According to the author, disturbing events, like illness, violence, suffering become private matters, withdrawn from the sight of others. Violence in modern societies doesn’t disappear but is carried out behind closed doors because the general public can no longer tolerate publicly the deliberate infliction of pain. Punishments have gone through the same hiding process. For instance, whereas capital and corporal executions took place publicly, in the 17th and 18th centuries these practices become disturbing to societies and therefore, taken away from the eyes of people. Therefore, barbaric measures such as «hanging in chains, flogging bodies, or exposing offenders to crowd violence on scaffold or pillory» became unacceptable to these sensibilities. (Garland on Elia’s work, 1991, p.142).

Moreover, Walgrave believes the civilization process of punishment should go even further. According to him, until now this process has taken three steps. The first step concentrated violence in the hands of the state and therefore reduced private violence, the second step took away punishment infliction from the sight of society, and the third step diminished the pain and violence of punishments (Walgrave, 2012). Well, according to the author, the civilization process of punishment should go through a fourth step by further reducing coercion and pain infliction in top-down legal orders, and encouraging non-violent and voluntary bottom-up responses. In doing so, both punishment and the criminal justice system become more civilized, and therefore, as it will be further explained, more restorative (Walgrave, 2012).

In fact, despite the progresses achieved since times of vendetta, we can still see a revengeful spirit in contemporary punishment mechanisms, particularly reflected through the degrading and inhuman conditions under which detainees are deprived of their freedom. Although the degrading level varies from one country to the other, even from one prison to the other within the same country, such conditions generally consist of an inhuman physical treatment based on an overcrowding space and a denial of basic needs like access to adequate sanitary facilities, food and health care. Besides the lack of basic needs, prisons are violent places marked by suicide, rape, torture and fight. They constitute extremely powerful ‘trauma factories’ (Zehr, 2002). Even though such conditions are prohibited under international law, reality proves that there are still
retributive or vindictive spirits, based on the conviction that the infliction of pain prevents crime. However, as Villa-Vicencio rightly argues, by focusing on punishment, criminal justice has not been efficient in deterring and rehabilitating offenders (Villa-Vicencio, 2008). Likewise, according to Garland one must accept "(t)he simple fact is that no method of punishment has ever achieved high rates of reform or of crime control – and no method ever will" (Garland, 1991, p.158). Deterrence through punishment has also been strongly reproached by the prison abolitionist movement that argues that punishment is never justified and is even counterproductive because of its inefficacy in controlling recidivism, decreasing crime and promoting reconciliation among victims and perpetrators.

Despite the considerable achievements of the criminal justice system, compared to the practices applied during the Middle Ages for example, critics to this system have pointed out the existing manipulation through law by a powerful elite, and the negative effects upon the economic disadvantaged individuals (Quinney, 1970); the limits of conventional criminal justice system encouraged various authors to formulate critics, as well as new proposals, for doing justice in a more desirable way, in a way that would benefit all members of the social fabric. Restorative justice re-emerged, thus, as a way of doing justice that intends to find solutions to the inconsistencies of the current criminal justice system, impregnated by a vengeful spirit. Restorative justice tries to introduce a real substantive goal to the system: the goal of restoring the harm that has been caused by an offense.

2. Restorative justice: A different vision of justice

Justice is a complex concept that may receive various meanings and understandings according to our values, education, culture, religious or spiritual orientation. In a broader way, justice could be understood as “a balance of benefits and burdens, rights and obligations, equally spread” (Walgrave, 2008b, p.91). Concerning a ‘just society’, it’s about cause and effect, if we decide to take active responsibility aiming at encouraging respect and solidarity to start with, the result will be a more fair situation for all, and therefore recognized as ‘just’ by all. If we do not assume our responsibility in an active
way, in view of respecting others and achieving solidarity, we break the balance of the “just society” and therefore we need to implement formal justice (Walgrave, 2008b).

Nonetheless, we do not live in utopia. The egocentrism typical from modern societies encourages us to satisfy our bottomless desires to the expenses of others, including nature. Our unlimited quest to obtain more, and please our selfish “needs”, strays us from the caring spirit governed by active responsibility, respect and solidarity. Given the lack of such values, societies must implement justice systems to deal with the harms committed. These systems may be more retributive oriented or more restorative oriented. Both approaches of justice have a different vision of what is “just”.

As previously exposed, the conventional criminal justice system reasons in terms of legal rules, judges and retributions. When a crime is committed, meaning a violation of the law, the criminal justice system will respond with a very complex and formal process that aims above all at inflicting intentional punishment to the offender on the basis of proportionality. According to this approach, justice is done through punishment infliction, a proportional punishment to the fault committed; it is ‘just’ to punish offenders because he or she deserves it. Little is done to meet the interests and needs of victims, offenders and communities. This system relies, thus, on passive responsibility.

From a very different perspective, restorative justice aims at restoring the harms committed by an offence. It reasons in terms of harms, flexible and participative processes, and restoration. The restorative goal is based on the fact that because crime hurts, justice should heal (Braithwaite, 2012). So restorative justice is about healing the harm of victims, offenders and communities. Besides from focusing on the interests and needs of the central figure of restorative justice, the victim, this justice systems asks from the offender to actively participate in the restoration of the harm he or she has done. In this sense, restorative justice relies on active responsibility; it transforms the passive and retributive responsibility of the conventional justice system into an active and future oriented one. So both visions have various factors in common: they both denounce the wrongdoing, they both acknowledge the victims is owned something, they both acknowledge the offender owes something and they both reason in terms of balance. But whereas the retributive approach responds by harming offenders equally to
the harm that they caused, the restorative approach asks from the offender to right the balance by repairing the harm inflicted (Zehr, 2012).

Generally, to achieve restoration, restorative justice puts in place a respectful, flexible and participatory process involving those most affected by the offence and a facilitator. Restorative justice encourages victims, offenders, and family and community members to come together and talk about the impact of the crime and find ways of repairing the harm caused. These processes involving an encounter may vary and take the form of a VOM, circles or conferences. While providing the victim with the opportunity to tell his/her story and express his/her needs and interests, the empathic face to face process attempts to make the offender realize the consequences of the harm inflicted and to try to put things right. According to neurosciences, since our brains are designed to connect with other people, the experience of empathy may be an excellent way to reprogram the human brain and encourage the offender to stop offending. In this sense restorative justice is a better deterrent than the threat of punishment, which until now, has proven to fail in deterring crime (Zehr, 2012).

The encounter has taken so much importance in the field of restorative justice, that some advocates have opted to define this vision of justice on the basis of the process, as a way of doing justice in which the victim and the offender decide jointly how to solve the consequences of the offence. Nonetheless, as it will be further explained, these encounters cannot take place in many circumstances and therefore, the restorative goal must be intended through other processes like victim assistance or community service. This is the case scenario of contexts of mass atrocities, for example. Restorative justice advocates, who do not define this vision of justice on the basis of its process, define it on the basis of its outcome, as a way of doing justice that aims at restoring the harm. We actually join this last current.

So, surprisingly, when authors talk about restorative justice they refer to really different things. Before trying to analyze what restorative justice is, it seems coherent to see the way in which restorative justice has re-emerged and evolved, as well as its origins and values. In fact, in our opinion, the origins and evolution of restorative justice play a determinant role in its definition.
2.1. Restorative justice: A concept with a long and complex trajectory

Restorative justice is a complex evolving concept whose origins and evolution process are not easily identifiable. As we will see, in restorative justice, practice has paved the way to theory; as McCold notes, mediation, circles and conferencing were implemented in criminal matters before considering them as restorative justice practices (McCold, 2008). In fact, restorative justice as a field of study re-emerged in the 1970’s but since then, some of its evolving practices have been inspired and based on a variety of conflict resolution practices that have existed for ages in most human societies. Restorative justice, the field of study, has in some way gathered restorative elements and values from practices and ways of thinking that have existed, that exist and that will exist in different corners of the world. First of all, we will study the re-emergence of restorative justice as a field through some of its various practices, and then, we will study the inspirational origins of such practices.

2.1.1. The re-emergence and evolution of restorative justice

The re-emergence of restorative justice is marked by an illustrative case, “the Kitchener experiment” (Peachey, 1989) that took place in the mid 1970’s in the Canadian province of Ontario. In this experiment, two young offenders, exceptionally, met with their victims and made restitution to them. This case marks the emergence of restorative justice as a field (Sawin & Zehr, 2007) and is considered to be the first modern restorative program. These types of experiments with Victim Offender Reconciliation Programs (VORP) brought victims and offenders together with a mediator to decide together on the consequences of the offense. In fact, VORP went through various evolutions and have received today other names such as Victim Offender Mediation (VOM) and Victim Offender Conferencing (VOC) (Umbreit, Coates and Vos, 2008). In restorative justice rhetoric, VOM is perhaps one of the most frequently mentioned practices. It involves an impartial mediator that invites the victim and the offender to participate in either a face-to-face meeting, or in an indirect mediation, to express themselves and to find together a solution to the problems caused by the offense.
Part I: Towards a “restorative transitional justice” system
Chapter 2. Restorative justice: a “necessary” vision of justice

From this point, the encounter or mediation between victim and offender gained great popularity in the field of restorative justice. As McCold notes, “in the beginning, mediation was restorative justice, and restorative justice was mediation” (McCold, 2008, p. 24). Restorative justice re-emerged in the 1970’s as an alternative way of doing justice. In fact, in the 1970’s and 1980’s Alternative Dispute Resolution processes (ADR) like mediation, conciliation, and arbitration were widely developed as an alternative to traditional litigation.

In recent years, besides the already mentioned VOM, a range of these alternative processes has been developed to deal with criminal matters (Lewis and McCrimmon, 2005). Conferencing is one of the best-known restorative-oriented practices in which the circle of participants is widened compared to the one in VOM; in addition to the primary victim and offender, an impartial facilitator invite their friends and families or communities of care, in the process to collectively arrive to an agreement aiming at restoration. Conferencing has gained great popularity in offenses that involve young offenders. In New Zealand, for example, Family Group Conferencing (FGC), which is in fact the original version of conferencing, was introduced in 1989 and constitutes today its main justice system for juvenile crimes, including serious crimes. In fact, the success of FGC in New Zealand has encouraged other “restorative conferences” worldwide, such as “diversionary conferences” and “youth justice conferences”, among others.

The group of participants was then enlarged with Circles, also known as “peacemaking circles” or “peacemaking courts” that drew upon First Nation traditions in Canada. Besides the direct victim, the offender and their communities of care, circles include also interested members of the community who actively participate in the mechanism. In fact, participants arrange themselves in a circle where every one has the opportunity to speak and tell their story. There are, on the one hand, healing circles that aim at restoring peace in the affected community and, on the other hand, sentencing circles that aim at determining sentences in criminal cases with the presence of a judge. Both healing and sentencing circles are characterized for their emphasis on dialogue and community deliberation and are today used in various communities, even in situations that do not necessarily involve a crime.
These practices involving face-to-face meetings have rapidly evolved: they have taken various forms, included different groups of stakeholders and widened their scope of application. Moreover, these approaches may also differ in their goals; they may work as alternatives or diversionary programs of the conventional criminal process, as healing or therapeutic programs or as transitional programs intended to prepare the offender to civil life after leaving prison (Zehr, 2002).

Although the face-to-face meeting has played an important role in restorative justice, in recent years, due to the difficulties of bringing together victims and perpetrators of serious crimes, various authors have proposed indirect mediations (Walgrave, 2007) and even other practices that do not necessarily involve an encounter such as victim assistance, victim impact panels and community service (Zehr, 2002). In fact, although restorative justice continues to be associated with the various programs involving an encounter, we can no longer narrow the scope of application of restorative justice to cases involving mediation, particularly in cases of mass victimization, which have raised great interest in the field of restorative justice. Of extreme importance to our study, this reasoning, which constitutes a pillar of central debate in the definition of restorative justice, will be further explained in detail.

Regarding the evolution of restorative justice, we can conclude for the moment that restorative justice is a unceasingly evolving field in which “we are still on a steep learning curve” (Zehr, 2002, p. 10).

2.1.2. Older roots of restorative justice

Restorative justice advocates refer to the “re-emergence” or “re-discovery” of restorative justice in the 1970’s since the real origins of this vision of justice are rooted in practices and values that have always existed. Some authors consider the bases of restorative justice as old as human history (Zehr, 2002; Weitekamp, 2002). In Braithwaite’s words “restorative justice has been the dominant model of criminal justice throughout most of human history for all the world’s peoples” (Braithwaite, 1999, p.1).

For many, the origins of restorative justice are found in indigenous traditions (Sawin & Zehr, 2007). Whereas some authors consider restorative justice a revival of the informal and community oriented indigenous forms of justice, others consider these ancient ways
of doing justice a source of inspiration of actual restorative justice practices. However, the risk of assimilating indigenous practices to restorative justice should be avoided. As Cunneen rightly argues, there are in fact some practices used by indigenous communities that could be considered as restorative practices, whereas some could not (Cunneen, 1995). Furthermore, Zehr argues, “restorative justice can provide a conceptual framework to affirm and legitimate what was good about those traditions and, in some cases, develop adapted models that can operate within the realities of the modern legal system” (Zehr, 2002, p. 43). We should therefore be aware of the restorative and non-restorative elements of indigenous conflict resolution techniques when being adapted to other realities involving either ordinary crimes or serious violations of human rights. As Johnstone notes, modern societies should not just copy the indigenous practices and apply them into their systems (Johnstone, 2002).

In practice, the indigenous traditions have had great influence in some restorative-oriented programs such as Family group conferencing, and circles; whereas Family group conferencing has been influenced by the Maori and the Aboriginal cultures in New Zealand and Australia respectively, circles have been influenced by indigenous traditions of North America. As we will see further below, indigenous conflict resolution techniques, like the well-known gacaca courts, are increasingly being regarded as possible instruments in dealing with the key issues of transitional justice.

It is interesting to observe that the “re-emergence” of restorative justice has encouraged western societies to study, and even “reactivate”, some practices of the traditional indigenous justice system, such as the Navajo Nation, that had often been ignored and sometimes considered as inappropriate or naïve conflict resolution techniques. Such practices are supported by indigenous values that embody the deep belief of interconnection of everything, which leads us now to study the principles and values of restorative justice.

2.2. A Comprehensive system of beliefs behind restorative justice

Why would we even attempt to try to restore the harm of offenders of serious violations of human rights, whereas our cultural instincts, at least in the Western world, would rather inflict revengeful punishment? Behind restorative justice there is a comprehensive
system of beliefs that encourages a justice system to restore the harm caused by an offence. In our view, these beliefs constitute the moral motivation for restorative justice advocates to support and promote the controversial idea of doing justice in a restorative way. However, independently of the moral values that we may share or not, restorative justice offers a pragmatic way of doing justice.

2.2.1. A philosophy behind restorative justice

In our view, the principles and values of restorative justice have gone through the same process than restorative justice practices in the sense that they have existed before the re-emergence of restorative justice as a field. As Walgrave notes, “restorative ideas have, however, been present over times as normative goods. Texts of all great spiritual traditions – Judaism, Christianism, Islam, Confucianism, Buddhism, Hinduism – promote crucial restorative values such as compensation, apology, and forgiveness” (Walgrave, 2008a, p. 617). The principles and values have been in fact gathered from existing religions, indigenous cultures, philosophies, and theories of criminology such as peacemaking criminology. Restorative justice drew upon and has been influenced by several systems of belief that embody neutral restorative values and interpretations that constitute the philosophical background of restorative justice. This doesn’t mean, however, that all of these ways of thinking are inherently restorative. Let’s try to be more specific with the example of religion given by Hadley when explaining “where [religions] could have served as a means of grace, they have all too frequently sided with the dominant power-political interests of the political state. Where they might have promoted peace with a transformative and healing justice, they have insisted on Law and Order” (Hadley, 2008, p. 175). According to the author, faith tradition is relevant for restorative justice and the healing process if the function of religion evokes disclosures of love and wisdom. The same reasoning can be applied to other systems of belief that have inspired restorative justice. In other terms, restorative justice only takes from other philosophies and religions unifying, and not dividing, values.

Behind restorative justice there is, thus, a larger philosophy that goes beyond a justice system and criminal matters. According to Stovel the model of restorative justice which involves victims, offenders and communities should be distinguished from the restorative philosophy (Stovel, 2003). In fact, restorative justice, the model of justice, involves an
offense, whereas the restorative philosophy can go beyond an offense. A restorative philosophy or approach can be, thus, applied in solving a criminal matter but also a family disagreement or any difficulty (Tutu, 2005). Besides its influence in the criminal field, today the restorative philosophy has penetrated the practices used to resolve conflicts in schools, neighborhoods, and labor, among others.

In our opinion, the restorative philosophy joins the transformative conception of restorative justice as described by Van Ness and Johnstone according to which restorative justice is conceived as a lifestyle we should have (Van Ness and Johnstone, 2007). Having a restorative way of life means incorporating restorative justice values in our everyday lives, in our relationships with our beloved ones and society. To better do so we need to leave behind our individualism and open ourselves to others, particularly those who lack of love, compassion and the financial needs to have a dignified lifestyle. As Boherer notes, “opening ourselves to precariousness might help us to better understand the vulnerabilities other people experience.” (Boherer, 2008, p. 554). It is this moral call of approaching our neighbor what marks our humanity and what allows human beings to construct a better society. In other words, according to the traditional African aphorism of ubuntu, « people are people through other people ».

According to Walgrave’s concept of “common self-interest”, we are all driven by self-interest, it’s human nature, and since it is part of our core as individuals it should be embraced instead of repressed. We all have the will to shape our lives as we wish but there are many parameters out of our control that can stop us from satisfying our desires. There is in particular the “other” and “because we must live together, the options and behavior of others affect our own opportunities. Inversely, my opinions and behavior have an effect on the lives of others” (Walgrave, 2008b, p.79).

Although, there is nothing we can do about sharing the world with others, “we do have a choice about how we live with others” (Walgrave, 2008b, p.80). Since we are all so closely linked together in this complex human web, our actions have an important impact in this age of new technologies and social media. So when I decide to take part in an action that seems positive for me but that could impact negatively others, is the whole web that is weakened and therefore myself, even if at the beginning it didn’t seem
so; “(i)nstead of considering the others as competitors, I can also bundle my self-interest with that of others. The others then become allies in a common project for more autonomy and my self-interest is integrated in what I call a common self-interest” (Walgrave, 2008b, p.80). It remains self-interest in the sense that, the reason why I invest in the community is for my own profit.

However, common self-interest does not come as a natural reflex to us. “It is a social cognitive construction based on the social emotion of sympathy” (Walgrave, p.86). It is an ethical standard that can be taught and shared. If we were to encourage self-interest and therefore common self-interest, we would eventually achieve social utopia, a form of harmony where we all “enjoy an equal margin and we all cooperate in the quest for enlarging it.” (Walgrave, 2008b, p.88). According to Walgrave, there are three pillars that enhance the concept of common self-interest: respect, solidarity and active responsibility. These values allow us growing together without stepping over anyone’s self-interest. If we were all actively responsible for strengthening our common self-interest with solidarity, we would find ourselves directly connected to the origin of this positive wave. However, we do not live in utopia and harms occur. It is in fact “the lack of active responsibility for maintaining respect and solidarity which forces collectivities to fall back on formal justice” (Walgrave, p. 93). As we will see, whereas the conventional justice system relies on passive responsibility, restorative justice relies on active responsibility. According to Walgrave, thus, “(s)ocio-ethical attitudes or virtues, such as respect, solidarity for all and active responsibility, are more clearly inherent to restorative justice than to the punitive apriorism. Hence restorative justice is more likely to contribute constructively to social life and relations” (Walgrave, 2008, p.97).

Behind the restorative philosophy there is hope in human beings and in its capacity of change and develop compassion towards others. Along this line, Walgrave believes most human beings, including offenders, can experience compassion and a sense of empathy towards others (Walgrave, 2008a). Such restorative philosophy is illustrated in the touching and profound words of Tutu when saying “for this universe has been constructed in such a way that unless we live in accordance with its moral laws we will pay the price for it. One such law is that we are bound together in what the Bible calls ‘the bundle of life.’ Our humanity is caught up in that of all others. We are human because we
belong. We are made for community, for togetherness, for family, to exist in a delicate network of interdependence” (Tutu, 1999, p. 196).

Our intention in making reference to the restorative philosophy is to emphasize that restorative justice, the model, belongs to a wider philosophy that is not only limited to the criminal field. They both share, though, the same values, and therefore, when reference is made to the values of restorative justice we mean the same values of the restorative philosophy and vice-versa.

**2.2.2 Principles and values of restorative justice**

Restorative justice is based on a variety of principles, values and/or beliefs that have been articulated by restorative justice advocates in a rich variety of ways; there is the value of respect, humility, love, listening, equality, empathy, among many others. In our opinion, it will not be possible to value and understand restorative justice without sharing and comprehending its philosophy, which contains a profound spiritual dimension. Although we do not aim to be exhaustive, we will try to present the values that we consider essential to restorative justice and that enlighten its spiritual deepness.

**The principle of non-violence**

Restorative justice joins the principle of non-violence in its rejection of violence as a response to wrongdoing and in its fundamental belief that we should treat others, as we would wish to be treated. This principle has a long history and has been widely represented in major religions. Although history confirms the grave manipulation of faith traditions in achieving goals through violence, let’s mention some of the statements that support this principle.

- “You have heard that it was said, “An eye for an eye and a tooth for a tooth”. But I say to you, do not resist an evildoer, if anyone strikes you on the right cheek, turn to him the other also” Christianity; Jesus of Nazareth’s Sermon on the Mount (Matthew 5:38-39)

- “What is hateful to you, do not to your fellow man. That is the entire law, all the rest is commentary” Judaism; (The Talmud, Shabbat 31a)
- “This is the sum of duty; do naught to others which is done to thee would cause thee pain” Hinduism; Mahabharata 5:1517

- “No one of you is a believer until he desires for his brother that which he desires for himself” Muslim faith; Hadith of an-Nawawi 13

- “Hurt not others with that which pains yourself” Buddhism; Udana-Varga 5:18

These are just some texts of great spiritual traditions deeply encourage the principle of non-violence.

In practice, Mahatma Gandhi provides an extraordinary example of the application of the principle of non-violence in a high-scale political field, through the institution of his non-violent civil disobedience movement in India, intended to gain independence from imperial British rule. In Ghandi’s autobiography, “The Story of My Experiments with Truth”, allusion to the principle of non-violence is made through his famous words “an eye for an eye makes the whole world blind” and “there are many causes that I am prepared to die for but no causes that I am prepared to kill for”. More recently, in 1995 the South African Truth and Reconciliation Commission, with Tutu as chairperson, introduced a moral form of accountability for those who had committed serious violations of human rights under the era of apartheid. This form of accountability, which will be further analyzed, consisted of an amnesty in exchange for public disclosure of truth.

In the field of criminology, peacemaking criminology has also promoted peaceful ways of conflict resolution techniques, which are based on the assumption that behind wrongdoing there is suffering. As Quinney argues, crime is due to suffering, and therefore, it can only be defeated by fighting suffering through our peaceful spirits. (Quinney, 1991). In this sense, peacekeeping criminology calls for an expression of empathy to the painful situation of offenders due to poverty, alienation, racism, harassment and all other causes of suffering. Likewise, Zehr argues that although victimization should not be considered as an excuse to victimize others, neither it should be ignored (Zehr, 2002). Therefore, we should not respond to the offender’s wrongdoing in the same violent way offenders acted.
The principle of interconnectedness

According to Johnstone and Van Ness “to live a lifestyle of restorative justice, we must abolish the self (as it is conventionally understood in contemporary society) and instead understand ourselves as inextricably connected to and identifiable with other beings and the “external world” (Van Ness & Johnstone, 2007, p. 15). In the restorative justice discourse, human beings are in essence relational beings, and therefore, the social and interpersonal relations affected by an offense are particularly taken into account. Accordingly, “Modern physics and biology assert that the universe is an interconnected web and that nothing exists except in relation to something else” (Pranis, 2007, p. 65). As it has been thought by many indigenous cultures, everything, meaning human beings, animals, plants and objects, is interconnected to everything; what we do, or what we do not do, will necessarily affect the harmony that exists between relationships. An offense, will not only affect the people directly touched by the offense, but the whole network of relationships. Native American and First Nation teachers provide an example of this interconnection; they “emphasize the interconnectedness of all things and the importance of balance in the mental, physical, emotional and spiritual aspects of human experience” (Pranis, 2007, p. 60).

Underlying values: Respect, humility, solidarity and love

Not only restorative justice rejects any form of violence but also considers that stakeholders should be treated with respect. Besides from treating people with dignity and worth, respect means treating others with wisdom and appreciation (Johnstone & Van Ness, 2007). When we talk about respect, we refer to the way in which we would like to be treated; a respectful person sees every human being with dignity and value, is open to dialogue and takes into account the individual needs without an a priori.

The value of respect goes together with the value of humility, which is partly based on the assumption that we do not detain the only truth. According to Johnstone and Van Ness “humility includes, but is more than, the idea of not taking more credit that one should. It also means have such a profound awareness of the limitation’s of one’s knowledge and understanding that it is possible to remain open to the truth that others’ life realities are not the same as one’s own, and that therefore they may have insights one does not yet possess” (Johnstone & Van Ness, 2007, p. 19). Along the same lines, Quinney insists in the
illusive and relative aspect of truth and reality and the inability for human beings to comprehend reality (Quinney, 1991). Since we do not detain the truth, we should therefore be humble. Furthermore, restorative justice is based on a conviction that human beings have the potential to feel empathy for others and it is precisely this empathic emotion what encourages us to care and support others, particularly those who suffer.

Behind all these values there is, though, a particular value: the value of love. Although the word love may receive various connotations and definitions, we refer to a love that “not only allows us to identify ourselves with others, but allows us to know that we are one with another, that we are one with each other. Such love makes a different world, a world without crime” (Quinney, 2000, p. 25). The value of love has been fundamental in faith traditions; not only they ask us to love God and our neighbors, but, as the gospel of Matthew states, we should love our enemies and pray for those who persecute us (Matthew 5:43-48). It is love what makes us treat others with respect and intend to repair the harm that has been caused by an offense. In other words, if we don’t love, if on the contrary, we are full of hatred feelings, we will not intent to repair someone’s harm and we will on the contrary, inflict more pain.

After having gone through the re-emergence, evolution, roots and values of restorative justice, we will now study the complex definition of this vision of justice.

2.3. Trying to define restorative justice

There is actually no commonly accepted definition of restorative justice, and therefore, this vision of justice means “all things to all people” (Roche, 2001). The existing gap among different definitions may lead to a theoretical, empirical and policy confusion (Daly, 2008) which makes of restorative justice a very tricky field of study.

Initially, restorative justice was defined *a contrario*, on the basis of what it is not; it was defined as an alternative option to rehabilitative justice, centrally focused on the offender and his or her rehabilitative treatment, and foremost, it was defined as an alternative to retributive justice, centrally focused on the offence and the proportional punishment of the offender. If we follow this reasoning we would assume that restorative justice is
neither rehabilitative nor retributive. In fact, the restorative/retributive justice dichotomy has particularly generated extensive critics in recent years (Daly, 2001; Roche, 2007). We argue, thus, that the dichotomy restorative/retributive should be avoided because it leads to the wrong idea that the retributive justice system, meaning the conventional justice system, only embodies retributive elements, whereas in our opinion, it may also embody restorative ones. We should only understand the conventional justice system as retributive when referring to its form of accountability. In other words, in our view, the form of accountability offered by the conventional justice system is retributive because it inflicts an intentional proportional punishment to the offender who has committed a crime. Nevertheless, it is worth clarifying that the word retribution may mean different things. For instance, whereas we use the term retribution to describe the act of punishing or taking vengeance for wrongdoing, Walgrave, for instance, uses this term to describe the act of giving back (Walgrave, 2008b). If we understood retribution as a process of giving back, then we could say that restorative justice also relies on retribution, but on an active form of retribution instead of passive (Walgrave, 2008b).

Therefore, a clear-cut division between different approaches is no longer a convenient way of defining restorative justice; other approaches may have restorative elements as well. In our view, a real restorative justice model should include the restorative elements and exclude the non-restorative elements of the retributive or the rehabilitative approach, and add new ones. We will further explain in which way this reconciliation among the different approaches can be, and should be, possible.

The definition of restorative justice has also gone through a central debate oscillating between a process-oriented definition and an outcome-oriented definition of restorative justice. On the one hand, the process-oriented definition has been designed and known under the label of “purist” approach of restorative justice; according to this approach, restorative justice is limited to deliberative voluntary practices, excluding any form of coercive measures (McCold, 2000). On the other hand, the outcome-oriented definition has been promoted under the label of “maximalist” approach of restorative justice and is primary focused on the restorative goal of the justice system (Bazemore and Walgrave, 1999).
Since the meaning of restorative justice may vary significantly from one definition to the other, it appears thus crucially important to analyze both definitions and decide on the approach of restorative justice that will be used in this study, and to explain the reasons underneath this choice. As it will be explained further below, there are multiple reasons that have encouraged us to opt for an outcome-oriented definition.

2.3.1. The “encounter-conception”: A definition based on voluntary cooperation

Although the encounter conception, also known as the process-oriented definition, occupies an important place in restorative justice, in our opinion it lacks of a real goal and may considerably restrain the field of application of restorative justice.

According to Marshall’s process-oriented definition, restorative justice is “a process whereby parties with a stake in a specific offence resolve collectively how to deal with the aftermath of the offence and its implications for the future” (Marshall, 1996, p. 37). As we have previously seen, the process involving the interested parties has always played a major role in restorative rhetoric, however, in our opinion, reducing this whole vision of justice to a process-oriented definition, without taking into account the goal of restorative justice, will definitely take away its real essence, its raison d’être. Restorative justice proposes in fact a different way of thinking and responding to crime (Van Ness & Strong, 2002). In our opinion, thus, restorative justice goes beyond an encounter process.

The UN Basic Principles on the Use of Restorative Justice Programs in Criminal Matters includes both process and outcome in one definition. According to this definition, a restorative justice program could be a program that uses restorative processes or that aims at achieving restorative outcomes. Here as well, reference is made to a process “in which the victim, the offender and/or any other individuals or community members affected by a crime actively participate together in the resolution of matters arising from the crime”. Even though this definition tries to conciliate both pillars of the debate, the confusion remains; Accordingly, a program of restorative justice is either a program using this kind of process or a program aiming at achieving restorative outcomes. A relevant question rises though; what happens if a program using this type of process is not restorative? Could we still call the program a “restorative justice program”? A process where the interested parties come together to decide on the consequences of an offense
could definitely be a great tool in attaining restoration, but this process does not necessarily guarantee a restorative outcome. If for example this particular process is not restorative oriented, and therefore, involves stigmatizing and/or victimizing measures, would it be coherent to call this process restorative justice? And, on the contrary, if other practices not involving an encounter, such as victim support, contribute in achieving restoration, should we not consider them as restorative justice practices?

There is obviously a purpose in choosing a particular process instead of another one. The ultimate goal is not only the process *per se*, but the result of the process. On the other hand, it would make sense to think of a definition of restorative justice based on a process or a model of justice, not necessarily based on voluntary agreement between the victim and the offender, but having a restorative goal. Along this line, Zehr offers a definition of restorative justice based on a process-oriented definition but having an outcome; according to the author, “restorative justice is a process to involve, to the extent possible, those who have a stake in a specific offense and to collectively identify and address harms, needs, and obligations, in order to heal and put things as right as possible” (Zehr, 2002, p. 37).

Furthermore, voluntary cooperation by stakeholders could be undesirable, and sometimes even impossible (Zehr, 2002), especially in cases of common serious crimes, and even more, in cases of serious violations of human rights. In difficult contexts where mass atrocity has occurred and/or is still going on, countless victims will never meet their perpetrators and vice-versa. The encounter could be either unwanted by the interested parties or simply not feasible; exceptional circumstances of confidentiality, identity issues or death would hamper any kind of encounter.

In our opinion, it is not desirable to restrain the field of application of restorative justice to limited situations where the interested parties get together to resolve how to deal with the aftermath of an offense. As Walgrave argues, whereas restoration should constitute the goal of restorative justice, voluntary processes should be considered as important means to achieve this goal (Walgrave 2008a). Additional and/or different ingredients that will contribute in the restoration of the harm should be taken into account in the paradigm of restorative justice, and hence, in its definition. For the above-mentioned
reasons we will avoid considering the encounter process either as synonymous of restorative justice.

2.3.2. The “outcome conception”: A definition based on a restorative goal

In our view, the outcome-oriented definition establishes a clear goal of restorative justice that gives space for multiple restorative initiatives without restraining the field of application of restorative justice.

Restorative justice constitutes a whole vision of justice with a very clear goal plunged in its own terminology: to restore the harm that has been caused by an offense. The definition of restorative justice should be coherent, thus, with the philosophy behind it, and for that reason, it should be based on its goal. Some authors have promoted a definition based on the goal of restorative justice. According to Bazemore and Walgrave’s outcome-oriented definition restorative justice is “every action that is primarily oriented towards doing justice repairing the harm that has been caused by a crime” (Bazemore and Walgrave, 1999, p.48). Later on, Walgrave modified this definition and proposed a new one according to which restorative justice “is an option in doing justice after the occurrence of an offense that is primarily oriented towards repairing the individual, relational, and social harm that is caused by that offense” (Walgrave, 2008a, p. 621). In this sense, restorative justice is understood as a process of justice – an option in doing justice – whose main goal is the restoration of the harm.

Such definition widens the field of application of the restorative paradigm. If we understand restorative justice as a way of doing justice that intents to restore the harm caused by an offense, or to put things as right as possible, then restorative justice can take place even if both parties are not present in the process. Although we do not intend to stick to a particular definition of restorative justice, we definitely adhere to the outcome-oriented approach because it allows for an unlimited field of application of restorative justice. In this sense, if after the occurrence of an offense the goal or the intention of the justice system is to restore the harm that has been caused by an offense, then restorative justice takes place in a minimally, partially or fully way. This logic leads us to the concrete and tangible elements of a restorative justice program.
2.4. The necessary elements of restorative justice

The lack of agreement over a unique definition of restorative justice has lead some advocates to reason in terms of degrees; restorative justice models should be viewed along a continuum, from fully to non restorative (Zehr, 2002). Therefore, the degree of restorativeness of the judicial process would depend on the values and number of core elements of the restorative justice paradigm it integrates. Different put, an ideal fully restorative justice program will be the one that fully integrates the elements that we consider essential to restorative justice and that we will now develop: the intention to respectfully restore the harm of victims and offenders as well as the social harm, the intention of establishing a respectful, participatory and flexible process of justice, and finally, the intention of imposing to the offender an active non-vengeful form of accountability leading to his or her eventual reintegration. Restorative justice can therefore take place in a rich variety of ways (eg. Face-to-face meetings, indirect mediations or judicial courts) in which its different elements flow through the various restorative practices in a more or less intensive way.

2.4.1. The intention to restore the harm: The essence of restorative justice

In our view, it is the intention to restore the harm what marks the essence of restorative justice; if a justice system intents to restore the harm, then restorative justice takes place, in a minimally, partly or fully way. The other necessary elements of restorative justice, that we will further develop, consisting of a participatory flexible process and an active accountability without any presence of vengeful attitude, could be considered as means to better achieve restoration.

Differentiating the restoration of the harm from other goals

Despite the lack of common consensus upon the definition of restorative justice, there is a general agreement among the advocates that restorative justice is about healing or restoring the harm of those who have been touched by the offense: victims, offenders and communities (Zehr, 2002). Along the same lines, Braithwaite notes, “for informal justice to be restorative justice, it has to be about restoring victims, restoring offenders, and restoring communities” (Braithwaite, 2002, preface).
Therefore, restorative justice looks first and foremost at restoring the harm and not, as many believe, achieving forgiveness, trust and reconciliation among victims and offenders. The goals of forgiveness and reconciliation are obviously strongly encouraged and constitute somehow “hidden” or secondary goals of restorative justice, but, as Zehr explains, they should not constitute the primary aim of restorative justice to avoid situations in which victims would be reluctant to see themselves encouraged or forced to forgive and reconcile with offenders (Zehr, 2002). However, a sincere apology that comes from an empathic understanding of the suffering situation of the victim, may be essential to the contribution of the reparation of the harm of both the victim and the offender. Along this line, Walgrave perfectly explains the importance of an apology in the restorative process, and therefore, we would like to largely quote his words: “While recognizing guilt, the apologizing offender asks the victim and to “excuse,” literally to “de-accuse,” to undo him or her from guilt. The offender takes the vulnerable position by placing his or her fate in the hands of the victim. The victim may refuse or accept the apology, possibly under certain conditions. The roles are reversed now. Whereas the offender exercised power over the victim in the offense, it is now the victim who has the more decisive power… in a successful sequence, most victims feel restored in dignity and in citizenship. Emotions of revenge in the victim fade. Whereas revenge emotions are drive to respond to humiliation by a counter-humiliation, there is no object for this any more: The offender has, in fact, removed the humiliation through his or her apology… The basic empathy between all humans is activated also in the other sense so that the victim can feel some sympathy, which opens the way to forgiveness and the dialogue towards a constructive solution” (Walgrave 2008a, p. 640). In fact, as Braithwaite rightly notes, forgiveness and apologies are “gifts”, which cannot be demanded, but if spaces for forgiveness are created and forgiveness actually takes place, the benefits seem to be huge (Braithwaite, 2012).

In the same order of ideas, restorative justice may contribute to the transformation of stakeholders. While referring to some authors who have written about the transformative dimension of restorative justice, McCold and Wachtel note “defining restorative justice as a process to address and repair the injuries caused by a given crime includes the supposition that restorative outcomes have a transformative dimension: transforming victims into survivors, conflict into cooperation, shame into pride, and individuals into
community” (McCold & Wachtel, 2002, p. 117). Although restorative justice may bring about a transformation of stakeholders, this is not its primary goal. The primary goal remains the restoration of the harm.

Restoring the harm of the victim

First and foremost, restorative justice intents to restore the harm of victims. The victim is a fundamental figure of restorative justice and therefore, efforts should be taken to restore as much as possible the suffering of victims so that they could leave behind their feelings of self-blaming and self-diminishing and build-up new connections with others. (Sullivan and Tifft, 2008). In order to achieve this goal, restorative justice must address the victims needs through acknowledgement of their harm, good information of what exactly happened and the reasons behind this event, offering a space to express themselves and tell their stories, repairing the internal and material reparation, among others.

Reparation could take place through deliberative agreements or through judicial imposed decisions. Deliberative restoration may end up on agreements based on various direct or indirect actions such as forgiveness, compensation, and reconciliation, among others. (Walgrave, 2008a). Judicial imposed decisions may also include, in our opinion, these kind of restorative actions. As we will see further below, the offender should contribute, directly or in a symbolic way, to the reparation of the victim’s harm.

Restoring the harm of the offender

Restorative justice holds offenders accountable for their acts and intents to restore their harm. Before explaining the way in which offenders should be held accountable for their acts, we will explain the way in which their harm should be restored. In our opinion, a restorative justice model should provide the means to restore the underlying causes of offending (social resentment, addictions, negative feelings) that pushed the offender to victimize. This vision is not shared by some authors who argue that addressing the underlying causes might focus too much on offenders to the expenses of victims (Walgrave, 2008a). Walgrave considers, though, that the restorative justice process offers an opportunity to address such causes, but “they are beneficiary effects, not primary aims” (Walgrave, 2008a p. 624).
Nevertheless we argue that addressing the internal causes that pushed the offender to commit the offense is a primary aim of restorative justice. As Zehr notes, "if we are to expect them to assume their responsibilities, to change their behavior, to become contributing members of our communities, their needs, says restorative justice, must be addressed as well" (Zehr, 2002, p. 16-17). While making reference to Gilligan's quote "all violence is an effort to do justice or undo injustice", Zehr explains that if this claim happens to be true, if it is true that offenders have been victims or consider themselves as victims, then one must work on this form of victimization or trauma to begin to think about the harm they have done to others (Zehr, 2012). The offender might or not achieve a real understanding of the underlying causes of his/her offending, but the means to understand them, and eventually, change internally, should be offered to the offender by the restorative model.

In our view, a moral education based on the principles and values of restorative justice, constitute a fundamental process through which offenders should go in order to achieve a real understanding of their own behavior. By offering the opportunity to restore the offenders’ underlying causes of offending, restorative justice may diminish the risk of re-offending and of transmitting the suffering or trauma to future generations, and may encourage offenders to better take responsibility for their acts. It’s a win-win situation in all senses.

**The role and harm of the community**

The community plays a central role in the process of restorative justice as one of the affected parties by crime. Before developing this idea it is however crucial to explain the meaning of community which becomes very difficult to define in a globalizing world with an every day rising interaction of cultures, religions, languages and ethnicities. Although there are many definitions of community, the term is generally used in restorative justice literature to define a particular environment different from the state. In fact, various authors have advocated for a decentralized form of restorative justice in which this type of community, meaning the community that is directly affected by the harm, would play the main role in the restorative justice system to the expenses of the state. In our opinion, though, the state should play the role of assuring the good and safe execution of the restorative process; the presence of the state should not exclude the presence of the
closer community, and the presence of the community should not exclude the presence of the state. Since a crime, which is a violation of people and relationships (Zehr, 2002), affects the victim, the offender and their communities of care, the closer community, the state, and in a general way, all human relationships, consequently, the state and the directly affected community should both play a central role in the process. In fact, a crime affects “dominion”, meaning the set of individual rights and freedoms (Walgrave, 2008a). When dominion is infringed, participatory restorative processes or judicial interventions take place. The state should back-up these processes to avoid any abuse of power and assure dominion through the protection of rights and freedoms of stakeholders (Walgrave, 2008a).

So, restorative justice assigns to the state/community the responsibility of creating a space in which support is given, on the one hand, to the victims in obtaining restoration and regaining a sense of belonging, and on the other hand, to the offenders in obtaining restoration, in their efforts in repairing the harm caused to the victim and to the community, and in their reintegration process to society. Further, besides from offering a propitious space for restoration to take place, the state/community should work on the underlying causes that are encouraging offenders to victimize. By identifying and addressing such causes the state/community can prevent further victimization.

2.4.2. A non-vengeful active accountability aiming at restoration and eventual reintegration

From a restorative justice perspective, harm creates obligations; therefore, the person who caused it must be held accountable for his or her actions. However, restorative accountability differs drastically from the one proposed by the conventional justice system; first of all, restorative justice draws a fundamental connection between accountability and restoration, secondly, it supports coercive measures but without the intention to inflict punishment, and finally, it establishes a direct relation between accountability and reintegration.

Connecting accountability to restoration

Accountability is a complex concept, and without doubt, one on the most discussed and controversial aspects of the restorative justice paradigm. Many, generally those who are
reticent to the idea of restorative justice, argue that restorative justice practices are somehow measures of impunity because they are not principally focused on the imposition of punishment. Behind this reasoning there is the idea that punishment is necessary to attain social order because it deters offenders from committing new crimes. However, as Aukerman notes “while the logic of deterrence is intuitively appealing, the available empirical evidence regarding the effectiveness of deterrence in domestic criminal justice is inconclusive... it is difficult to prove that threats for legal sanctions, rather than other motivations, have prevented people from offending” (Aukerman, 2002, p. 64). Interestingly, according to some research projects, punishment deters rational people who think about consequences, but not those who do not think about consequences (Zehr, 2012).

Advocates of restorative justice argue that focusing on punishment may decrease public safety while increasing financial costs and imprisonment. In addition, an aimless a priori punishment would discourage constructive actions indented to restore the harm; its negative contribution would only consist of a pointless action that would just add more suffering to the offender's life.

So what does accountability mean from a restorative justice perspective? According to Zehr, "real accountability involves facing up to what one has done: it means encouraging the offenders to understand the impact of their behavior – the harms they have done – and to take steps to put things right as much as possible" (Zehr, 2002, p.16). Restorative justice aims thus at encouraging offenders to comprehend from the heart that what they have done was not correct and to put things right to the maximum possible extent; it searches therefore real remorse or regret from offenders. In fact, as Strong and Van Ness argue, private remorse may have a great influence in stopping re-offending (Strong and Van Ness, 2002).

Restorative justice draws here a strict connection between the way in which the offender should be held accountable and restoration. In this sense, assuming ones responsibility means searching for constructive actions intended to repair the harm caused. Expressed differently, from a restorative perspective, accountability measures can only make sense if they lead to the reparation of the harm caused to the victim, to the community, and also, the harm the offender caused to him or herself. Even in cases where the harm cannot be
restored, acknowledgment of responsibility and symbolic measures of reparation could contribute to the restoration of the victim’s harm (Zehr, 2002).

Since mere punishment does not constructively contribute to restoration, it is therefore not seen as an accountability measure in restorative justice. Many would argue that punishment may bring a sense of justice and vindication to the victim and the community, but in our opinion, only if both, the victim and the community associate justice with punishment, which, regrettably, is the case of many people. Differently put, punishment may bring a sense of vindication to the victim and the community only if they are looking for some kind of revenge, but this is precisely one of the main purposes of restorative justice which aims at encouraging people to change the “lenses” through which they see justice, and try to convince them, rightly, that punishment does not contribute “in putting things right”; on the contrary, punishment widens the existing gap between the victim and the offender, it discourages the offender to constructively repair the damage he/her has caused to the community, to the victim and to him or herself and their communities of care, it discourages any form of reintegration, and last but not least, it may deter offenders from acknowledging their responsibility.

Although the concept of accountability and responsibility are often confused and used as synonyms, Braithwaite distinguishes them. The author argues that, from a restorative justice perspective, whereas responsibility is conceived as “an obligation to do some right thing”, accountability is conceived as “being answerable to give a public account of something” (Braithwaite, ND). So, responsibility in restorative justice is active. As Braithwaite’s notes, “(a)ctive responsibility means taking responsibility for putting something right into the future” (Braithwaite, ND). In contrast, in the conventional justice system, passive responsibility is acquitted by inflicting to the offender a proportional punishment to the fault committed; this system does not ask from the offender a constructive action to put things right, but simply focuses on the past do add more wrong to the wrong than has been already done. In this sense, whereas responsibility in restorative justice includes the obligation of the offender to contribute actively to the reparation of the harm, responsibility in the conventional criminal process means forcing the offender into the criminal procedure and accepting its negative consequences (Walgrave, 2008).
Coercive measures without intentional pain infliction

Restorative justice supports, though, the use of coercive obligations, such as community service, compensation, fines, and symbolic reparation, among others. Restorative justice also encourages deprivation of freedom under some circumstances. Although this idea is not shared by some authors who consider the use of coercive measures as contradictory to restorative justice (McCold, 2000), in our opinion, coercive measures are sometimes necessary, an therefore, restorative. As Zehr argues, restorative justice could work together with prison sentences (Zehr, 2002). In his experience with offenders, Zehr explains that even offenders have expressed their willingness to spend time in prison to think and reflect. But prisons should be used as a scarce resource, imprisonment time should be limited and conditions should be as restorative as possible (Zehr, 2012).

Such incapacitation should not be seen as a punishment *per se*, it’s not a punishment for the sake of punishment; according to restorative justice, offenders should not be incapacitated because they deserve to, but because they have a harm that has not yet been restored and that might cause further victimization. How could a deprivation of liberty not constitute a punishment? Let’s try to give an answer to this question through Walgrave’s position that we fully join. According to the author, for a punishment to exist there must be “hard treatment, the intention of inflicting it, and the link with the wrong committed before. If one of these elements is lacking, there is no punishment. Painful obligations that are not imposed with the intention to cause suffering are not punishments.” (Walgrave, 2008a, p. 645). There is, thus, a crucial difference between imposing an obligation with the intention to inflict pain, and without the intention of inflicting pain; whereas the first one constitutes a punishment, the latter does not. Accordingly, the incarceration inflicted without the intention to inflict pain, without a revengeful attitude, and as noted above, aiming at restoring the harm, constitutes a restorative necessity. The offender might find the incapacitation painful or not, and consider it a form of punishment, but as long as it is not inflicted with the intention to cause pain, the incapacitation remains restorative.

Although the intentional element might be too subtle and subjective to differentiate the coercive measure imposed by the restorative approach from the one imposed by the conventional approach, there is a huge difference behind the intention that will be seen
through the coercive measure *perse* and through the way in which the offender will be treated. In other words, a humane coercive measure in which the offender will be treated with respect will be more likely to constitute a measure without intentional pain infliction and, thus, be restorative, than an inhumane measure in which the offender is treated without respect. There are various useful ways in censuring wrongdoing that do not necessarily involve suffering infliction. As Walgrave rightly notes, “although censure is needed, hard treatment is not the only way to express it. In daily life, in families and in schools, disapproval is routinely expressed without punishment. Morally authoritative persons without any power to punish are more effective in influencing moral thinking and behavior than punishment” (Walgrave, 2008a, p. 647).

**Connecting accountability to reintegration**

Besides the established relation between accountability and restoration, restorative justice draws a connection between accountability and reintegration. Although some offenders may need temporary restraint, the offender, after acknowledging his wrong and taking positive steps to put right the wrongs, should be offered the opportunity to reintegrate into civil society.

Braithwaite’s influential theory of reintegrative shaming explains how shame may play a key role in the regulation of social behavior by preventing or increasing reoffending. In Braithwaite’s words, shame is understood as “all social processes of expressing disapproval which have the intention or effect of invoking remorse in the person being shamed and/or condemnation of others who become aware of the shaming” (Braithwaite, 1989, p. 48). According to this theory, the offender’s shame feeling caused by the offence that he/she has committed, plays a vital role in his/her reintegration process. There are in fact two forms of shaming: stigmatic shaming and reintegrative shaming. Whereas the first one, which is commonly known in the conventional justice system, may ruin the tie between the offender and society, and therefore, encourage re-offending, the latter, focuses on the offender’s behavior rather than on the offender and intents to bring him/her back into society as a law-abiding citizen (Braithwaite, 1989). So reintegrative shaming’s theory proposes that shaming is necessary to maintain healthy social relations. Shame in this sense is not understood as attack or aggression, or as public scorn, but
instead as the shame in admitting guilt in the face of family members, friends, and significant relations for which the person feels respect and admiration.

In fact, social disapproval by persons whose acceptance we value, may encourage a shift in consciousness susceptible of making the offender feel remorse and realize the consequences of his/her acts. Reintegrative shaming relies on the understanding that people offend because of a trouble in their conscience, and that public disapproval may deter them from offending.

This suggests that people are further deterred by the threat of public disgrace than by the threat of official punishment. The loss of status, respect, and affection, can only be made by those who have a significant personal relationship with the offender rather than by public officials who are completely disconnected from the offender's life. This theory of restorative justice condemns the offense rather than the offender; there is in fact a difference between condemning what someone did, and condemning the person. In fact, behind the ontology of restorative justice, there is the belief that those who commit bad actions are not bad people in themselves (Stovel, 2003). Restorative justice, therefore, judges the act and not the offender. Such a respectful way of censuring the wrong instead of the offender aims at reintegrating the offender without stigmatization.

Others believe empathy, and not shaming, may trigger remorse and therefore consider restorative justice should further implement processes which focus on repairing the harm and on the consequences of offending for others, families, communities and victims, instead of implementing shaming (disapproval) processes (Maxwell and Morris, 2002).

Finally, as we have seen, responsibility in restorative justice is as important as responsibility in the conventional justice system but their nature differ drastically; whereas the first one is active, constructive, future oriented and aims at restoring the harm caused by the offense, the latter is passive, retributive-oriented, retrospective and does not aim at restoring the harm.
2.4.3. The intention to establish a respectful, participatory and flexible process of justice

A truly restorative justice model should be based on respect and consider all parties valuable and dignified as human beings. In Zehr’s words, “if we pursue justice as respect, we will do justice restoratively” (Zehr, 2002, p. 36). Respect is therefore a necessary condition of restorative justice, in other words, without respect there is no restorative justice. Respect should therefore be present all along the restorative process.

A variety of programs embody different degrees of restorativeness, they may therefore contribute to the restoration of the harms in part or, ideally, in full (Zehr, 2002). The process of restoring harm is personal and obviously may vary from one person to another; two victims of the same offense or two offenders having inflicted the same crime, may need different methods to heal their suffering; restorative justice programs should be, thus, flexible enough to meet the participants’ needs. In the words of Zehr, “restorative justice is not a particular map or a blueprint” (Zehr, 2002, p. 10). Differently put, a fixed and perfect model that could meet the needs to restore or heal the harm of all participants might not easily exist.

However, according to Sullivan and Tifft, there are some crucial precepts behind restorative justice. Accordingly, the restorative program should address the needs of the primary ‘victims’, and involve the family members of victims and offenders as well as the community who have also been traumatized. The process should therefore deeply take into account participants to bring about actions such as restoration, understanding, reconciliation and deterrence (Sullivan & Tifft, 2008). Along the same lines, according to Van Ness, the justice process should provide all participants with the opportunity to significantly participate in it (Van Ness, 2002). This participative opportunity is what Van Ness (2002) calls “inclusion”. Therefore, compared to the conventional penal process, the restorative justice process expands the circle of stakeholders, places the conflict in the hands of those most directly affected by the harm, listens to their stories and is conducted in a respectful and secure way that aims at restoring the harm that has been caused by stakeholders.
As we have previously seen, the engagement of parties may involve a face to face meeting, which should be based on the voluntary agreement and the acknowledgement of the offender of his/her responsibility. The engagement of the parties in a collaborative process gives the opportunity to those affected by the harm to listen and tell their stories. The victims on the one hand, may describe their needs, their suffering, the way in which they were affected by the harm and receive reparation accordingly, and the offender, on the other hand, may, through dialogue and understanding, generate a self awareness that behind a crime there is a suffering victim and acknowledge their actions and consequences in order to take responsibility for their behavior and to try to put things right. Moreover, an offender who promises a suffering victim to do something to try to heal his or her harm has more chances to truly do it than in cases in which he is imposed by a court to carry out a reparative measure; somehow the emotional dynamic of a face to face encounter, which is marked by the virtue of authenticity, builds up commitment (Braithwaite, ND). Further, as previously mentioned, restorative justice invites others than victims and offenders to participate in the process of righting the wrongs. For example, by inviting the offender's loved ones, restorative justice encourages his or her active responsibility because, as previously mentioned, the presence and eventual disapproval of people we value may trigger the offender's shift of consciousness towards the right path. In fact, for restorative justice “it is morally important to give an opportunity for all those who see themselves as key stakeholders in an alleged injustice to participate in the deliberation about what to do” (Braithwaite, ND). So, informal voluntary settlements, if carried out in a correct way, remain vital in achieving a restorative outcome, and hence, are very much encouraged by restorative justice advocates (Zehr, 2002).

However, as we have previously explained, prudence must be taken in serious cases where an encounter is not feasible, dangerous or undesirable. In these cases, an indirect mediation and other restorative practices, such as victim assistance, victim panels and community service, among others, should be encouraged.

Finally, in a more general way, the state should be able to offer a well clear informed and secure justice program adaptable to the stakeholders’ needs where they could choose important procedural criteria like meeting the other party, involving the relatives in the process, opt for a judicial decision, a voluntary deliberation, among others.
2.5. The relation between restorative justice and the conventional justice system

The relation between restorative justice and the conventional justice system has become the subject of extensive discussions. After a brief description of both systems we will analyze the way in which they could work together.

2.5.1. Restorative justice and the conventional justice systems: Two different approaches to justice

As we have well explained, restorative justice is a vision of justice, an approach to justice that differs from the conventional approach in the sense that it introduces a substantive goal to the justice system: the goal of restoring the harm of stakeholders. Restorative justice, accordingly, regards stakeholders as human beings worth of a humane and respectful treatment and leaves behind any form of revengeful attitude. The well-being of stakeholders is, thus, fundamental in restorative justice. Such substantive goal, as we have noted, is not present in the conventional justice system; the latter has a legalistic vision of justice according to which justice is done through the application of the law that until now, at least in the Western world, is impregnated by a revengeful reaction present and dominant throughout the justice process.

Since both systems have different visions of justice, they both ask different question; whereas restorative justice asks questions like “Who has been hurt? What do they need? Whose obligations and responsibilities are these? Who has a stake is this situation? What is the process that can involve stakeholders in finding a solution?”, the conventional criminal justice system asks questions such as “what laws have been broken? Who did it? What do they deserve?” (Zehr, 2002, p. 21). In fact, according to the author, we should not only change the lenses through which we see crime, but we should also change our questions (Zehr, 2002).

It is clear now that, in our belief, restorative justice is a vision of justice, an approach to justice. This reasoning or way of understanding restorative justice leads us to think about its relation with the conventional criminal justice system and the law.

2.5.2. Towards a restorative criminal justice system?
Could restorative justice operate within the conventional justice system? What should be the relation between both systems and between restorative justice and the law? A large number of restorative justice advocates have given their opinions regarding these questions, and obviously, since they differ in their visions of restorative justice, they differ as well in their view on the relation restorative justice should have with the conventional justice system and with the law.

On the one hand, the “purist” approach of restorative justice, according to which its application is reduced to voluntary deliberative processes involving an encounter in absence of coercive measures (McCold, 2002), views restorative justice as an alternative system to the conventional justice system functioning in different cases. Accordingly, since this encounter constitutes the necessary and sufficient element of restorative justice, the cases that do not involve an encounter cannot be restorative practices, and therefore, should be considered as conventional practices. In this sense, both systems exist side by side and may cooperate with each other.

On the other hand, according to the “maximalist” view, restorative justice is a justice system that aims at restoring the harm, and therefore, it is susceptible of penetrating the conventional justice system. Braithwaite and Walgrave theorized this relation in the “regulatory pyramid” and the “pyramid of restorative law enforcement”, respectively. Both pyramids recognize the coexistence of both restorative justice and the conventional justice system and the importance of penetrating the latter with the principles and values of the first one. According to the pyramids, priority is given to voluntary deliberative processes, but coercion, public security and a legal framework are also needed as “indispensable complements” (Walgrave, 2008b, p.165). If these voluntary processes do not work, then judicial interventions could take place and impose obligations, including deprivations of freedom. According to Walgrave, these sanctions should aim at serving the restorative goal and not at intentionally inflicting pain. However, even when imposed obligations aim at restoring the harm, “their restorative impact will almost never be as intense as after a deliberative process” (Walgrave, 2008a, p. 663). Some pressure like threat of deprivation of freedom may be exerted on the offender to motivate him or her to execute the reparative measure. If offenders agree to execute the reparative sanction, in principle, the measures of incapacitation should terminate. However, the author believes there should be a maximum “to avoid very resistant or stubborn offenders undergoing a
disproportionately long sentence, while not representing a serious threat to public safety” (Walgrave, 2008b, p.664).

On top of the pyramid a small triangle is reserved to the “irrational or fanatic offenders” who represent a serious threat to public safety. Deliberative restorative actions may not work in cases regarding such offenders. According to the author, “(i)n such cases, restorative justice has reached its limits” (Walgrave, 2008a, p. 666). In our opinion though, given the impossibility for these offenders to live peacefully in society, a restorative incapacitation, without the intention to inflict pain, remains a restorative measure. It could be considered as less restorative in the sense that in some circumstances the offender would be unable to constructively participate in the reparation of the harm caused to the victim and society.

Although under this chapter we have insisted on the limitations of the conventional approach, in our view, there are important principles of this approach that could contribute in the restorativeness of the justice system, and could therefore, be included in the restorative paradigm; as Zehr argues, the justice system should also take into account the merits of the legalistic approach to justice (Zehr, 1998). In our opinion, since crime has a private but also a public dimension, the state remains fundamental in censuring the norm transgression and guaranteeing the respect of human rights and security. Voluntary deliberative practices and other practices should, thus, operate under the limits drawn by the rule of law to avoid possible abusive decisions that could go against human rights and freedoms. As Walgrave argues, restorative justice must provide legal safeguards in order to be accepted by democratic states (Walgrave, 2007). Restorative justice’s goal of restoring the harm caused by an offense may, thus, imply some substantive changes in the law and definitely structural changes in the judicial process. Therefore, restorative justice advocates should “rethink the traditional legal safeguards so that they respect the restorative justice philosophy” (Walgrave, 2008a, p. 664).

With regards to the way in which the traditional legal frameworks should look alike, in our opinion, the rule of law remains fundamental in restorative justice. However, for the rule of law to be restorative, it should, on the one hand, put an end to the relativism of crime established by law by being flexible enough to take into account the harms that have not yet been considered as crime by the legal rule, and on the other hand, establish a
restorative justice system that would deal with the violation of crimes. This extremely ambitious goal could only take place if policy makers integrate the restorative philosophy in their decisions.

The real change would reside in the way in which restorative justice would respond to a violation of a human right, or in a broader way, to a wrongdoing or harm; in our view, the response of restorative justice should take away the *a priori* established punishment and install an *a priori* form of restoration that includes, on the one hand, the offender’s active direct or indirect contribution towards the victim, the community (e.g. x hours of community service) and to the offender him or herself, and on the other hand, the community’s obligation to restore the harm of the victim and of the offender. Such an *a priori* restorative measure may involve incapacitation. The deprivation of liberty could be based on the gravity of the offence and inflicted as a preventive measure because the freedom of the offender, and its potential to re-offend, would go against restoration, but in no way the incapacitation can be imposed as an *a priori* intentional punishment infliction. Depending on the context, restorative incapacitation should be inflicted in cases of irreparable and/or grave offences in which the offender has intentionally caused harm. Such incapacitation should be accompanied with direct or indirect actions of the offender aiming at restoring the harm to the victim, to the community and to him or herself. In this way, restorative justice would drastically limit the number of prisoners.

Consequently, a restorative justice system would be the one that integrates the restorative elements of the criminal justice system and the key elements of restorative justice that we have deeply developed above. As a result, a highly restorative justice program would aim at restoring the harm of stakeholders, encourage an active accountability aimed at the restoration and reintegration of stakeholders, promote a flexible and participatory process, provide safeguards based on legal standards in order to respect rights and freedoms, adopt coercive measures without the intention of inflicting more pain to the offender, and be conducted in a respectful way.

Restorative processes should be therefore viewed in a continuum in which the degree of restorativeness of the process would be proportional to the number of core elements of the restorative justice paradigm it integrates. As a result, if the conventional justice system keeps its restorative elements and adds those of the restorative paradigm, it
would be converted into a restorative justice system. In this sense, restorative justice wouldn’t have any limitations and could be applied to all cases, from common crimes or common offenses to serious violations of human rights or massive irreparable offenses.

Although this vision allows for an unlimited scope of application of restorative justice, being realistic, it would take long time for this to happen. The cultural limitation imposed by the values promoted by the conventional justice system would hamper a rapid transition towards a restorative justice paradigm. As Zehr notes, “restorative justice advocates dream of the day when justice is fully restorative, but whether this is realistic is debatable, at least in the immediate future” (Zehr, 2002, p. 59). However, in the meantime, “real world justice” should also be seen along a continuum (Zehr, 2002). Minimally, partially and fully restorative practices would operate side by side with conventional justice practices, possibly cooperating among them, until the dream day in which all practices would become fully restorative.

2.6. Towards a model of restorative justice in non-transitional justice contexts

The following model attempts at explaining the author’s vision of the restorative justice system related to common crimes. Accordingly, this model incorporates the main components of the restorative approach: the various actors, the goals, the form of accountability and the principles and values.
Figure 1: Primary goal: To restore the harm and reintegrate the offender
Figure II: Secondary Inter-related goal: trust and reconciliation

According to these figures, a model of justice would be restorative if the following criteria are present:

1. Restorative justice, the model of criminal justice, is based on a restorative philosophy consisting of, on the one hand, the principle of non-violence and the principle of interconnectedness, and on the other hand, of underlying values such as respect, humility, solidarity and love. In this sense, the restorative justice model and the restorative philosophy share both the same values.

2. The restorative criminal justice model is based on a “restorative rule of law” system that includes all harms and is not only limited to the crimes that have been established by law. Therefore, according to restorative justice, focus is made on the harms of wrongdoing to the expenses of the rules that have been broken (Umbreit & Peterson, 2010).
3. The primary goal of restorative justice is the restoration of the harm of victims, offenders and communities. Other goals, such as forgiveness, apology, trust, and reconciliation, are ideal and essential goals of restorative justice, but remain secondary.

4. Restorative accountability: In restorative justice the community/state should intent to restore the harm of the victim and the harm of the offender. The latter, in exchange, should intent to actively participate in the restoration of the victim’s harm, the community’s harm and the harm the offender has caused to him or herself. Coercive measures, such as imprisonment should take place only if necessary and without the intention of punishment infliction.

5. The process of restorative justice should be flexible enough to meet the needs of victims, offenders and communities. It should therefore provide opportunities for direct or indirect dialogue between victims and offenders (Umbreit & Peterson, 2010).

6. The state should be present throughout the restorative justice process to guarantee security, the respect of human rights and the right execution of decisions taken either by a judge or mediator or collectively by the interested parties.

7. The whole process should be governed with respect and without any form of revengeful attitudes.

Under this second chapter we have presented restorative justice as a coherent and consistent vision of justice capable of finding solutions to the limits and weaknesses of the dominant retributive-oriented. In addition to describing the long and rich history of this vision of justice in terms of practices, values and principles, we have defined it on the basis of its outcome, meaning a way of doing justice that intends to restore the harm that has been caused by an offense. In this sense, restorative justice takes away the intention to inflict punishment upon the offender in exchange of his/her active, constructive and future oriented form of accountability. Could this restorative, respectful and flexible way of doing justice bring an added value to the field of transitional justice.
Chapter 3. Restorative justice and mass atrocities

After having presented our understanding of the theory of restorative justice through its various components, we will now study its role in addressing crimes of serious and massive nature. It must be clarified though, that the concept of restorative justice, when applied in transitional justice contexts, is understood in exactly the same way as it has been thoroughly explained, meaning an approach of justice that intends to restore the harm. The particularity here resides in the context in which we attempt to analyze the application of restorative justice: a transitional justice context involving a massive number of victims and offenders of the cruelest offenses. The restorative approach would therefore need to adapt itself to the characteristics that involve mass victimization; in fact, the nature of war crimes and gross human rights violations of conflict-ridden societies is very different from the nature of ordinary or common crimes during peacetime contexts. Although the principles and basic elements of restorative justice do not change whether applied to common or serious massive crimes, both qualitative and quantitative differences should be taken into account in the justice process or processes.

As earlier noted, the mechanisms of transitional justice can deal with the issues of TARR in various ways; on the one hand, transitional justice mechanisms can vary in nature and on the other hand, they can vary in their approach, from blanket or conditional amnesties to severe retributive-oriented approaches. At the core of our dissertation, the issue of accountability may drastically change according to the approach chosen; whereas an international criminal trial may hold offenders accountable for their crimes through severe punishment, blanket amnesties would avoid dealing with past atrocity by discharging offenders systematically and anonymously. However, as Kritz rightly argues the latter strategy is no longer well viewed by contemporary international law; “[i]n addition to being political distasteful, international law today regards such amnesties as impermissible for genocide, war crimes, crimes against humanity, torture and related abuses” (Kritz, 2002, p. 34).

Amid both extremes, the innovative and different approach of restorative justice has increasingly gained attention in the field of transitional justice. However, in spite of the rich variety existing transitional justice mechanisms, some of which could be restorative-
oriented, like the South African TRC, there hasn't been yet a fully restorative transitional justice mechanism.

What has been the role of restorative justice in cases that have gone through large-scale mass abuses? What could be the potential role of this approach in such contexts? Even though restorative justice emerged as an alternative and critical approach vis-à-vis the conventional justice system that deals with common crimes in times of normality, in our view, as the gravity of the offenses and the number of both offenses and stakeholders increase, justifications to apply restorative justice, instead of other approaches, do also increase. In other words, we argue on the one hand, that amnesties should be left behind in dealing with the past, and on the other hand, we consider that the conventional justice system becomes even less attiring in contexts of transitional justice, leaving a parallel wider space for restorative justice to be applied as a better option. This opinion goes against the assumption that amnesties are needed to achieve peace and reconciliation, and that criminal trials, which constitute the contemporary and dominant theory of the international community, are the best way to pursue justice in torn-apart societies. In our view, as we have previously said, a restorative approach to transitional justice, or a “restorative transitional justice system”, as we have baptized it, would allow for an integration of the various disciplines of transitional justice and would constitute the right approach of justice to address the issues of mass atrocity and achieve the goal of peace and reconciliation.

Since amnesties are no longer contemplated by international law, emphasis will be made on the weaknesses of the conventional justice system in dealing with the past. After deeply going through these weaknesses, we will analyze the way in which restorative justice may contribute to these limitations.

1. Weaknesses of the dominant conventional justice retributive system in dealing with mass atrocity

Although there is a great difference between dealing with ordinary crimes in times of peace and serious and massive crimes in extraordinary times, the way in which criminal tribunals, either national, international or a mixture of both, deal with the issues of mass abuses is very much based on the system used by national criminal trials to deal with
ordinary crimes. As Drumbl notes, “the structure, rules, and methodologies of the process and punishment of extraordinary international criminality constitute a transplant of the structure, rules and methodologies of ordinary criminal process and punishment in those states that dominate the international order. Certain adaptations have taken place along the way” (Drumbl, 2007, p. 23). We will therefore critically analyze, the negative effects of the conventional justice system upon the victims of mass atrocities, the general inconveniences of holding atrocity perpetrators accountable in a retributive way and the critical input prosecutions may have upon the goals of deterrence, truth and reconciliation.

1.1. The critical place of the victim

As previously said, the need and interests of the victim in the criminal justice system dealing with ordinary crimes have been considerably left behind. Surprisingly enough, the victim case scenario does not ameliorate in cases of atrocity, principally in processes before international criminal tribunals. In fact, the general functioning of criminal trials dealing with ordinary crimes has been transplanted to those dealing with serious violations of human rights (Drumbl, 2007). According to Llewellyn and Howse, criminal prosecutions, particularly those undertaken at The Hague, do not provide the victims with an adequate and respectful space for them to tell their stories (Llewellyn & Howse, 1999). In the judicial processes established by the ad hoc international criminal tribunal for the Former Yugoslavia and for Rwanda, victims are neither enabled to receive reparation or some kind of compensation for the prejudice suffered, nor are they entitled to participate in their own capacity. The goal of finding the guilty ones, and holding them accountable for their crimes through punishment became so uniquely relevant, that no space was offered for the victims to heal their harms and respectfully participate in the judicial process. In fact, reparations were left to the discretion of national authorities. Furthermore, in addition to being reduced to simple witnesses whose interests were completely ignored, victims had to go through the painful process of recalling their tragic victimization, in often far-away lands, without receiving any constructive response in exchange.

However, fortunately, the ICC put an end to these limitations; henceforth, besides being able to participate in their personal capacity, victims are allowed to claim reparation
before the ICC. But still, despite the ameliorations achieved by the ICC, in our opinion, criminal tribunals, either national or international, remain limited when meeting the needs and interests of atrocity traumatized victims. In a general way, we subscribe to Aukerman’s opinion according to which “since prosecution focuses on establishing the guilt of a few individual perpetrators, it is not an ideal tool for identifying victims who deserve compensation” (Aukerman, 2002, p. 79).

The above-mentioned limitations, together with others that will be further developed, lead us to argue against the general assumption of those who ritualistically justify the need to use international criminal trials to meet the victims’ interests in terms of truth, acknowledgement and restoration (Fletcher & Weinstein, 2002). We argue, thus, that prosecutions do not meet these needs, particularly the need to heal and overcome the traumatic harm caused by the offense. Needless to remind how serious violations of human rights constitute traumatic events that would obviously imply a long-term healing process that goes beyond a courtroom prosecution. Consequently, in terms of victim satisfaction and restoration, prosecutions, in our opinion, do not constitute ideal transitional justice mechanisms.

1.2. The issues of selective and retributive forms of accountability

As previously said, although we do not consider the conventional justice system as being purely retributive, we do consider its form of accountability based on retribution. Of striking importance, such retribution, particularly as applied by the conventional justice system in cases of mass atrocity, may trigger a counterproductive sense of unfairness that could turn-up against the good administration of the issues of transitional justice. In fact, mass crimes, occurred in times of conflict, do not share the same nature of ordinary crimes committed in times of peace. Further, every conflict is unique and has its own psychological, social, economic and political reasons that nurture the cruelty and complexity of violence. Massive crimes go therefore beyond the deviant free will of a person committing an offense; they hide a rich variety of sensitive and often unclear attitudes of individuals that encourage the promulgation of atrocities. Different put, massive crimes wouldn’t take place without the collaboration and support of thousands of human beings working directly or indirectly, and for various different reasons, towards the same “justified” goal. In fact, behind the direct perpetrators, chiefs and executers of
atrocities, there is a relevant complicity of active and passive bystanders, some from which could be national or foreigner citizens, NGO’s, other countries or even the international community.

As Neubacher rightly notes, “[i]t is well known that most Nazis were very ordinary: many of them were loving husbands and caring family members, educated, generally law-abiding people –and yet they were also capable of horrendous criminal acts” (Neubacher, 2006, p. 788). Although conflicts may drastically differ from one another, there are particular reasons and causes lying behind the human shift from being an ordinary citizen to becoming capable of committing the cruelest acts in extraordinary contexts. Despite the almost silent attitude of criminology in the field of collective crimes, studies on the causes of these crimes have pointed out the complexities and various causes behind them.

In some conflicts, distant events, in time and space, may have constituted solid seeds for the growth and development of extreme violence; in Rwanda’s dramatic genocide, for example, former colonial powers contributed to such causes in encouraging the ethnic distinction between Hutu and Tutsi through the requirement of racial identity cards (Roberts and McMillan, 2003). In Latin American countries as well, colonial forces had a strong influence in the distribution of money and power, benefiting some over others, and encouraging, in addition to other factors, long-lasting subversive guerrilla groups.

Further, besides from the various economic, socio-political or external reasons a conflict may have, psychological studies have proven that the conflict perse can easily explain the degeneration of violence and the cruelty of “ordinary citizens”; not only many of the offenders who have committed atrocities have been themselves victims and affected by poverty and discrimination” (TRC report), but also, as Neubacher notes while referring to psychological studies of conflict, like Miligram’s experiment of the 1960’s, the phenomenon of obedience makes of the offender an instrument in executing someone else’s will, like a regular job, consequently sharing and fading the responsibility of mass atrocities. Accordingly, as Fletcher and Weinstein have argued, situations of conflict may exert great influence in one’s actions or inactions (Fletcher & Weinstein, 2002). In fact, it is this collective behavior what takes human beings to kill each other, even amongst loved-ones, in extraordinary contexts. Summarizing up what has been said, in the words of Drumbl, “group dynamics may well diffuse responsibility, obscure individual decision making, and suppress dissent” (Drumbl, 2007, p. 30).
Moreover, there is an additional complexity that should be taken into account regarding the emotions people feel in conflict situations that boosts violence. Strong emotions of fear and tension, which characterize conflict situations, may be released through a mechanism of “forward panic”, according to which, “the attackers become engrossed in a rhythm of repetitive, temporarily uncontrolled attack on a helpless victim” (Collins, 2011, p.23). Attackers are caught in an “overpowering emotional rhythm” that takes them to commit atrocities they would normally disapprove in contexts of normality or non-conflict situations.

So in conflict situations there are emotions that are rarely present in non-conflict situations that somehow explain the cruelty behind mass victimization. These emotions of fear and tension dominate the attacker, who most probably didn't have the intension to commit such atrocities. Forward panic may also occur in cases in which public officers, like police agents, brutally discharge their fear/tension emotions towards an innocent victim who they wrongly take as an offender. In a famous case in New York city, four policemen fired 41 bullets against an innocent African street vendor, Amadou Diallo, who resembled the neighborhood rapist they were looking for. As Collins notes, this tragic event was marked by the forward panic patter: “tension/fear on the part of the police, a sudden retreat of the apparent enemy, a triggering gesture of apparent resistance, a hot rush of attack, (Collins, 2011, p.26).

This forward panic patter takes place in most military atrocities. In a confrontation, combatants are governed by fear and tension of being injured or dying, but also of killing and harming others. Willing to dominate the situation, the victor side of the encounter (confrontation), which has released its fear and tension by putting the other side in a fearful and tensional losing situation, will want to take more distance from the latter and from the feelings it felt moments before. Accordingly, the victors will unleash uncontrolled violence to achieve this goal (Collins, 2011). When an audience or a group supports the fighting, cruelty and violence become somehow legitimate and more acceptable (Collins, 2011).

An important question arises though: Who and how should be held accountable for mass atrocities in conflicts involving so many actors that have? In the mist of conflicts,
conventional justice systems, either national or international, will respond by holding accountable for past collective atrocities a number of select guilty perpetrators, leaving behind many individuals who massively contributed in one way or another to the boost of violence. As Fletcher & Weinstein argue, criminal trials leave behind the complicity of those who supported cruel leaders (Fletcher & Weinstein, 2002). It is not proposed here to equally punish all those who have contributed to the conflict, because, as we have largely insisted before, we do not advocate for passive and retributive forms of accountability, neither in contexts of normality nor in extraordinary contexts; however, in our pinion, a justice system exclusively focused on some individuals, without acknowledgement of the truth underneath a conflict involving thousands of active and passive perpetrators, remains a limited and inaccurate system encouraging the gap between those who are held accountable through stigmatized retribution, who suddenly become the only guilty ones, and those bystanders who become fully innocent and transparent through a silent and incomplete process of justice. Such gap, we argue, can only lead to an obstacle towards reconciliation, either individual, interpersonal, communitarian and/or national. Although we are aware that there are individuals who participate and benefit more from violent conflicts in terms of money and power, the complicity and support of those who participated in a less active way, but without whom the conflict wouldn't have taken massive dimensions, should be taken into account and acknowledged, not for retributive goals but notably for goals of truth, reparation and reconciliation. In our view, the bystanders should also participate in the transitional justice process.

This bitter taste of exclusive retributive accountability is well described by Stovel and Drumbl when referring to the perceptions of individuals who lived large-scale conflicts; on the one hand, according to Stovel, “While Sierra Leoneans were strikingly willing to accept ex-combatants, they directed enormous blame and anger toward politicians and government officials who they accused of corruption, greed and mismanagement” (Stovel, p. 4 two faces of reconciliation) and on the other hand, in Drumbl’s strong statement “for many Rwandans and Bosnian Muslims, retribution might well include accountability for the UN and foreign governments, whose peacekeepers were ineffective while genocidal massacre occurred in their midst” (Drumbl, 2007, p. 153). Although nowadays it seems almost logic that behind conflicts there are massive invisible forces that have benefited
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from it and encouraged it, criminal trials, both national and international, still work on the basis of exclusive retributions that can only increment division to the expenses of unification.

And still, another sensitive question arises in the midst on mass atrocities: who should be held accountable among the direct perpetrators of collective crimes? One could genuinely think that criminal trials would choose particularly high rank offenders. However, this is not very obvious since there is not an established legal logic behind the selection of perpetrators; in the prosecutorial processes before the ICTY and the East Timor Panels, for example, lower-level offenders were held accountable for their crimes. As to the first one, due to lack of evidence regarding the crimes committed by those who planned and ordered the execution of crimes in the Balkans, the office of the Prosecutor of the ICTY “was forced to focus on lower-level cases where a longer paper trail and more witness testimony were available” (Aukerman, 2002, p. 51). As to the latter one, the East Timor Special Panels involved almost exclusively low-level offenders (Drumbl, 2007). Paradoxically, renowned trial cases such as Pinochet’s in Chile and Barayagwiza’s in Rwanda, were respectively suspended on the basis that Pinochet “was not mentally fit to stand a trial” and “Barayagwiza’s fundamental rights had been violated by prolonged detention without trial” (Aukerman, 2002, p. 51). In our opinion, the uncertainty of criminal trials can only lead to strongly delegitimize the criminal process, at least to the eyes of many of those who have lived the conflict and who are aware of its complexities.

Moreover, apart from punishing exclusively some perpetrators, the conventional justice system holds offenders individually accountable for collective crimes. This principle of individual responsibility for collective crimes has been applied by international criminal law and reaffirmed by article 25 of the ICC statute (Liwerant, 2007). How could perpetrators of collective crimes assume individual responsibility? As Fletcher and Weinstein argue, social psychologists have confirmed the need to think about the issue of collective responsibility (Fletcher & Weinstein, 2002). Surprisingly, although there is a difference between national retribution, which includes greater variety of sanctions like incarceration, community service, death penalty, lustration, among others, and international retribution, which is practically limited to imprisonment, none of them take into account the collective dimension of conflict. Differently put, particularly at the international level, ‘the enemy of human kind’ is punished in the same way than the
perpetrator having committed an ordinary crime (Drumbl, 2007). As a result, according to the retributive reasoning, punishment will always have limits in transitional justice contexts; as Aukerman notes, “one cannot punish fairly, and one cannot punish enough” (Aukerman, 2002, p. 63)

Of striking importance though, when prosecutions have been chosen to deal with mass atrocities, one must ask if it is feasible and/or worth it. Besides the political and ethical difficulties prosecutions may imply, there are additional practical factors that would hamper proper prosecutions such as the huge number of eventual defendants, the excessive cost of trials, the inadequacy of justice systems that have gone through a devastated atrocity, among others. As Landsman argues, many states do not count with the appropriate legal tools and conditions to prosecute in an effective way (Landsman, 1996). Even at the international level that counts with financial support, prosecutions do not go without further logistical, and even ethical, complications; besides from the difficulties the international community may have in “catching” the offenders, and the barriers due process may pose, the experience of both ad hoc tribunal has proven to be exorbitantly expensive and long (Drumbl, 2007). This paradoxical situation has conducted some to correctly consider that these resources might have been better used in reconstructing the national legal systems (Roht-Arriaza, 2006). Along the same lines, the international community acknowledges that “[u]nfortunately, the international community has not always provided rule of law assistance that is appropriate to the country context. Too often, the emphasis has been on foreign experts, foreign models and foreign-conceived solutions to the detriment of durable improvements and sustainable capacity » (Report Secretary-General, 2004, p. 6)

1.3. Which goal?

According to those who advocate for prosecution, criminal trials aim at deterring future violations of human rights, create a historical record and promote reconciliation through justice. We will however demonstrate how prosecutions may be far from meeting such ambitious goals and could even prejudice them.

With regards to deterrence, whether or not intentional punishment infliction will prevent future gross violations of human crimes? Would people or current offenders be dissuaded
from offending or reoffending by fear of punishment? Although we agree with the censure effect prosecutions can have upon violations of human rights, we cannot affirm that prosecutions may or not deter mass atrocities since “it is virtually impossible to assess whether or not the threat of prosecution has ever prevented genocide and war crimes” (Aukerman, 2002, p. 66). Nonetheless, it’s doubtful that international or national prosecutions would have a deterrent effect upon many individuals who have already taken the convinced decision of committing mass atrocities; this is obviously the particular case of suicide bombers who have nothing to lose apart from their lives. Some would even consider that arguing, “that the threat of punishment will deter those who violate international conventions is a bit like arguing that the threat of capital punishment deters murder and related crimes” (Villa-Vicencio, 2008, 388). In fact, the former Yugoslavia provides an example in which international prosecutions didn’t deter many of the worst atrocities that took place in the region after the creation of the ad hoc tribunal (Aukerman, 2002). Even in cases of possible deterrence, we agree with Aukerman’s statement according to which “it is unlikely that post-atrocity prosecution is the most effective way to prevent future atrocities” (Aukerman, 2002, p. 70). Moreover, the presence of the ICC and its eventual intervention in Colombia, hasn’t stopped guerrilla groups like the FARC and ELN to continue combatting. Prosecutions may therefore censure an act and set a precedent, but, on the one hand, they are not the only way of censuring mass atrocities, and on the other hand, it is not clear that retribution has a positive impact on future collective crimes. Moreover, there are concrete examples in which retribution has definitely not deterred the commission of these crimes.

With regards to the key issue of truth, given that prosecutions intent to inflict punishment over the guilty individual, the notion of truth particularly serves to achieve this goal. Differently put, truth under prosecutions is, above all, a means toward retribution and therefore, neither national nor international tribunals can offer an exhaustive truth of the past susceptible of explaining the causes and circumstances of the massive crimes. Along this line, “The truth that is revealed in court trials, international and national, is a fragmented fact finding process to serve as evidence in proving or refuting guilt, but never to bring out the truth of the conflict as a social phenomenon. Trials do not allow perpetrators or survivors to produce a story that might coincide and lead to an explanation of the causes of the conflict” (Weitekamp, Parmentier, Vanspauwen, Valiñas &
Gerits, 2006 p.6). Further, since prosecutions intend to punish, defendants may hide from victims the real truth about the past.

With regards to peace and reconciliation, some advocate for prosecutions as a precondition for peace and reconciliation. However, like with the issue of deterrence, there are no studies that have measured the contribution of criminal trials to reconciliation and social reconstruction (Fletcher & Weinstein, 2002). We could even go further to consider that retributive prosecutions could hamper the road to reconciliation; since there is the goal to punish behind prosecutions, justice practitioners and victims would be encouraged by the system to work towards this goal, and therefore, may encourage victims’ resentment against the offender. Although we argue that reconciliation between the victim and the perpetrator shouldn’t be forced by the justice system, we do not consider convenient to incite negative and maybe hatred emotions that can only contribute in degrading the situation and bridging the gap to reconciliation. Along these lines, Llewellyn & Howse argue that the isolating methods of retribution, through which the perpetrator is removed from society, cannot bring about social restoration (Llewellyn & Howse, 1999). Further, in transitional justice contexts in which the division between victims and perpetrators is not crystal clear, and where victims and offenders are often known or even closely related, the desire of punishment is not shared by everyone. As Aukerman notes, “some victims plead for clemency for their tormentors” (Aukerman, 2002, p. 56). In addition, retribution may pose great barriers for the proper reintegration of the offender and therefore for him/herself personal and family reconciliation.

Moreover, in ongoing conflicts, the threat of retribution may perpetuate violence because “[p]erpetrators are simply not prepared to surrender their arms if they face the possibility of prosecution” (Villa-Vicencio, 2008, p. 387). Uganda provides an example of this veracity; despite the claims of the Acholi community according to which the eventual intervention of the ICC would obstruct peace efforts, the prosecutor of the ICC issued arrest warrants against the LRA leadership, conducing the LRA to respond by a rejection of ending the war in presence of the arrest warrants (Shaw & Waldorf, 2010).

The Ugandan case, as well as the irritation triggered by the intervention of the ICC in African countries, takes us to reflect upon the question of legitimacy of the international
community when intervening in domestic issues through prosecution. In fact, “as the heated public controversy over the International Criminal Court’s involvement in Uganda indicates, the current phase of transitional justice is frequently marked by disconnections between international legal norms and local priorities and practices” (Shaw & Waldorf, 2010, p. 3). Is the conflict-torn society the main beneficiary of the intervention of an international legal process, is it the international community or are they both beneficiaries? What does being beneficiary means? Answers to these questions are far from being crystal clear. According to Drumbl, “the main beneficiary of the ICTR’s work has been the international community – whether in terms of assuming guilt or developing international criminal law – and not Rwandans” (Drumbl, 2007, p. 123). However, is the international community really benefiting from developing international criminal law and pointing out some guilty individuals? Wouldn't this be a limited goal for the international community? Isn't the goal of peace and reconciliation within and amongst states the final goal of the international community? Aren't the goals of peace and reconciliation being lost in the complexities of a legal system drawn in human weaknesses and revengeful attitudes? In our opinion, the international community is indeed loosing track of the real goals it should be fighting for.

Additionally, what about traditional mechanisms integrating culturally based ways of doing justice? According to some, “[w]e cannot assume that legal justice is desired or the highest priority in all countries after periods of repression or violence. Culture and history may lead to different definitions of justice and to different paths for achieving it; justice can be defined broadly, and retributive justice is only one part of that definition” (Weinstein, Fletcher, Vinck & Pham, 2010, p. 47). Since transitional justice at the international level has been almost exclusively focused on a legal approach, particularly with the creation of the permanent ICC, countries going through transitional processes may be tempted to avoid implementing their culturally based mechanisms in order to align to the standards of international criminal justice, and therefore, avoid an eventual request of the ICC on the basis of the principal of complementarity. Consequently, the inconvenience is twofold: on the one hand, countries may loose interest in studying and probably implementing a rich variety of indigenous and local-level mechanism that may serve for inspiration to the western world and provide a cultural richness to the country,
and on the other hand, the critical legal approach would gain force to the expenses of other ways of doing justice.

Besides from the previously mentioned selection of offenders, history has proven that the international community has not always equally taken into account all extraordinary events. As Christie explains when referring to the Nuremberg trials and the way in which the atrocities of world war II were dealt with “by hanging commanders, and while the judges in Nuremberg focused on finding personal guilt for atrocities, other phenomena were left in peace, left to grow. Three themes were not discussed in Nuremberg: - Dresden – Hiroshima and Nagasaki – The Gulags” (Christie, 2001). The sensitive selection of extraordinary cases is particularly questioned nowadays under the era of the ICC. While drastically focused on African countries, Sudan’s case has triggered interrogations; not having ratified the Rome statute, Sudan was referred to the ICC by the United Nations Security Council. One should ask whether the Security Council would ever refer a case to the ICC involving a non-member to the ICC, but simultaneously holding a veto at the UN.

In fact, in the same way that national trials have been criticized for being unable to meet the needs and interests of the parties involved in the process, “[s]imilar problems will arise if transitional justice reflects only the priorities of the international community and not those of the affected country” (Aukerman, 2002, p. 46). It is surprising to see how the international community still works on the basis of division to the expenses of unification, by “legally” and “legitimately”, benefiting some (countries & offenders), while simultaneously punishing others.

In sum, the goal of prosecutions is far from being clear and coherent to everyone; even judges still doubt about the purpose of the punishments inflicted in their sentences (Drumbl, 2007). One could even ask if the justice practitioners are not being dominated and cornered by the system itself. All these critical aspects leads us to the conclusion that probably prosecutions might be praised by some for being the simplest way of avoiding exploring the real truth and complexities behind a conflict; it may be easier to point out the “bad” guys than assuming a broader concept of responsibility, a concept that may rightly involve the massive number of individuals, states, political groups, NGO’s, national

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3 Retrieved from http://home.online.no/~ivajoha/nato/answers.html
and international organizations that, massively, participated in the occurrence of mass victimization.

We argue that as long as the intention to inflict punishment exists within the legal justice system dealing with mass victimization, there will always be stigmatization and exclusion, and therefore, division, at both the international level – by excluding some countries and offenders - and at the national level – by excluding some offenders. In our opinion, the wellbeing of all citizens should matter to every nation and state, as well as the wellbeing of every nation and state should matter to the international community. We propose therefore the implementation of restorative mechanism of justice at both the national and international level.

2. Restorative justice: a pragmatic approach in dealing with mass victimization

Little by little, although sporadically and hardly, restorative justice has entered the discourse of transitional justice with the intention to find better ways to address massive and serious types of crimes. After having described the previously mentioned weaknesses and limits of the conventional justice system in dealing with mass atrocities, we will briefly explain how the restorative approach and the transitional justice field have come together in literature and practice, then, we will present the way in which the first one could contribute to addressing the issues of the latter, and finally, we will create a conceptual framework of both parallel fundamental movements.

2.1. The growing interest in restorative transitional justice

Interestingly, despite the blooming growth of restorative justice and transitional justice as independent fields of study, little has been said about the role restorative justice could have in addressing mass atrocities resulting from conflicts and repressive regimes (Llewellyn, 2007). Nevertheless, generally speaking, restorative justice advocates seem to agree upon the potential significant role restorative justice could play in addressing severe cases; according to Walgrave “[e]vidence makes clear that serious criminals can be sensitive as well to calls from the social context, can feel deep remorse, and may be willing to make up for what they have done” (Walgrave, 2008a, p. 671). Zehr would even go further by sustaining that “the need for restorative approaches is especially clear in severe cases” (Zehr, 2002, p. 11). In fact, as Stovel argues, approaching transitional justice
from a restorative perspective would be obviously beneficial since “[i]t is the form of justice most directly concerned with reconciliation. It addresses the reintegrative needs of both victims and most perpetrators. In poor countries with weak judicial systems, it offers an alternative to lengthy and expensive trials. And in much of Africa, it draws on pre-existing restorative justice traditions and institutions” (Stovel, 2003, p. 1).

Surprisingly though, while restorative justice has increasingly gained attention in transitional contexts (Villa-Vicencio, 2008), leading advocates of restorative justice have so far remained modest in developing a theoretical framework on the way restorative justice should enter the field of transitional justice contexts. Given the absence of a concrete theoretical conceptualization on the applicability of restorative justice principles in contexts of transition, the fusion of both concepts has received various meanings and misleading interpretations. In fact, like with ordinary crimes occurring in normal times, restorative-oriented practices have preceded theory in extraordinary times. However, whereas a rich variety of practices and experiences have been developed or re-discovered during times of normality, transitional justice has been met with few restorative-oriented practices. Such contrast may explain why influential theory works on restorative justice have been principally developed with regards to times of normality and remained almost silent in the field of transitional justice. In fact, the question of the application of restorative justice in cases embracing systematic political violence has been raised largely as a result of the influential work of some practices such as the renowned South African Truth and Reconciliation Commission, the Rwandan *gacaca* courts and the Commission for Reception, Truth and Reconciliation in East Timor. In fact, the scarce literature on the coalition of restorative justice and transitional justice refers to these existing mechanisms of transitional justice that we will analyze, but hasn’t gone further to build a solid framework about this fusion.

So, these three mechanisms have acquired a dominant position in the rhetoric about the applicability of restorative justice in transitional justice contexts. Nonetheless, as we will try to demonstrate, although they have been originally tainted with restorative overtones, which explain their general assimilation to restorative justice, they do also comprise non restorative-oriented elements and even retributive shades, like *gacaca*’s accountability measures.
The South African TRC

After the abolition of Apartheid, the new government of Nelson Mandela established a TRC through the Promotion of the National Unity and Reconciliation Act of 1995. This mechanism, comprising 17 commissioners, with Nobel Peace Prize winner Archbishop Desmond Tutu as chairperson, and over 400 assistants, aimed at addressing the mass abuses that took place between 1960 and 1994 in a very unique and innovative way. This particular mechanism of transitional justice was praised by its supporters for being «consistent with cultural values (ubuntu) that prioritize social harmony and reconciliation over retribution» (Weinstein, Fletcher, Vinck and Pham, 2010, p.35).

In fact, the South African TRC, a self-declared instrument of restorative justice (TRC, 1998), was recognized for its contribution to a ground-breaking form of accountability that searched, above all, to record the truth of the past without falling into the temptations of blanket amnesties and retributive actions of trials. Different put, in contrast with blanket amnesties that simply ignore any forms of accountability and criminal trials that search at finding the guilty one and punishing him/her, in the process established by the South African TRC, the responsible of serious violations of human rights was held accountable by telling the truth before their victims. In fact, the TRC had the authority to grant amnesties if the perpetrator made full disclosure of the offenses committed. An original connection between accountability and truth was therefore established by the TRC.

In fact, the Amnesty Committee, one of the three committees of the TRC, was in charge of granting amnesties for the offences associated with a political objective committed between 1960 and 1994. Applicants needed to recognize their fault and fully unveil the truth behind the acts committed (TRC, 2003). If these requirements were respected, the committee could grant amnesty for the acts confessed, and therefore, free the perpetrator from prosecutorial processes for those particular acts. Despite the great number of amnesty applications, which exceeded 7000, the Committee remained quite demanding and only granted 849 and rejected 5392 amnesty applications (TRC, 2003).
Further, the restorativeness of the TRC could be also appreciated through the space offered to the victims to tell their stories, to be acknowledged, and, even to be compensated (Llewellyn & Howse, 1999), the possibility of providing a larger sociological explanation of the past abuses and its efforts to promote trust building and reconciliation. In fact, the Human Rights Violations (HRV) Committee aimed at investigating human rights violations based on testimonies. The Committee took in fact the testimony of over 20,000, more than 2000 appeared at public hearings and were widely disseminated on radio and television programs as well as in print (Jaudel, 2009). Once the victims of gross human rights violations were identified, they were referred to the Reparation and Rehabilitation Committee, which was empowered to formulate policy recommendations and suggestions on the rehabilitation and healing process of the victims and their circles of care.

Nonetheless, the degree of restorativeness of the TRC had its limitations: as Stovel rightly notes, “trust-building requires white South Africans to take responsibility and atone for their support for apartheid – it would require full restorative justice” (Stovel 2003, p. 6). The direct or indirect disconnection between the victim and the perpetrator posed obstacles “for addressing the restorative needs of both” (Llewellyn & Howse, 1999). In fact, victims would have needed more from the offenders in order to move on; truth is not enough. Moreover, despite the extensive recommendations on financial, symbolic and community reparations made by the Reparation and Rehabilitation Committee, the government failed to implement them, and finally, for some the concept of reconciliation was somehow controlled by the political and religious elites to the expenses of local processes.

**Rwanda and the gacaca courts**

In the wake of the 1994 genocide, tens of thousands of genocide suspects were arrested, overcrowding the Rwandan prisons and troubling the already collapsed judicial branch. The existing modern justice system simply could not cope with the surge of arrests, for example, by the end of 2003, only 8000 out of 135000 genocide suspects had been judged (Jaudel, 2009). As a result and as we have previously mentioned, in an attempt to put an end to this critical situation, which involved arbitrary detentions, the government of Rwanda established 11,000 *gacaca* courts all over the territory (Jaudel, 2009). This
original transitional justice mechanism, consisting of a system of informal criminal courts *gacaca* courts, drew upon Rwandan traditional and local-dispute instruments traditional *gacaca*. Historically, traditional *gacaca* was a sort of community-based mediation convened by the parties to civil disputes over property, personal injuries, marital issues and other minor offences. In fact, this traditional local dispute mechanism was not applied in cases of more serious offenses such as theft or murder (Waldorf, 2010).

So the government of Rwanda transformed and constantly adapted this traditional mechanism to deal with the devastating consequences of the genocide. In fact, *gacaca* courts were allowed to substantially reduce the punishments inflicted to the offenders who confessed the crimes committed as well as the places where they took place and the names of the victims. They could also serve part of the sentence doing community service in their local communities (Jaudel, 2009). However, with time and having gone through so many reforms, *gacaca* courts ended-up losing their indigenous origins to the point of becoming estranged from the original traditional *gacaca*. For instance, according to Waldorf, in addition to becoming “a state institution intimately linked to the state apparatus of prosecutions and incarceration, and applying codified, rather than customary, law..., *gacaca* courts were judging serious crimes and meting out prison sentences, whereas “traditional” *gacaca* mostly resolved minor civil disputes with restitution awards” (Waldorf, 2010).

*Gacaca* consisted thus of an original local-level or traditional inspired response to mass abuses, different from conventional tribunals and truth commissions. Generally speaking, traditional justice mechanisms have been considered to be restoratively nurtured through their cultural inclusion of indigenous traditions, the informal, flexible and comprehensive process, the ability to generate a feeling of belonging as well as a sense of respect towards techniques that have often been deemed as meaningless, and above all, the profound moral and spiritual dimensions some of these traditional practices may offer. However, like with ordinary crimes, traditional practices are not inherently restorative and therefore, need to be carefully studied before being considered as restorative. As Arriaza and Roht-Arriaza expose, “[w]hile it is important not to romanticize traditional justice, which can be arbitrary, patriarchal, and/or coercive, a focus on local justice can take into account these cultural variations and can tailor dispute
resolution mechanisms to forms that resonate with local populations and are recognized as their own “ (Laura J. Arriaza & Naomi Roht-Arriaza, 2010, p. 217).

As previously mentioned, *gacaca* had lost its indigenous origins and therefore the restorative elements these mechanisms usually embrace. Being doubtful about the restorativeness of *gacaca*, Waldorf argues that, besides from failing to reconcile, with time they became more coercive, retributive and less participatory (Waldorf, 2010). According to the author, in contrast to restorative justice, the new *gacaca* was deeply tainted by formality, legality, prosecutions and incarceration (Waldorf, 2010).

For instance, although the participatory and community-level component has been greatly praised by restorative justice advocates, there are cases in which the identity of the victim should remain concealed. Since 2008, *gacaca* courts became competent over more serious genocide cases and notably over cases crimes involving rape. As a result, afraid of being exposed to the neighbor and members of the community, victims having gone through this form of victimization refused to participate in the *gacaca* processes. (Waldorf, 2010). Other potential flaw of this process regards the lack of impartiality and objectivity of some judges who didn’t receive adequate training and amongst whom some were also genocide suspects themselves. Moreover, it is believed that many suspects didn’t actually tell the truth; in fact, as Waldorf rightly notes, “perpetrators had obvious incentives to confess to lesser crimes in the hopes of receiving lighter sentences and earlier releases” (Waldorf, 2010). And last but not least, the *gacaca* courts somehow failed in its quest of reconciliation by focusing only on Hutu *génocidaires* without taking into account the cases involving Hutu victims.

So, the *gacaca* courts were designed to try to overcome the institutional incapacities and the logistical obstacles of a torn apart country and deal with the terrible consequences of the genocide in a very peculiar way: *Gacaca* courts provide in fact a concrete example of a mixture of restorative and retributive elements like acknowledgments and accusations, forgiveness and punishment, community service and prison sentences. Although we have been quite critical of this mechanism, due to its retributive components, in our pinion, this transitionally inspired mechanism was more successful in dealing with mass atrocities than the ICTR: While *gacaca* courts tackled as many as two million cases with less than 50
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million USD, the ICTR completed less that 80 trials and its budget went beyond 1 billion USD.

East Timor’s CAVR

East Timor, is a country in South East Asia. It is located in the east side of the Timor island, the west side of the island is part of Indonesia. They remained a Portuguese colony for four centuries, until it was unilaterally invaded by Indonesia in December 1975 and then annexed 1976. Almost one third of its population was exterminated during the Indonesian invasion (ICTJ, 2006). This invasion was only recognized by the United Nations in 1999 and East Timor finally achieved its total independence in 2002. Indonesians and guerrilla groups committed many atrocious crimes during this period of time and therefore transitional justice mechanisms were created to deal with the terrible consequences of mass abuses.

To act as an authority between the end of the Indonesian occupation in 1999 and the independence of East Timor in 2002, the United Nations established a transitional justice mechanism known as the Special Panels for Serious Crimes (SPSC) in East Timor. These courts, established within the national legal system of East Timor, were preferred over an International tribunal proposed by the Investigative Commission of Inquiry, becoming as a result, the first courts to be mixed or internationalized. The SPSC ran along side another hybrid transitional justice mechanism: the Commission for Reception, Truth and Reconciliation, known in Portuguese as the Comissão de Acolhimento, Verdade e Reconciliação (CAVR).

The CAVR, was created in January 2002 under the UN’s interim. The CAVR had three important goals: (1) to lay open the truth about human rights violations that took place from 1974 to 1999; (2) to help reintegrate those who committed “minor criminal offences” back into society through a community-based reconciliation procedure and (3) to offer psychological assistance to help the victims of human rights violations recover their dignity (Wandita, Campell-Nelson & Leong, 2006).

As previously noted, the CAVR, in line with its truth-seeking function, was compelled to work hand in hand with the Special Panel for Serious Crimes. They shared information
and statements with the general prosecutor’s office, making it possible for the prosecutor, who had exclusive jurisdiction over serious crimes, to allow a reconciliation hearing to take place if the person was not implicated in a serious offense. Moreover, the commissionaires ingrained a special support division as the core of the of the CAVR’s activities, making the victim’s needs a priority. They came up with an urgent reparation program as part of its recommendations to the Timor-Leste government. To prevent the repetition of human rights violations and to respond to the needs of victims, the CAVR, was asked to elaborate a report at the end of its mandate including details, data and recommendations regarding their experience.

The CAVR understood that if reconciliation was to be effective and endure for many years to come, it needed to engage individuals, families and community groups from all sides of the conflict and from all levels of society. This aim was the origin of the Community Reconciliation Process (CRP). The CRP was an innovative program that drew upon traditional justice lines (adat) and designed to promote reconciliation in local communities. Its purpose was to reintegrate into these communities people who had committed less serious offenses, like theft, minor assault, killing of livestock, among others (ICTJ, 2006). As a result, the crimes of murder, torture and sexual abuse were excluded from these processes (Jaudel, 2009). The program was convinced that those that were harmed in less serious ways were ready to reconcile with their offenders.

The CRP participatory hearings took place in facilitated, village-based and familiar environments. This mechanism was based on a mixture of practices like traditional justice, arbitration, mediation and aspects of both criminal and civil law (www.cavr-timorleste.org). All of the participants, victims, offenders and the community in general, were able to participate directly at the hearings to find ways and solutions to reintegrate perpetrators back into their communities. CRP had set an outline of basic steps to frame the procedure but it remained flexible enough to be able to involve local traditional practices, for example (www.cavr-timorleste.org).

The way CRP worked was the following: being a voluntary process, local leaders who chose to participate formed a panel, chaired by a regional commissioner. During the hearing, the offender was asked to give a full account of the facts and admit his
involvement in the conflict. Victims and the members of the community had the opportunity to ask questions during the hearing and give their opinions on the offender’s declaration. The hearings often lasted for hours and were very emotional for all the participants involved. At the end of the hearing, the panel decided on the way in which the offender would be held accountable. If the offender accepted the decision and respected his/her obligations accordingly, and if the court approved, immunity from civil or criminal actions on the recognized facts were granted (Jaudel, 2009).

The CRP turned out to be very successful. Although 1000 was the initial target of CRP, over 1,300 perpetrators successfully completed this reconciliation process. These results indicate the real contribution of the program to the community. All the parts involved agree that CRPs were key for the maintenance of peace and easing the difficult process of reintegration after a conflict of such violence. By the end of the CAVR’s mandate, many participants, both victims and perpetrators, expressed their desire for the CAVR to continue its job and allow other perpetrators to participate in the process. In fact, people took time in understanding the importance of the CRP processes and therefore, they wished these processes had continued. Participants had various reasons to appreciate their participation at the CRPs; many victims, on the one hand, praised the space offered by the CAVR to tell their stories, and offenders, on the other hand, found in the CRPs a convenient way to explain the reasons for their actions and to build-up a new identity. Despite the predictions that revenge attacks on offenders were inevitable, this young country has maintained a peaceful and steady situation until today (www.cavr-timorleste.org).

However, some victims didn’t appreciate participating in the CRP and didn’t really consider worth it talking about themselves and their suffering. On the contrary, according to many, the CRP opened up their wounds and reminded them about their victimization. As some research projects suggest, for some victims, particularly those having lost a loved one, “talking in and of itself is not necessarily healing and cathartic when there is a perception that there are no ‘results’ and that the government is not listening to their real priorities. Some explained that they continue to feel todan (heavy), or fuan kanek nafatin (forever broken hearted) because the CRP hearing has caused them to remember once more the painful events of the past” (www.cavr-timorleste.org).
It is believed in fact that the CAVR focused too much on the processes of community reconciliation and left behind the individual needs and interests of victims. Finally, people from East Timor regret the fact that those alleged to be most responsible remained in Indonesia, outside the SPSC’s jurisdiction. The Special panels faced in fact various difficulties in prosecuting offenders based on the lack of financial means and the lack of skillful professionals. Although we defend restorative oriented processes over retributive ones, like the SPSC, in our opinion, it would have been necessary to involve the responsible offenders who remained in Indonesia.

To conclude, it would be ideal to implement restorative oriented practices involving an encounter to deal with the issues of mass atrocities. However this is far from being an easy task in situations of ongoing conflict. As previously noted, communal violence triggers revengeful and hateful feelings amongst survivors who share a feeling of “groupness”. As a matter of fact, ordinary or common crimes “rarely reach the range or intensity of emotions aroused by identity, memory and tradition in communal violence” (Brewer, 2011, p. 298). Peace comes with a philosophical cost by threatening the feeling of security based on concepts and ideas people have built in conflict situations. Peace poses what Lederach calls the “identity dilemma” (cited in Brewer, 2011), according to which, “people who have defined their group identity, tradition and loyalties for so long in terms of 'the enemy' suddenly find they have to reshape their sense of who they are and what group they feel loyalty towards” (Brewer, 2011, p. 304). Such emotions may hamper the good implementation of transitional justice mechanisms, obviously those involving an encounter.

As we have previously explained, although the encounter involving victims, offenders, their circles of care and the members of the community, have been greatly praised as vehicles of achieving restorative outcomes, there are situations in which they cannot be organized or are simply not desirable. Rarely, violence ends with peace processes. Obviously, in ongoing conflicts violence continues. It becomes thus very tough to implement encounter mechanisms in situations where mistrust abounds, where the old enmities persist and where violence can ruin transitional justice initiatives. Dealing with TARR in an effective way becomes also a real challenge. As Brewer notes, truth in these settings may trigger revenge killings rather than emotional recovery from past abuses.
(Brewer, 2011). However, such difficulties may find solutions based on security measures and identity protection and should not constitute an obstacle in creating *restorative transitional justice* mechanisms.

### 2.2. Meeting the needs of transitional justice through restorative justice

Approaching transitional justice from a restorative perspective would imply a “change of lenses” through which to look at the phenomenon of mass victimization. Such perspective would consequently alter the meaning of the key issues of transitional justice and the way in which they should be dealt with. In fact, in contrast to the legalistic approach where the goal is not crystal clear, the key issues of transitional justice, when approached from a restorative point of view, cannot be divorced from the goal to restore the harm; in our opinion, this goal may encourage the better and easier administration of the issues of truth and accountability, and therefore, will soften the rocky road towards peace and reconciliation and prevent the reoccurrence of atrocities.

#### 2.2.1. Approaching truth and accountability restoratively

On the one hand, restorative truth, as the TRC report notes, would consist of “a truth that would contribute to the reparation of the damage inflicted in the past and to the prevention of the recurrence of serious abuses in the future” (TRC 1999, p. 114). Truth would therefore be a means to restoration and acknowledgement instead of punishment and stigmatization; knowing and unrevealing the truth would only serve to achieve constructive goals such as restoring the harm of the victim through the offender’s acknowledgement of the facts and constructive restorative actions, liberate the heavy emotional burden of both victims and perpetrators through a story telling process and constructing the sociological and criminological truth of the past. In other words, truth will no longer serve to determine culpability and punishment like within the conventional justice system; in addition, we argue that the absence of retribution would encourage a real and deep unveiling of the truth. Further and importantly, since group offenses involve many perpetrators, dialogue and group truth-telling processes should take place to better construct a recording memory of the past; a collective examination of the difficult past and restorative constructive dialogue between the parties in conflict, may generate a solid and deep reflection on the attitudes and structures behind the atrocities.
that would need be changed and renewed in order to construct a peaceful future susceptible of avoiding the reoccurrence of atrocities.

On the other hand, as previously explained, the issue of accountability has generated great controversy within the debate of restorative justice and the conventional justice system given the senseless and counterproductive character of retribution to the eyes of restorative justice; in fact, advocates for the legalistic approach have often considered non-retributive accountability as naïve and even dangerous. In our opinion though, since restorative justice sees justice as means towards the restoration of common good to the expenses of punishment infliction and revenge, the restorative approach can significantly contribute to the transitional justice process (Villa-Vicencio, 2008). Restorative accountability in transitional justice contexts would take place in exactly the same way as it has been above explained under the broad explanation of restorative justice, meaning avoiding any form of intentional punishment infliction and connecting accountability to restoration and reintegration through measures such as truth, community service, symbolic measures, compensation, among others.

Like with restorative truth, restorative transitional justice should provide the opportunity for offenders to collectively restore the direct and/or indirect victims’ and social harm. We subscribe therefore to Arsovksa, Valinas and Vanspauwen’s argument according to which transitional justice should require “a broad understanding of accountability which goes beyond mere individual responsibility. ‘Accounting’ for a violent past will include not only a recognition of what happened and the responsibilities associated to it, but also a commitment to make up for those wrongs and to prevent them in the future” (Arsovksa, Valinas, Vanspauwen, 2008 pp. 444-460). In fact, in the same ways in which crowds achieve to massively harm and destroy, collective actions may have a greater impact in trying to restore what has been broken.

2.2.2. Aiming at restoration and respecting the goal of peace and reconciliation

The issue of reparation or restoration occupies the key central place under a restorative transitional justice system. As we have seen, both issues of truth and accountability are directly linked to restoration, which in fact constitutes their goal and sense. Although we have already explained how restoration should take place according to restorative justice,
quantitative characteristics of transitional justice should be taken into account to address the huge social harm that has been caused by political violence. The state should contribute to the restoration of the harm and offer the opportunity for offenders, to conjunctly, work towards this goal.

As we have already noted, restoration, and not reconciliation between victims and offenders as many believe, constitutes the main goal of restorative justice. In fact, “for the purposes of national peace building, there is no convincing reason why the victim needs to reconcile with, or even forgive, the perpetrator” (Stovel, 2003, p. 11); reconciliation within oneself or with another person, is an ideal emotional internal process and goal that cannot be imposed by a judicial process. However, the justice system of transitional justice societies must intent, to the extent possible, to respect the larger goal of national peace and reconciliation; a goal that goes beyond the justice system and regards every citizen of the ragged society, particularly political actors; a necessary goal that, in our opinion, will be better met and respected through restorative justice, to the expenses of the conventional legalistic vision of justice.

Of striking importance, the goal of peace/reconciliation has often been in conflict with the goal of justice to the point of making countries choose between both goals. However, as rightly said by UN Secretary-General Ban Ki-moon “the debate on how to ‘reconcile’ peace and justice or how to ‘sequence’ them has lasted more than a decade. Today, we have achieved a conceptual breakthrough: the debate is no longer between peace and justice but between peace and what kind of justice” (http://africanarguments.org). In contrast to the retributive dimension of the conventional justice system that threatens the goal of peace and reconciliation, restorative justice constitutes a means towards resolving this peace vs. justice issue (McCold, Llewellyn and Van Ness. 2007); restorative justice proposes a vision of justice that respects this indispensable goal and softens the road to achieve it. In Aukerman’s words, “both retributive and restorative justices envision reconciliation as a product of full accountability for wrongdoing. But while retributive accountability involves proportionate punishment, restorative accountability demands an acknowledgement by offenders of their culpability and a willingness to make good. While retributive justice allow society to punish an offender as a means of achieving reconciliation, restorative justice requires society to include the offender in the process of reconciliation” (Aukerman, 2002, p. 84). In our opinion, the justice system must bend over
peace and reconciliation, which is a necessary and an urgent state of a conflict-ridden society, and not the opposite. Restorative justice becomes therefore a necessity in meeting the demands and challenges of societies coming to terms with the phenomenon of mass victimization.

2.3. Conceptualizing “restorative transitional justice”

The question of “restorative transitional justice”, which refers to “the variety of processes and mechanisms established to restore, to the extent possible, the individual and social harm caused by mass abuses” (Bueno, 2012), suffers from a huge conceptual and knowledge gap that obliges us to be very attentive in the challenging construction of this theoretical framework, which is obviously strictly connected and dependent to what has been already written on restorative justice and transitional justice independently. Accordingly, in contrast to transitional justice, which in our view, does not constitute an approach of justice but a field of justice relating to extraordinary contexts, restorative justice, like the conventional justice system, is an approach of justice through which the issues of transitional justice can be seen and dealt with. As it has been previously explained, restorative justice offers a new “lenses” to look at criminality according to which the harm caused by an offense must be restored. Restorative justice, when applied to extraordinary contexts, should thus adapt itself to take into account the collective, massive and serious nature that characterize transitional justice crimes, and which undoubtedly, have a direct impact on truth, accountability, reparation and peace/reconciliation.

As it has been previously and deeply noted, we define restorative justice on the basis of its intention, to the expenses of the formal encounter between the victim and the offender. Accordingly, generally speaking, for a justice model to gain the restorative adjective, there must be the intention to restore the harm caused by an offense, which will be generally translated into different elements such as the intention to restore the harm of the victim, the offender and the community, the absence of intentional punishment infliction, an active accountability – linked to restoration and reintegration – a respectful dialogue and participation; it would therefore be measured in terms of degree of restorativeness, on the basis of a continuum. In transitional justice contexts, restorative justice will be
designed in exactly the same way; it is not the international, national, or local level nature of the mechanism what signs its restorativeness. Only the previously mentioned constitutive elements of restorative justice can taint a mechanism of restorativeness. Differently said, restorative international, national and/or local-level transitional justice mechanisms may exist only if they embrace these restorative elements. In other words, neither truth commissions nor traditional justice mechanisms are inherently restorative; a real restorative transitional justice mechanism would be the one that intents, as much as possible, to restore the massive harm that has been caused by an offense, and consequently, find solutions to the already described weaknesses of the conventional legal system.

In fact, existing mechanisms of transitional justice could illuminate the path towards the creation of solid restorative mechanisms by offering their restorative elements. As a result, transitional justice mechanism could gather the restorative elements from already known transitional justice mechanisms and from those that will be re-discovered or simply invented. For example, a restorative institution could integrate the restorative components of the South African TRC - the absence of retribution, the space for victims and perpetrators to tell their stories - and those of a traditional mechanism – the informal, understandable and culturally based process. But, what about prosecutions of mass atrocities? Could criminal trials become restorative oriented mechanisms? Criminal trials, like any other instrument, could turn into restorative mechanisms if they integrate the restorative elements. For this to happen they must leave behind intentional retribution, their raison d’être. However, would it be coherent to still call “criminal trial” a non-retributive process? By abandoning their retributive goal, most probably criminal trials would become a sort of VOM process in which judges would work as facilitators between directs and/or indirect victims and offenders; they may become restorative criminal trials in transitional justice contexts.

Since crimes of serious and massive nature touch the global affected society, it would be worth to create restorative transitional justice mechanisms capable of addressing, to the extent possible, the dramatic consequences of mass atrocity: the restoration and reintegration of victims and offenders, hold offenders restoratively accountable for their acts, establish the truth and promote peace and reconciliation. A conflict-ridden society may opt for the creation of various mechanisms that would deal with the issues of
transitional justice conjunctly or separately or just some of them; the mechanisms may involve only victims or offenders or both of them. Obviously, the context of the country would play a predominant role in the design and implementation of its own mechanisms. In addition the mechanisms may be local, national or international. In our opinion, though, as long as the transitional justice mechanisms are restorative-oriented, the different dimensions would lose some relevance. However, these dimension have their own legitimacy, richness and importance that can strongly contribute to the global restorativeness of a transitional justice society. As a result, both, the restorativeness of a particular transitional justice mechanism, and the restorativeness of the addition of all the mechanisms, may be seen on a continuum, from non-restorative to fully restorative.

So, in sum, approaching transitional justice from a restorative perspective would enable various disciplines, criminology, psychology, law, theology, anthropology, among others, to contribute with creativity and openness in finding pathways to better restore the individual and social harm caused by mass atrocities. Finally, by aiming at restoring the harm, the restorative approach evidently offers a better constructive way of meeting the goals of transitional justice while respecting the need of peace and reconciliation.

### 2.4. Towards a model of restorative transitional justice

The following model attempts at explaining the author’s vision of the restorative justice system related to mass atrocities. Accordingly, this model incorporates the main components of the restorative approach: the various actors, the goals, the form of collective accountability and the principles and values.
Figure III: Primary goal: To restore the harm and reintegrate the offender
Figure IV: Secondary inter-related goal: trust and reconciliation
4. Comparative table on restorative justice and the conventional legal justice

The following table explains the author's understanding of the conventional and the restorative justice systems related to common crimes that take place during times of peace and mass atrocities that take place during times of conflict.

<table>
<thead>
<tr>
<th>Contexts of normality</th>
<th>Contexts of transitional justice</th>
</tr>
</thead>
<tbody>
<tr>
<td>Goal: Maintain social harmony</td>
<td>Goal: Stop systematic massive violence and promote reconciliation</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Type of justice</th>
<th>Restorative justice</th>
<th>Conventional legal justice</th>
<th>Restorative justice</th>
<th>Conventional legal justice</th>
</tr>
</thead>
<tbody>
<tr>
<td>Type of justice system</td>
<td>Restorative criminal justice System</td>
<td>Criminal justice system</td>
<td>Restorative transitional justice system</td>
<td>Transitional legal justice system</td>
</tr>
<tr>
<td>Philosophy</td>
<td>Restorative philosophy</td>
<td>Non-restorative philosophy</td>
<td>Restorative philosophy</td>
<td>Non-restorative philosophy</td>
</tr>
<tr>
<td>Legal framework</td>
<td>Restorative rule of law</td>
<td>Rule of law</td>
<td>Restorative transitional rule of law</td>
<td>Transitional rule of law</td>
</tr>
<tr>
<td>Intervention</td>
<td>When a harm has been committed</td>
<td>When a criminal law has been transgressed</td>
<td>When systematic, serious and massive harms have been committed</td>
<td>When serious violations of human rights have been committed</td>
</tr>
<tr>
<td>Main goal</td>
<td>To do justice through the restoration of the harm caused by an offense</td>
<td>To do justice through the application of a law that intents to find the guilty one and inflict intentional punishment</td>
<td>To do justice through the restoration of the harm caused by systematic, serious and massive offenses</td>
<td>To do justice through the application of a law that intents to find the guilty one and inflict intentional punishment</td>
</tr>
<tr>
<td>Secondary inter-related goals</td>
<td>Trust and reconciliation between stakeholders</td>
<td>Trust and reconciliation between stakeholders</td>
<td></td>
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</tr>
<tr>
<td>Role of the victim</td>
<td>To participate actively in the process to restore her/his harm</td>
<td>To participate passively</td>
<td>To participate actively in the process to restore her/his harm</td>
<td>To participate passively</td>
</tr>
<tr>
<td>Role of the offender (accountability)</td>
<td>To participate actively in the restoration of the harm of the victim, the community/state and his or her harm in order to be eventually reintegrated into society. The accountability is therefore active, restorative, constructive and reintegrative</td>
<td>To participate passively or not at all in the restoration of the harm of the victim, the community/state and his or her harm. To be punished and excluded. The accountability is therefore passive, retributive, stigmatizing and non-reintegrative</td>
<td>To participate actively, and collectively, in the restoration of the harm of the victim, the community/state and his or her harm. The accountability is therefore collective, active, restorative and reintegrative</td>
<td>To individually participate passively or not at all in the restoration of the harm of the victim, the community/state and his or her harm. To be punished and excluded. The accountability is therefore individual, passive, retributive, stigmatizing and non-reintegrative</td>
</tr>
</tbody>
</table>
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<table>
<thead>
<tr>
<th>Role of the community/state</th>
<th>- To provide a secure place for restorative justice to take place</th>
<th>- To provide a secure place for the conventional legal justice to take place</th>
<th>- To provide a secure place for restorative justice to take place</th>
<th>- To provide a secure place for the conventional legal justice to take place</th>
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<td></td>
<td>- To deeply restore the harm of victims and offenders</td>
<td>- To slightly, or not, restore the harm of victims</td>
<td>- To deeply restore the harm of victims and offenders</td>
<td>- To slightly, or not, restore the harm of victims</td>
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<td>- To punish offenders</td>
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<td>- To slightly, or not, restore the harm of victims</td>
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| Characteristics of the process | Respectful, secure, flexible and participatory | Slightly respectful or disrespectful, secure, inflexible and non-participatory | Respectful, secure, flexible and participatory | Slightly respectful or disrespectful, secure, inflexible and non-participatory |

| Main role | Victims, offenders and representatives of the community (psychologists, doctors and spiritual leaders) | Lawyers, prosecutors and judges | Victims and offenders (psychologists, doctors and national and/or international spiritual leaders like representatives of indigenous communities) | International and/or national lawyers, prosecutors and judges |

### Table 1: Comparative table on restorative justice and the conventional justice system in times of peace and in contexts of transitional justice

Under this third chapter we have seen that despite restorative justice’s great interest in the field of transitional justice, little has been said about their coalition. In practice, apart from some restorative-oriented mechanisms like the South African TRC and the *gacaca* courts, there is not a real example of a fully restorative mechanism susceptible of dealing with the issues of transitional justice. Given such lacuna, we intended on the one hand, to raise additional elements of the transitional justice field that may further justify the implementation of restorative justice to the expenses of the retributive-oriented approach of justice, and on the other hand, to build-up a theoretical coalition between restorative justice and transitional justice. Could this theoretical framework be applied to the Colombian context?
Part II: Dealing with mass atrocities during an ongoing conflict: Transitional justice in Colombia

The overwhelming cruelty and profound complexity of the Colombian internal armed conflict places it amongst the most severe and long lasting conflicts in the world. With roots in the Spanish colonial rule, socio-political violence has always been a common feature of the Colombian society, triggering a complex reality in which there is no real consensus on the nature and origins of today’s armed conflict. However, historians have a tendency to place the origins of this conflict in the 60’s; a decade marked by the consolidation of left-wing oriented illegal armed groups, and followed by the foundation in the 80’s of self-defense groups, also known as “the paramilitaries”.

This conflict is a perfect example of a mixed conflict, displaying characteristics both of an internal armed conflict and of common organized crime. The illegal armed groups in Colombia have constantly violated human rights by recruiting children under fifteen years of age, committing massacres, killing civilians and combatants hors de combat, engaging in torture, forced displacement, hostage-taking, among other violations. The armed conflict is fuelled by drug-trafficking violence. In addition, state agents in Colombia are believed to have participated in serious crimes.

Despite the various amnesties that have marked previous peace processes with left-wing guerrilla and the relatively recent demobilization (of 36 members) of the Ejército Revolucionario Guevarista in August 21, 2008 (www.altocomisionadoparalapaz.gov.co) two commanding guerrilla groups, the FARC and the ELN, although quite debilitated by the Uribe and the Santos administrations, still operate in the Colombian territory. However, in September 2012, both the Santos administration and the FARC confirmed their intention to start peace talks. The paramilitaries, on the other hand, mainly organized under the umbrella of the AUC, opted to put an end to their organization through the massive collective demobilization on August 15, 2006, where 31.671 men and women members handed in 18.051 weapons (www.altocomisionadoparalapaz.gov.co).

It is in this complex context of ongoing conflict that state-organized legal and non-legal transitional justice mechanisms are being implemented to deal with the mass atrocities
committed in Colombia. Although the ongoing conflict questions the transitional status of Colombia, to the point to be deemed by some as a context of transitional justice without transition (Uprimny, 2006), it is generally accepted, and notably by the Constitutional Court in its famous ruling 370 of 2006, that Colombia finds itself in a context of transitional justice, though a very particular one. Being an extremely politicized and divided country, the transitional justice process has provoked great controversies and debates on the measures _per se_ and their implementation. In our intention to design the global picture of this context, we will firstly illustrate how difficult it has been for Colombians to find peace, and secondly, we will go through the actual transitional justice process, particularly symbolized by the well known Justice and Peace Law of 2005 and influenced by the shadow of the ICC.
Chapter 1. The rocky road towards peace and reconciliation in Colombia

After going through the complexity of the long violent Colombian conflict, we will briefly explain some of the peace negotiation processes that have taken place in the country to better understand the actual transitional justice process.

1. The complex Colombian conflict

It is not surprising that the word violence comes to our mind when thinking of the Colombian socio political trajectory; violence has constantly and deeply tainted the history of this country since the very beginning of the brutal encounter that took place over 500 years ago between the western colonizers and the native communities established along the Colombian territory. Ever since this far away period, the fight of power, territory and ideological and moral conquest, has become an evolving, though permanent and strong reality in Colombia. The actors might have changed, but the phenomenon of violence has remained, designing a total lack of understanding and respectful coexistence that, unfortunately, is still present today.

In spite of the complexity and endurance of the Colombian conflict, historians usually classify it in three different stages: the first one is known as the period of “civil wars” related to delicate topics such as the role and place of the Church and its relation with the state, the abolition of slavery, the centralist or federalist political organization of the state, among others (Afanador, 1993). The second stage is known as “La Violencia”, marked by the confrontations that took place during the mid-XXth century between the Conservative Party, holding power, and the Liberal Party, the party of the opposition. Finally, the third stage refers to the decades of the consolidation of illegal armed groups starting in the 1960’s.

The xixth century was marked by wars of independence and various civil wars. With the end of the Spanish colonial period, Colombians passed from being exporters of mineral resources, mainly gold and silver, to export agricultural products, bringing about complexes issues relates to land acquisition (Le Grand, 2009). Le Grand explains in fact
how the terrenos baldíos, which constituted 75% of the Colombian territory in 1850, were little by little conquered by peasants who created the first villages (caseríos) with churches, schools and local authorities. The peasants were then obliged to give up their territories to big landowners (hacendados), who claimed having the rights of vast extensions of territories or the financial means to develop agricultural farms (haciendas) able to compete in the market. This critical rural phenomenon, approved by the judicial Colombian system of that period, put an end to the freedom of work of the independent peasants (Le Grand, 2009); despite multiple institutional initiatives intended to solve the land issues, the period between 1875 and 1930 went through multiple, and sometimes long and violent conflicts between the colonos, wanting to work as independent producers on their own land, and the hacendados, aiming to increasingly extend their territories and dominion on the market. The land problems caused, thus, a real social discontent that would deeply influence the political crisis of the 40’s.

Most probably, the closest explanation to the actual conflict could be traced in the 40’s with the origin of the period known as La Violencia, “the undeclared civil war”, occurred, according to some, from 1946 to 1953 (Santos, 2009), and according to others, from 1945 to 1965 (Sanchez, 2009); a Colombian tragic episode governed by the bipartite fight between the conservatives and the liberals and symbolized by the murder of presidential candidate for the Liberal party, Jorge Enrique Gaitán, on the unforgettable 9th of April 1948. With Gaitán’s death, died the hopeful dreams of the popular masses, which suddenly, lost their unique representative, and consequently, were left in a frustrating political and social emptiness. On 9 April 1948, the collective frenzy, spontaneously, took over Bogota, breaking up commerce and stores, demolishing public institutions, spreading dead bodies all over the city and exposing to the world the frustration of the masses.

La Violencia triggered a devastating wave of violence that affected the whole country and constituted fertile soil for the creation of the paramilitaries and guerrilla groups whose actual roots were born by the end of the 40’s. In fact, as Pizarro notes, the particularity of the Colombian guerrilla, compared to other guerrilla groups in Latin America, resides in its early emergence that took place before the Cuban revolution. The first years of the 1950’s were therefore predominately tainted by liberal guerrillas, to the expenses of
communist groups, which, at that time in Colombia, were only present in the south of Tolima and in the region of Sumapaz (Pizarro, 2009). These guerrilla nuclei demobilized under the political space offered by General Augusto Rojas Pinilla who led a coup and seized power in 1953 as an intention to control and pacify the chaotic Colombian situation. Despite the sudden extrajudicial deposition of the Conservative government of Roberto Urdaneta, President of Colombia from November 1951 until June 1953, while President Laureano Gómez was absent due to health issues, the Colombian society, with the exception of the followers of Laureano Gómez and the communists, welcomed the General's coup (Afanador Ulloa, 1993). In fact, they expected a brief military transitional administration towards the institutional consolidation, and was not stigmatically seen as an authoritarian regime. As earlier mentioned, Rojas Pinilla did pacify the country at the beginning of his mandate, but, with time, tragic episodes such as the murder of the students on the 8th and 9th June 1954, the military occupation that took place in Villarrica (Tolima) and the huge explosion of a military convoy in the city of Cali, contributed to the decline of Rojas Pinilla’s power and legitimacy and to the rearming of the guerrilla groups, but this time, under the flag of communism.

Rojas Pinilla ruled until 1958, when the National Front (*Frente Nacional* 1958-1974), an alliance between the two traditional political parties, the Liberal and the Conservative Parties, was created to govern for a period of four presidential terms by intercalating power between both of them, but forbidding at the same time any political space to left-wing or other political oriented parties. In fact, as Pizarro notes, although the National Front was able to calm down the violence in the country and the activities of the guerrillas, it didn’t attack the roots of a situation with a tendency to explode (Pizarro, 2009). In addition to the absence of political space provided to other left-wing oriented parties, another condition was necessary to the development of guerrilla groups: the absence of jurisdictional and economical presence of the state in certain regions. The critical lack of state presence would provide the right conditions for the military, economic and political development of guerrilla groups in some areas of the country (Rementería, 2009).

The 60’s marked the beginning of Cuban-style communism, social revolutionary ideologies, and consequently, the consolidation of left-wing revolutionary guerrillas
groups that emerged as a result of the rural issues and the lack of political space, social justice and opportunities. Among these groups there is the well-known FARC, the ELN, the EPL - Ejército Popular de Liberación-, Manuel Quintín Lame and the M19 - Movimiento 19 de Abril. Their objective became in fact to seize power.

However, encouraging the infinite circle of violence, the war of guerrilla groups against the government and civilians caused the creation of self-defense groups or paramilitaries in the 80's, which claimed that the government didn’t have the means to protect them, so they decided to it themselves. Lately, in the 90’s, under the leadership of Carlos Castaño, they became a structured and extensive organization known as the AUC - Autodefensas Unidas de Colombia (González, 2004). Recent testimonies have proven, though, that these groups received great support from the state, landowners and important business organizations that would pay the paramilitaries to provide them with private security and protect them from the actions of the guerrillas, particularly from the phenomenon of kidnapping (Bueno, personal communication, 2012). However, the paramilitaries went far beyond from a self-defense action; in addition to the attacks to civil society, the paramilitaries of Fidel and Carlos Castaño, together with drug lords, participated in the decline and gradual disappearance of the members of the UP- Unión Patriótica (Patriotic Union): a left-wing oriented political party founded by the FARC and the Colombian Communist Party in the 1985, as part of the peace negotiation process that the guerrillas held with Conservative President Belisario Betancourt. This event marks once more the existing intolerance in Colombia towards a democratic ideological difference, which according to the leaders of the political group, resulted in approximately 5,000 murdered, disappeared and tortured people (Cepeda, 2006) and had, without doubt, a profound impact on the relationship between the FARC and the Colombian government (Hege & Contreras, 2008).

In fact, the three main illegal armed groups of the last decades (the FARC, the ELN and the AUC) have all committed daily violent political crimes containing an unimaginable degree of cruelty and situated at the macro level of a society, going beyond the micro individual level. In order to develop and finance their organizations, the illegal armed groups made use of drug trafficking or drug taxation, expropriation and kidnapping. These lucrative
returns from illegal activities increasingly gained importance in the illegal combatants' agenda, and have, for the most part, blurred ideological motivations.

In addition to the drug business developed or encouraged by the illegal armed groups, Colombia lived the brutality of the drug wars carried out by the Cali and Medellin cartels in the 80's and 90's. They were so powerful financially, that the founders of the Medellin Cartel, Pablo Escobar and Carlos Lehder, offered the Colombian government in 1986 to pay off the nation's US $12 billion national debt so that they wouldn't be extradited to the United States (Santos, 2009). Although these Cartels no longer exist, small and medium drug lords, together with street gangs, and the above mentioned illegal armed groups, continue with the business of drugs, generating the violence that only the best illegal business in the world could do so. In its war on drugs, the United States has considerably provided the Colombian government with financial means and logistical experience in order to implement plans to combat the illegal drug business. However, in exchange of this assistance, Colombia has agreed to extradite to the US drug dealers. Accordingly, in the words of Guembe and Olea, “as the link is established between drug trafficking and guerrillas and paramilitaries, the United States is now requesting the extradition of high-ranked members of these unlawful groups mostly on drug trafficking charges” (Guembe & Olea, 2006, p. 123). As a result, on 13 May 2008, 14 paramilitary leaders were extradited to the US for drug trafficking. In fact, the US counts on Colombia not only as an ally in its fight against drug trafficking, but as an unconditional partner in a complex regional situation tainted by ideological tensions with neighbor countries, notably Venezuela and Ecuador. In the midst of this delicate cohabitation, Colombia authorized the use on its territory of seven military cases by the United States. Such agreement didn't go without divisive reactions of neighbor countries, particularly Venezuela.

Uribe’s administration (2002-2010), although opened to peace negotiations, strongly invested in a military strategy; to give an example, the military budget was increased from 3.8 billion USD to 4.6 billion in 2005, and the armed forces were expanded from 154,878 soldiers and 101,289 police to 252,891 soldiers and 131,038 police in 2008. (Hege & Contreras, 2008). In addition to this strong military offensive, the FARC and the ELN have been considerably affected by the phenomenon of individual demobilization of their members and the ransoms granted to those who provide the authorities with information on the leaders of the illegal groups. However, although President Juan Manuel Santos,
Part II: Dealing with mass atrocities during an ongoing conflict: Transitional justice in Colombia  
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...elected in 2010, continues with a strong military strategy, he has announced his intentions to enter into a peace process with the FARC (El Tiempo, 4 September 2012).

2. The peace negotiation processes in Colombia

In an effort to put an end to the various conflicts and wars that have transgressed the republican life of Colombia, several peace processes, some of which based on unconditional amnesties, have been implemented. From the very beginning of the xxth century, various amnesties, like the following ones, were used: the amnesty of 1902, granted with the signing of the Treaty of Wisconsin during the government of Jose Manuel Marroquín; the amnesty law 82 of 1948 during the government of Mariano Ospina Pérez; the decrees laws 2184 and 1823 of 1953 during General Gustavo Rujos Pinilla’s ruel; the decree law 0328 of 1958, during the government of Alberto Lleras Camargo; the amnesty law 37 of 1981 under the government of Julio César Turbay; the law 35 of 1982, under the government of Belisario Betancur and the decree 1943 of 1991 under the government of César Gaviria (Guarín, 2005).

As previously specified, the origins of the actual Colombian conflict can be traced in the 60’ with the consolidation of illegal armed groups, some of which are still functional today. We would like therefore to emphasize on the peace processes involving some of these groups, notably the peace settlement with the M19. The process that culminated in the demobilization of this group, started with a very paradoxical situation that marked the guerrilla’s will to attack its new target, the Colombian oligarchy; on 28 Mai 1988, the politician from the conservative party Álvaro Gómez Hurtado, was kidnapped by the M19 and released two months after with a peace message from the guerrilla group to the government of Virgilio Barco (1986-1990). This initiative ended up in a consolidated peace process, triggering the demobilization of the members of the M19 who were granted amnesty and consequently, reorganized themselves as a political party: the M19 Democratic Alliance. As a matter or fact, his new political party participated in the presidential elections of 1990 and in the Constituent Assembly elections (Santos, 2009).

As Grabe notes, “mechanisms were introduced to guarantee the full incorporation of
combatants into civilian life, with security schemes, the application of pardons, and economic support for reintegration” (Grabe, 2004, p. 40).

However, we should not forget that some years before this peace process, on 6 November 1985, the M19, the same guerrilla organization responsible for the seizure of the Dominican Embassy in 1980, took over the Justice Palace, holding about 150 hostages, including the judges of the Supreme Court of Justice and the Consejo d’Estado. This unforgettable day for the Colombian society resulted in the bombardment of the building by the army and the death of almost all the hostages and the guerrilleros (Santos, 2009). Despite this tragic event occurred under the presidency of Belisario Betancourt (1982-1986), and many other obstacles that took place during the negotiations, the peace process between President Virgilio Barco and Carlos Pizarro, leader of the M19, culminated in the group’s abandonment of weapons on 9 March 1990. These peace efforts were continued by Barco’s successor, President Cesar Gaviria (1990-1994), which resulted in the demobilization of other three guerrilla groups: the Revolutionary Worker’s Party, the Quintín Lame organization and the Popular Liberation Party. In fact, the story of the M19 incited these guerrilla organizations to leave weapons and participate into society in a democratic way, particularly in the National Constituent Assembly, which resulted in a new Colombian Constitution promulgated on 4 July 1991.

Despite the fruitful sequence of peace events with the above mentioned demobilized guerrilla organization, the efforts of the Colombian government to achieve peace with the remaining guerrilla groups, ELN and FARC, failed: Betancur’s La Uribe Accord with the FARC proved futile, as well as the efforts of Samper (1994-1998) and Pastrana (1998-2002) to negotiate with both groups. Pastrana’s history with the FARC remains though crucial in the understanding of the political context behind the peace negotiation process between the administration of Uribe and the Paramilitaries, and the position of this government towards the guerrilla groups; a political context that would design the path towards the actual transitional justice process in Colombia, notably the Justice and Peace Law.

Andrés Pastrana took office on 1998 on the basis of his compromise with peace; a compromise that was translated into a failed peace process symbolized by the famous
“empty chair” (la silla vacía): Manuel Marulanda Vélez, leader of the FARC in those days, refused to attend the meeting held in San Vicente del Caguán with president Pastrana, leaving the chair assigned to him, empty. President Pastrana was left alone waiting in the eyes of the world for the leader who never showed up, for security reasons, supposedly (Santos, 2009). Despite the empty chair, Pastrana, in his quest for peace with the FARC, authorized a demilitarized area in which the guerrilla would have total control; a zone of 42,000 km², roughly the size of Switzerland, known as the region of El Caguan. However, this generous initiative didn’t seem enough for the FARC, which continued kidnapping and violating human rights on a daily basis. As a result, in February 2002, Pastrana announced the definitive breaking off of the peace process with the FARC and put an end to the demilitarized region.

Pastrana was definitely not successful with peace agreements; parallel to the failed process with the FARC, the ELN, committed a massive kidnapping at the church La Maria, in Cali, right in the middle of the peace dialogue with the government. In addition, the negotiation with the paramilitaries was never seen as an option (Guembe & Olea, 2006). It was in this context marked by the bitter taste of a failed attempt to peace that Álvaro Uribe Velez was elected President in 2002 on a military platform; Uribe encouraged the military defeat of illegal armed groups, but was at the same time opened to dialogue.

The AUC didn’t take long to publicly show their intention to find a negotiated peace agreement with the Uribe administration. Such intention led to the signing of the Santa Fé de Ralito Accord in 2003, according to which the members of the AUC accepted to demobilize in exchange of suitable mechanisms designed to deal with their legal status and processes of reintegration. Although a consolidated dialogue with the AUC ended in the demobilization of more than 30,000 Paramilitaries, peace dialogue between Uribe and the guerrilla groups didn’t go very far. However, the individual demobilizations of guerrilla members have considerably risen up the total number of demobilized members of guerrillas and paramilitaries to more than 50,000 (http://www.reintegracion.gov.co).

Today, under the presidency of Juan Manuel Santos, individual demobilizations of guerrilla members continue to take place. But more importantly, on 4 September 2012 the Santos administration announced that peace talks with the FARC would start in Oslo
in the first half of October before moving to the Havana. As affirmed by Santos, Venezuela and Chile will play a key role in supporting the talks, but there would be no ceasefire.⁴

Under this chapter we attempted to illustrate the complexity behind the history of Colombia, which has been marked by an extremely high degree of violence. Although there have been some examples of successful peace processes with illegal armed groups, in which amnesties have played a crucial role, Colombia is still struggling today to end-up its conflict while dealing with the issues of transitional justice at the same time.

⁴ http://www.eltiempo.com/politica/ARTICULO-WEB-NEW_NOTA_INTERIOR-12194472.html
Chapter 2. The complex transitional justice process in Colombia

In spite of the ongoing character of the Colombia conflict, various transitional justice mechanisms of different nature have been implemented to deal with the issues of mass atrocities. Amongst these mechanisms, there are the proceedings created by the JPL, a DDR program and various forms of reparative measures for the victims of the conflict, which have caused great controversy amongst Colombians and at the international level.

1. The transitional justice process and the Justice and Peace Law

As previously noted, Colombia has had various peace processes with guerrilla groups resulting in grants of pardons and amnesties. In the words of Gomez, “in previous peace processes in Colombia, crimes against humanity have never been prosecuted, the victimizers have never been required to confess, even negligibly, to the truth of their crimes, nor have the victims and their right to reparations been taken into consideration” (Gómez, 2010, p. 162). In fact, the agreements between the previous governments and illegal armed groups only considered judicial benefits for those who decided to demobilize. Although amnesties and pardons have been the only model used in Colombia to attempt peace settlement, the arising transitional justice discourse and what some refer to as the “new humanitarian conscience”, have restricted the possibility of implementing these strategies (Orozco, 2005). Moreover, they no longer seem as a possibility for a country having ratified the Rome Statute.

In fact, since November 1, 2002, date in which the Colombian ratification of the Statute of Rome came into force, The ICC is competent to exercise its jurisdiction over crimes against humanity and genocide committed in Colombia. Henceforth, the reserve made by Colombia on the basis of Article 124 of the Rome Statute, according to which the Court couldn’t exercise its jurisdiction over war crimes for a period of seven years counting from the date of the entry into force of the Statute in Colombia, expired in November 1, 2009. In other words, today, the ICC has no competence restrictions in Colombia; the
principle of complementarity (Art. 17) may activate the ICC’s jurisdiction in Colombia at any time, and given the great attention and interest of the ICC on the Colombian case, this is not far from becoming a reality (Bueno & Díaz, 2013).

Undoubtedly, finding a negotiated solution to a conflict under the era of the ICC has become an extremely complex task, arising even more the delicacy behind the dichotomy of justice vs. peace, which has dominated the debates of the legal framework concerning the collective and individual demobilizations of paramilitaries and guerrilla members, respectively. As Pizarro notes, the conciliation of justice and peace will be the greatest dilemma of those countries that arrived to the XXI st century with an internal armed conflict. This dilemma will be notably seen the day in which the FARC and the ELN will sign a peace agreement with the Colombian government (Pizarro, 2009).

Given the complexity of the scenario, Colombia went through a deep debating process on the legal framework applicable to ex-combatants, which lead to the creation of two legal regimes, “clearly reflect the mixture of the pardon and retributive-criminal approaches, as a result of the influence of the transitional justice discourse” (Bueno & Díaz, 2013). Law 782 of 2002, extended by Law 1106 of 2006 and Law 1424 of 2010, granted amnesties to the demobilized members of illegal armed group who didn’t have criminal charges “as long as prior to demobilization the individual was not the subject of judicial proceedings for crimes not subject to pardon or amnesty” (Gamboa, 2010, p. 62). Due to the absence of prosecution we could in fact assimilate this legal framework to the Colombian pardon tradition previously exposed. In fact, those who are not charged of serious crimes against humanity participate in a DDR process managed and organized by the Office of the High Counselor for Reintegration (Alta Consejería para la Reintegración - ACR) (http://www.reintegracion.gov.co). Due to the great number of demobilized ex-combatants, the ACR was created in September 2006 to re-evaluate and implement Colombia’s strategy for the reintegration of demobilized persons, which consists of a personalized process based on the age, gender and the psychological, vocational and civic attributes of the offender. The benefits on health, education, psychological accompaniment and economic reintegration are transitional and are intrinsically linked to the individual participation of each ex-combatant.
In order to complement Law 782, the government presented a first draft bill known as the law on alternative sentencing (Law 085 of 2003). Given the immediate reactions and criticisms of human rights organizations and various political and social sectors of the country on the legal benefits offered to those guilty of the gravest crimes, who were not covered by Law 782, the alternative sentencing law was rapidly withdrawn and never entered into force. In fact, in its quest for peace, the government attempted to introduce alternative sentences instead of prison, which led some to deem it “more like a proposal for impunity and forgetting so that AUC members could be rapidly incorporated into civilian life” (Gamboa, 2010, p. 64). Along the same lines, Felipe Gomez considers the alternative sentencing law as “a bill that, with vague references to restorative justice, in reality sought to guarantee impunity for the demobilized paramilitaries” (Gómez, 2010, p. 148).

How to reconcile the need of peace and retributive justice? This dilemma didn’t make the creation of a legal framework easy. Despite the many proposals presented, the bill presented by Refael Pardo and Gina Parody and the one proposed by Mario Uribe and Claudia Blum, received particular attention. The latter bill proposal, which had the governmental support, finally ended up becoming the Law 975 of 2005, better known as the Justice and Peace Law (Gamboa, 2010). However, this law didn’t go without controversy and division that, according to Pizarro, may regrettably, hide strong ideological motivations; on the one hand, those who are more right-wing oriented may advocate for a flexible judicial process with the paramilitaries and a rigid one for the future peace processes with the FARC and the ELN, and on the other hand, those more left-wing oriented may advocate for rigidity towards the AUC and for flexibility towards the FARC and the ELN. In other words, as the author explains, we would be talking about a variable transitional justice according to the ideological champ of ones and others. (Pizarro, 2009). However, as we will further see, although the JPL presents advantages and positive features, this legal framework and its implementation presents also some inconsistencies independently of any ideological orientation, which actually triggered a recent reform in norm.

The “Justice and Peace Law”, adopted the 21st of June 2005 by the Colombian Congress, aimed at easing “the peace negotiations with the armed groups and the individual and
collective reincorporation of the members into civil life, guaranteeing that the victims will have the right to truth, justice and reparation” (Article 1). After its adoption, the law was reviewed by the Colombian Constitutional Court, which considered it constitutional, but raised at the same time the unconstitutionality and conditioned constitutionality of many of its dispositions, arguing that the law needed to comply with constitutional and international legal standards (Constitutional Court, ruling C-370 of 2006). In fact, as Rincon points out, “(t)he influence of international human rights law (including decisions by international bodies) on Colombian domestic law, and particularly in the judgments of its main judicial bodies, has today become a part of the Colombia legal reality. In this sense, it is not strange that the interpretation and application of the norms governing the transitional justice process also respond to that influence” (Rincón, 2010, p. 40). In other words, in terms of respect for international justice principles and standards, the Colombian judicial bodies have done great efforts in rendering the JPL and its implementation as respectful as possible.

After being voted and revised by the Constitutional Court, the JPL became the legal framework for the investigation and judgment of the collectively and individually demobilized members of all illegal armed group, guerrillas and paramilitaries, whose initial main intentions excluded drug trafficking and who were not covered by Law 782 of 2002. Differently put, the JPL is applied to those responsible of the violation of human rights who cannot be granted amnesties and who are willing to put an end to every illegal activity and participate in the reparation and truth-telling processes. The JPL creates therefore a special procedure for its candidates, according to which, those included in the official list that has been submitted by the government to the National Prosecutor, may render a free version (versión libre) before a JP Prosecutor, in which certified victims may raise questions regarding their cases. Afterwards, the prosecutors of the Justice and Peace Unit are invited to investigate on the truthfulness behind the offender’s statements and to charge the accused before a Justice and Peace judge who will pronounce the sentence over reparative measures to the victims and appropriate sanctions. In fact, according to Article 8 - Law 975 of 2005, the victim’s reparation right includes “actions to promote restitution, compensation, rehabilitation, satisfaction, and guarantees of non repetition”. Finally, the accused has the right to appeal before the Criminal Cassation Chamber of the Supreme Court of Justice.
Ever since the adoption of the JPL, there has been a lively debate on the punishments applied to demobilized ex-combatants. In fact, whereas the ordinary punitive sentences embodied in the Colombian Penal Code may range from forty to sixty years for the crimes falling under the jurisdiction of the JPL, the latter offers reduced alternative prison sentences going from five to eight years of imprisonment. It seems that such reductions form part of the global strategy of dealing with mass atrocities during an ongoing conflict since one could difficultly imagine armed combatants surrender to enter into a peace process that would condemn them to long prison sentences. The reduced sentences aimed, thus, at encouraging the demobilization, disarmament and reintegration into civil society of members of illegal armed groups. So, in essence, the JPL creates a very particular criminal justice model, unique in the world, in which prison sentences have been significantly reduced to encourage the final demobilization and termination of all illegal activities. The law conditions, though, the grant of these benefits to the disclosure of the full truth about past crimes, the devolution of illegally obtained goods to compensate the victims and the compromise to stop illegal activities (Comisión Colombiana de Juristas, 2007). However, as it will be further explained, the implementation of the JPL has been very complex. In fact, given the incapacity of the law to deal with the issues of mass atrocities in an effective way, the Colombian Congress approved an amendment to the law in December 2012. The goal of this amendment is to improve the existing process of JP. Amongst the various changes established, the amendment introduces a prioritization in the investigation and prosecution of the crimes committed by organized armed groups operating outside the law according to the criteria of the Attorney General’s Office (http://www.minjusticia.gov.co). This reform also reduces time spent in hearings, and establishes the possibility for paramilitaries to massively come out of prison if they have been incarcerated for 8 years. In fact, the problem is that by January 2013, only 14 sentences had been passed and many ex-combatants will reach very soon the maximum time imprisonment established by the JPL.

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5 http://www.noticiascaracol.com/nacion/articulo-277262-aprueban-ultimo-debate-reforma-a-la-ley-de-justicia-y-paz
6 http://www.oidhaco.org/uploaded/content/article/1595801969.pdf
Parallel to the JPL transitional justice process, as it has been considered by the Criminal Cassation Chamber of the Supreme Court of Justice, there is the ordinary criminal justice process provided in the Criminal Procedure Code “which is responsible for investigating, trying, and punishing grave human rights violations and breaches of IHL that do not fall under the jurisdiction of Justice and Peace” (Rincón, 2010, p. 36). In other words, those who have not submitted voluntarily to the transitional process of the JPL will be prosecuted by the ordinary criminal justice system. As Rincon notes, the Criminal Chamber has established a considerable difference between both processes, notably seen through the absence of the presumption of innocence and, thus, the guarantee of self-incrimination in the JPL process (Rincón, 2010). There are, thus, two different and simultaneous processes in charge of investigating and prosecuting those responsible of serious violations of human rights in Colombia: one established by the JPL and considered to be a transitional process by the Supreme Court of Justice, and the ordinary process embodied in the Criminal Procedure Code. So, being prosecuted by one or the other process will only depend on the willingness of the offender to submit to the JPL and comply with its obligations, or to follow the ordinary process of criminal justice. In fact, in December 2012, the Attorney General announced the exclusion from the JPL process of more than 350 demobilized ex-combatants who didn't comply with their obligations and who will be covered by the ordinary Colombian criminal process, which establishes a maximum prison sentence of 60 years (El Espectador, 2012).

But the JPL is not only limited to a legal criminal justice process. Regarding truth seeking, for example, the JPL created a particular and quite original commission different from the well-known TRC: the National Reparation and Reconciliation Commission (CNRR) was created by the JPL with an 8-year duration. It is composed of representatives of state control organs, members of the government, representatives of the Colombian civil society and victims’ organizations. According to the commission’s former chairman, Professor Eduardo Pizarro, “the CNRR’s guiding principle is to take care of yesterday’s victims so as to prevent tomorrow’s victims” (Pizarro, 2005). This commission, which doesn’t organize public hearings, is engaged in several activities such as creating associations of victims of political crimes, publishing information on the origins, causes and consequences of the paramilitaries and guerrillas in Colombia, proposing restorative programs that involves communities, victims and perpetrators, setting up regional
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committees for the restitution of property, among others. In fact, the activities of the CNRR are divided into 5 different areas: Disarmament, Demobilization and Reintegration (DDR), Gender and Specific Populations, Group of Historical Memory, Reconciliation and Reparation and Victim Care.

Probably, the lack of political transition towards a peaceful situation in Colombia excluded the right conditions for the implementation of a conventional TC. However, despite the absence of real interest in the creation of a TC in Colombia, the Colombian Supreme Court of Justice has proposed the creation of a truth commission to work on the truth about the past together with the JP trials (Supreme Court of Justice, 21 September 2009). It is worth mentioning and praise, though, the vital job on historical truth that has been carried out by the group of historical memory of the CNRR.

In addition to the judicial reparation embodied in Law 975, the government adopted through Decree 1290 of 2008 a program of administrative individual reparation for the victims of crimes committed by organized illegal armed groups. This administrative measure aimed at offering different reparative ways from the judicial one that would speed up the reparation process and provide individual economic compensation, access to education and health programs. Furthermore, after thorough and long-lasting debates, including the participation of victims and civil society representatives, such as the National movement of Victims of state Crimes (Movimiento Nacional de Víctimas de Crímenes de Estado - MOVICE), the historical and transcendental Victims and Land Restitution Law, better known as the « Victim’s Law », was signed into law by President Juan Manuel Santos in June 10, 2011. After many years in which the Uribe administration denied the presence of an armed conflict in Colombia, assuming that it consisted of acts of terrorism, the Victim’s Law, not only recognized such presence but included the victims of crimes committed by state agents. In essence, the Victim’s Law aims at repairing the victims of serious violations of human rights and returning illegally acquired and abandoned land to displaced Colombians. Needless to say that the right implementation of this law will be extremely difficult due to the actual ongoing conflict and those objecting and opposing the restitution of land. However, the center for the integral reparation of victims, la Unidad para la Atención y Reparación Integral a las Víctimas, established by the Victim’s Law, has already implemented various creative programs intended to integrally
repair the harm of victims. So far, there have been good results in terms of restoration (http://www.unidadvictimas.gov.co).

Before critically analyzing the Colombian transitional justice process, it is important to mention the crucial constitutional reform that recently took place in 14 June 2012 to adopt the « Legal Framework for Peace ». This new reform, which intents to find solutions to the current transitional justice process and achieve a peace process with the remaining illegal groups, “affirms that justice cannot and should not be reduced solely to criminal trials, but should instead be employed in conjunction with non-judicial measures with the aim of establishing the truth about the past”. In other ways, the new Legal Framework goes in the sense of restorative justice practices.

2. An analytical view on the transitional justice process in Colombia

Certainly, Colombia was not ready to face such an overwhelming number of victims and offenders and the devastating consequences of a conflict that has governed the whole country for more than 5 decades. In addition to implementing measures of transitional justice in an unknown field of ongoing conflict, Colombia has been obliged to constantly adapt its measures to the new challenges posed by the process and the conflict itself.

Dealing with mass victimization during an ongoing conflict demands extraordinary efforts and creativity. In our opinion, and since the end of the Colombian conflict remains unknown, it was appropriate to start with this process during the conflict, and therefore, build-up a transitional justice experience proper to Colombia that may inspire the future process or processes with guerrilla groups, and perhaps, other transitional justice situations in different countries. Colombia, we believe, has done great efforts and it would be counterproductive and inconsistent to deny the extraordinary and hard job that many Colombians are carrying out on a daily basis to help in the difficult reparation of traumatized victims and the reintegration of offenders, some of whom have only experienced a life of war. But still, more needs to be done and Colombians are aware of this immense challenge.
Although it would be too early to draw conclusions of this ongoing transitional justice process, it seems significantly important to highlight the core elements of the various reactions and different positions on the global transitional justice process, particularly on the JPL. On the one hand, this process has been praised by some for having considerably advanced in dealing with the issues of truth, accountability and reparation, and on the other hand, it has been deeply criticized by others. Pizarro, one of the supporters of the law, argues that the JPL has been unique and innovative for Colombia for many reasons: the JPL introduced, for the first time in the history of Colombia, the figure of the victim with his/her rights to truth, justice and reparation; it created the right legal framework that encouraged the demobilization of the AUC, which constitutes the first example in the history of the world of a non-defeated group that accepts to enter into a transitional process which is not based on an amnesty; it has advanced in the construction of the historical truth, judicial truth and social truth through the work of the area of historical memory of the CNRR; it has contributed in the reparation of thousands of victims, and finally, the JPL has conducted to unveil the incredible link between politicians and the illegal armed groups (Pizarro, 2009). In fact, the Supreme Court of Justice has seized the opportunity of the Justice and Peace processes to investigate the connections between politicians and military members to the paramilitaries. The results have been inconceivable to the eyes of Colombians; approximately one third of the members of the Congress had connections with the paramilitaries (www.verdadabierta.com, 2012). Needless to say how these unlawful ties to paramilitaries affect the legitimacy of the JPL.

On the other hand, many, particularly legal advocates and those of the political opposition, have constantly criticized the transitional justice process in Colombia. For example, after 5 years of the entry into force of the JPL, Michael Reed Hurtado, highlights some of the negative aspects of the transitional process by stating that “(t)he parties simply did not imagine that the situation in 2010 would look like this: more than 17,000 people awaiting application of an amnesty or a pardon to resolve their legal situation; five years without a single criminal sentence handed down under the Justice and Peace Law; some of those bearing the greatest responsibility extradited to the United States; thousands of paramilitaries killed; and more than a hundred politicians (at the national
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and local levels, belonging to the Uribe coalition) involved in criminal proceedings for having been part of the paramilitary conspiracy” (Reed Hurtado, 2010, p. 94).

Indeed, no one can deny the slowness of the JPL process, which obviously calls into question one of the law’s main objectives: reparations. But in our opinion this is not surprising; the JPL has implemented a conventional criminal legal process to prosecute thousands of offenders for serious violations of human rights. The tribunals for JP have in fact investigated perpetrator-by-perpetrator and fact-by-fact, which led to a deep judicial congestion. In fact, according to some experts, the JPL processes as they are currently being executed, would need 96 years to be concluded.

Moreover, and perhaps one of the fundamental aspects of this debate, is the exclusion from the transitional justice process of state agents who have directly and/or indirectly participated in the commission of serious violations of human rights. Besides the above mentioned connections between politicians and illegal armed groups, while conducting this research project, Colombia lived the tragedy of the “false positives” (falsos positivos), in which members of the Colombian military army committed a significant number of extrajudicial killings of innocent civilians, pretending they were members of the guerrillas who had died in combat. The Colombian soldiers resorted to these practices to gain personal profit; in fact, within the army, soldiers receive benefits in accordance to the number of killings of members of illegal armed groups.

In fact, the Colombian transitional justice process created by the JPL is limited to ex-combatants from illegal armed groups. As Lyon correctly points out, “(i)n Colombia there is to date no mechanism that has been put forth to address the role of the state in the decades of conflict or to purge the armed forces or other public powers of actors responsible for past and ongoing violations” (Lyon, 2010, p. 18). State agents and representatives of the armed forces may be and have been prosecuted for crimes related to the conflict through the ordinary and military procedures of justice. This state of affairs leads us to consider the normative transitional justice process in Colombia limited to some offenders, the ex-combatants, which makes us assume, that, probably, in the mind

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http://www.verdadabierta.com/nunca-mas/3584-los-puntos-criticos-de-justicia-y-paz
of the JPL designers, the state agents who participated in the conflict do not belong to the same category of offenders as the members of paramilitary and guerrilla groups. Moreover, another core element of the process that has caused additional controversy is the intensive human rights violations carried out by the famous emerging criminal gangs (BACRIM - *bandas criminales emergentes*), which are believed to be largely composed by demobilized paramilitaries. The emergence of these gangs has questioned the real dismantling of the criminal structures of paramilitarism and the efficiency of the transitional justice processes.

Finally, concluding this analytical study of the transitional justice process, we could say that the creation of the JPL was tainted by a bottomless “cold war” between on the one hand, the government and its supporters, and on the other hand, human rights organizations, legal bodies and practitioners and the opposition, on the notion, normative framework and implementation of transitional justice in Colombia. Regrettably, in a general way, both opposite poles remained so fixed into their own particular visions that they were incapable of building a constructive and respectful dialogue able to acknowledge the rights and wrongs of both discourses. To provide an example of the reasoning behind legal advocates, some have considered that in Colombia there is on the one hand, a manipulative use of the transitional justice discourse, and on the other hand, there is a democratic one; whereas the first one is essentially done by the government, paramilitary leaders, with great support of “the majority of civil society” to ”hide and legitimize partial processes of impunity”, the latter has been carried out mainly by a minority composed of “human rights organizations, victims’ movements, the Constitutional Court, the Supreme Court of Justice and the Inter-American Court of Human Rights” to fight against impunity (Saffon & Uprimny, 2009).

However, although we are aware of the limitations of the whole process, we wouldn’t go as far as considering “manipulative” the use of the notion of transitional justice done by the government. Doing so would mean to ignore the transitional justice efforts that we have personally experienced along this research study. In fact, the fissure between the government and human right organizations, we argue, is based on the general understanding of the conception of transitional justice one might have. In our opinion, though, it seems that human rights organizations have a very strict and legal
understanding of transitional justice, which, as we have thoroughly explained, remains too narrowed, very much focused on retribution, and therefore, inadaptable to the efficient administration of the issues of transitional justice. However, we do believe that the work of human rights organizations remains indispensable to provide orientation and knowledge to the right execution of this complex process, but it should do so in a more constructive way.

As we have seen, despite Colombia’s efforts in implementing transitional justice mechanisms, dealing with truth, accountability, reparation and reconciliation becomes a very difficult task during an ongoing conflict. As previously mentioned, in order to find a balance between justice and peace, Colombia created various transitional justice mechanisms, from restorative to retributive oriented. The situation becomes even more complex in an era governed by the presence of the ICC, which defends a retributive approach to the expenses of other approaches to justice. As a result, it is not surprising to see great controversy and different opinions and reactions on the actual transitional justice process at both the national and the international levels.
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As it has been explained in the introductory chapter of this dissertation, the present research study aims at exploring the role and applicability of restorative justice principles in the process of dealing with conflict situations that include mass victimization, taking Colombia as a case-study. In other words, the aim of the project is to examine why and how transitional justice mechanisms could deal with the issues of truth, accountability, reparation and reconciliation in a way that intents to restore the harm that has been caused by mass atrocities? In order to achieve this goal, a four-year period (2008-2012) research has been carried out, in which three explorative field visits to Colombia were conducted to gather data. The data collected is about the opinions and visions of direct victims and perpetrators on the process of dealing with the ongoing conflict, with a particular focus on the potential of a restorative approach to such process.

After a thorough literature review on restorative justice and transitional justice, the framework used for data collection was designed on the basis of the TARR model developed by Parmentier (2003), according to which the key issues of transitional justice are truth, accountability, reparation and reconciliation. The research methods included, thus, questions on these main topics and intended to analyze the way in which these issues should be dealt with according to respondents. But first and foremost, focus was made on a restorative approach; since restorative justice aims at restoring the harm that has been caused by an offense, the questions indented to obtain information on the harms of direct stakeholders of the ongoing conflict and on the elements that have contributed, or that could possibly contribute, to the restoration of their harm. I asked, for example, questions like: What does the harm of the victim consist of? What has been helpful or what could help in the healing process of this harm? Is there an offender's harm? If so, how could his/her harm be restored? What does truth mean to victims and perpetrators? Is the truth-telling process desirable to them? Why and under which circumstances? These are just some few examples of the questions I asked to explore individual perspectives and gain in-depth understanding of the personal feelings, experiences and opinions on the applicability of restorative justice in the ongoing Colombian conflict.
Under this third part, I will in first place explain the methods applied to the project and the reasons behind these choices, and secondly, I will expose the empirical findings based on the interviews and focus groups carried out with victims and offenders of the Colombian conflict.
Chapter 1. The methods

After a general overview describing my experience of interviewing the participants as well as some logistical decisions, I will explain the methodological strategy chosen and the way in which the interviews were carried out and analyzed.

1. General overview

Remarkable testimonies of victims and offenders of the Colombian conflict were carried out. Through their own words and expressions, they described deeply and generously their stories, their visions and perceptions of the conflict, their emotions, the place of love, fear and hatred, their expectations and illusions and the elements that have been helpful or that could be helpful in restoring their harm. In other words, they explained the intrinsic reality of the conflict that is often ignored and that we rarely find in books. The questions, although asked with as much tact and respect as possible, reminded them traumatic experiences as well as joyful moments; the interviews were marked by deep emotions of sadness, laughter, moments of silence, reflection, tears, anger, feelings of regret, justifications, willingness to forgive, among others.

With few exceptions, related maybe to the atmosphere of the place where the interview took place, respondents were captured by the interview and participated meaningfully with great interest and dedication. It was possible to feel the need of some to talk and to be listened and the willingness of many to, somehow, to contribute with their experience to the solution of the conflict. The atmosphere of the interview, and particularly the familiarity of the place where the interview was carried out, had great impact in the rapport between the interviewees and myself, and therefore, in the development of the interview; in a general way, whereas those who were interviewed in known places to them spent long time participating in the interview and discussing with great interest, many of those who were not in the same circumstances didn’t feel comfortable enough to attentively and fully participate in the interview. Generally speaking, the interviews were conducted in places known to the interviewees, with the exception of the victims who were interviewed at the Justice and Peace Unit, at the head office of “Acción Social” or
during the day of reparation. It was precisely at these mentioned places where participants refused to be interviewed (6 cases).

Regarding the interviewing process, I tried myself to be present to rightly follow the interview, but distant enough to avoid interfering in their thoughts and answers. Above all, I wanted them to feel free to speak out their true thoughts and represent them through genuine words and expressions; my main ambition was to offer a space where they could freely be themselves while facing a stranger. Emotionally speaking, although I intended to be as respectful and comprehensive as possible, I tried to remain distant enough not to fall into their suffering and keep advancing in my scientific work. This attitude was a well-reflected decision I had taken before carrying the interviews; in fact, the deepness of the topics needed a certain distance in order to carry out the job. Otherwise, it would have been very easy to get psychologically and personally involved. Many were the cases in which participants, those in deep suffering, tried to approach me in a personal way, asking me for assistance. Needless to say that the distance taken while interviewing was completely broken while analyzing data; due to the generally authenticity of their responses, frequently tainted with histories of deep sorrow, the analysis of the data was a hard, and sometimes emotionally involving, exercise.

Regarding the process of translating, it was not easy to carry out this task without loosing the real meaning and context of the responses; although the translations could have been done in a more proper English language, I decided to follow the Spanish format in order to better respect the interviewee’s responses and capture their emotions and personal traces. Following this same objective, I opted for quoting the respondents considerably; In fact, frequently, qualitative researches may be subjected to a strict and narrowed interpretation of the researcher. In other words, if a different researcher than myself carried out this research, most probably its outcome would have been different. To avoid such subjective inconvenient, besides some methodological techniques that will be further explained, they interviewees were significantly quoted.

Finally, although descriptive designs do not normally assess causality, I have somehow reasoned in terms of measurement, in terms of independent and dependent variables. The independent variable is the variable being manipulated by the researcher and the dependent variable is the observed result of the independent variable being manipulated.
Part III: The methods and findings

Chapter 2. Restoring the harm in Colombia: The voices of the victims and ex-combatants of the conflict

Whereas the dependent variable of the project is the restoration of the harm of victims and perpetrators of the Colombian ongoing conflict, the independent variables are those that may affect the restoration of this harm. In fact, on the one hand, there are the primary institution independent variables such as the support given by a religious institution, a foundation, the community, the love and care of friends and family members, etc, and on the other hand, there are the secondary institution variables such as those regarding the issues of transitional justice (truth, accountability, reparation and reconciliation). Examples of these variables are: knowing the truth of what happened, telling the truth, imprisonment of offenders, meeting the respective victim or perpetrator, an apology, among others.

2. A qualitative research on grounded theory

Given the sensitivity of the topic, I considered that a qualitative strategy was the adequate strategy for this research project rather than the quantitative one. In fact, qualitative research is generally seen as a naturalistic, interpretative approach concerned with understanding the meanings that people attach to actions, beliefs and values within their social world (Richie and Lewis, 2003). Although we cannot generalize, whereas a qualitative approach tends to deal with descriptions in which data can be observed, a quantitative approach tends to deal with numbers in which data can be measured. As explained by Flick, “the researcher who wants to know something about subjective experience of a chronic mental illness, should conduct biographic interviews with some patients and analyze them in great detail. The researcher, who wants to find out something about the frequency and distribution of such diseases in the population, should run an epidemiological study on this topic. For the first question, qualitative methods are appropriate, for the second qualitative methods are suitable” (Flick, 2009, p. 24). Since we needed to capture and try to deeply understand the respondent’s opinions and emotions on these complexes matters, it seemed reasonable to opt for a qualitative strategy. Besides being the right methodological framework for this project, a qualitative research in this particular context remains innovative and unique. Furthermore, being a national Colombian, I had the cultural and linguistic understanding, as well as excellent contacts in
the country, that allowed me to carry out, in safe conditions, exceptional interviews to victims and offenders of the ongoing conflict in Colombia.

Amongst the different qualitative frameworks, grounded theory has been chosen to collect and analyze the data of the present study. Unlike deductive methods where research is conducted on the basis of a theory, the strategy of grounded theory, developed by Barney G. Glaser and Anselm L. Strauss in 1967, consists of theory derived from data in which “theoretical sampling is the process of data collection for generating theory whereby the analyst jointly collects, codes, and analyses his data and decides what date to collect next and where to find them, in order to develop his theory as it emerges. This process of data collection is controlled by the emerging theory, whether substantive or formal” (Glaser & Strauss, 1967, p. 45). In other words, grounded theory is both inductive (theory is the outcome of the research study) and iterative; the analysis starts with the first data collection and is followed by a procedure in which the researcher analyses collected data and collects new one.

According to Glaser and Straus, in grounded theory the first steps of the data gathering process are based on a general subject and on a general sociological overview (Glaser & Strauss, 1999). The researcher must, thus, try to ignore existing theoretical frameworks in order to be opened enough to really capture the emerging data coming from the field. In fact, the concepts should be adapted to the data gathered and not the opposite (Glaser 2005). However, in Theoretical Sensitivity (1978), Glaser argues that « it is necessary for the grounded theorist to know many theoretical codes to be sensitive to rendering explicitly the subtleties of the relationships of his data » (Glaser, 1978,p.72). In other words, an exclusively inductive approach is not encouraged.

As it will be shown further below, the present study has been inductive particularly in the sampling selection and in the collection and analysis of data. However, as we have already explained, I used a general and opened framework based on the literature review on transitional justice and restorative justice I had carried out previously. In fact, at the beginning of the research project whereas the areas of study, meaning restorative justice and transitional justice in Colombia, were clearly defined, the research question, as well as the selection of respondents and the collection of data, rapidly evolved as I advanced in the project. This methodological inductive approach, with deductive components, will be
explained below through the sampling methods and the way in which data has been gathered and analyzed.

3. Choosing participants

The sample of respondents (see annex of detailed list), all of which were citizens and residents in Colombia, was selected according to particular criteria in order to obtain a homogenous sample on victims and offenders of the conflict that would correspond with the purpose and objective of this project. The chosen criteria were not rigidly fixed from the beginning of the study; on the contrary, they constantly evolved as the study advanced and according to the analysis of data as well as to the feasibility of the project. In first place, and in a general way, I looked for victims of serious violations of human rights and for former combatants, members of illegal armed groups of the Colombian conflict. The selection of respondents was done according to certain criteria adapted to each of the main groups of respondents, meaning, victims, ex-members of the illegal armed groups and soldiers. One particular criterion was, though, taken into account and applied to the three of them: gender. Since the experience of the war varied considerably according to gender, and consequently the opinions of participants varied too, the sample indented to include women and men in the various groups of respondents. However, in contrast to victims, it was not easy to get in touch with women who participated in the conflict. As a result, men dominated the interviews regarding ex-combatants.

3.1. Choosing victims

First of all, the sample looked for different forms of victimization (e.g. kidnapping, extrajudicial assassinations, disappearances and forced displacement) carried out by the different illegal armed groups because, in our opinion, there are differences in perceptions, attitudes and opinions behind each form of victimization. The form of victimization, at least kidnapping and forced displacement, are intrinsically linked to the financial condition of the victim; whereas the victims of kidnapping, who were principally kidnapped for economic reasons, belong to the wealthy population of Colombia, the victims of forced displacement, belong today to the poorest population of the country.
The existence or absence of economical resources has great impact in the way in which the victims would like to be repaired and the way in which they perceive the conflict.

In addition to the various forms of victimization, another important criterion was taken into account: the indigenous communities’ collective dimension of victimization. Besides being victims of the above mentioned gross violations of human rights, among others, and considering themselves as a collective group, the indigenous communities have a different Cosmo vision from the western mentality that influences their opinions and perception on the way in which the conflict should be dealt with. Such Cosmo vision is very much restorative justice oriented, and therefore, we found particularly pertinent to interview them.

3.2. Choosing ex-combatants of the Colombian illegal armed groups

Ideological and group affiliation was the first and main criterion in the selection of respondents. In fact, group affiliation plays a crucial role in the identity of the individual and hence, in their opinions and perceptions. As a result, I interviewed ex-combatants members of the various left-wing and right-wing oriented groups that exist in Colombia: FARC, ELN, ERG and the AUC. Secondly, I took into account the rank ex-combatants had within the illegal armed groups. I interviewed, thus, some of the main leaders of the illegal armed groups, going through the actual Justice and Peace process, as well as some low/middle rank former combatants who executed and who are at the present moment participating in the DDR process.

The psychosocial tutors in charge of working with the ex-combatants made the selection of the participants according to the given criteria. In addition to these criteria, it is relevant to precise that former combatants experienced the war in various geographical areas of the country and are originally from different Colombian departments.

4. Preparing the interviews

In order to carry out the interviews and focus groups with the victims and offenders, I had to prepare the meetings from Belgium before each field trip to Colombia. Due to the delicacy of the topic, there were multiple logistical and security obstacles that would have
been impossible to break through without an extensive network of people (see network) who kindly, helpfully and good-naturedly supported me in opening delicate doors to get in contact with participants, particularly with former combatants. Before describing the way in which I got in contact with the victims and offenders, emphasis will be done on the key instrument used for data gathering that was prepared by the researcher in Belgium before going on the first field trip to Colombia.

4.1. Preparing the questionnaire

The key instrument of data collection consists of a questionnaire developed on the basis of a literature study on restorative justice, transitional justice and the Colombian conflict, and on the basis of a survey carried out by the International Center for Transitional Justice on the attitudes and opinions of Colombians towards principles of justice, truth, reparation and reconciliation (ICTJ, 2006). The questionnaire contained, hence, opened and general questions related to these topics (see annex). Besides being deeply reviewed by a professional psychologist who gave me excellent tips to be as respectful and prudent as possible, the hard core of the questionnaire was analyzed and approved by the K.U. Leuven Doctoral Commission in March 2008. Although the questionnaire’s main nucleus remained untouchable, meaning that the same core questions were asked to all the participants without exception, it was obviously adapted as the analysis of data was done, and accordingly to the respondent’s status and participation. These questions were asked via in-depth interviews and focus groups.

4.2. Preparing the meetings with victims

In 2005 an international symposium on “Restorative Justice and Peace in Colombia” took place in the city of Cali where I had the wonderful opportunity to meet Sister Alba Estela Barreto, the director of the “Peace and Well-being Foundation” and Dinamo Villafañe, a leader of an indigenous community called “the Arhuacos”. Since then, I remained in contact with them. On the one hand, Sister Alba Estella introduced me to the victims of forced displacement, and on the other hand, Dinamo, who was interviewed himself, helped me in organizing a trip to Santa Marta to meet with other members of indigenous communities.
Regarding the victims of extrajudicial executions and disappearances who participated in the Justice and Peace process and in the days of reparation organized by Acción Social, I was able to interview them thanks to the help of the members of the CNNR who I had met before in Colombia. Finally, I got in contact with victims of kidnapping through people that put me in contact with them.

4.3. Preparing the meetings with the ex-combatants of illegal armed groups

I got in contact with the INPEC (Instituto Nacional Penitenciario y Carcelario) and the Office of the High Counselor for Reintegration through a good friend of mine, Alejandro Eder, who became in 2010 the official High Counselor for Reintegration in Colombia.

Formal written demands from K.U. Leuven and from myself, as well as written authorizations from the Colombian government were needed to interview the ex-combatants participating in DDR program at the Office of the High Counselor for Reintegration in Cali. In addition to these formal requirements, a written authorization from the INPEC, as well as an individual written authorization of each one of the ex-combatants charged of having committed serious violations of human rights, were needed to interview them in the prison of Itagüí.

5. Face-to-face with participants

Before describing the meetings with each group of participants, I would like to explain the information provided before interviewing them. In fact, during the first three interviews with both, victims and ex-combatants, a psychologist, Margarita Vanegas, accompanied me to carry out the interviews. Later on, I continued by my own. When I first met the respondent, I introduced herself, explained the main objective of the interview and made clear that they were totally free to answer, or not, the questionnaire. It was assured to the respondents that the interview had no political aim and that their identities would be kept confidential, unless they wanted to reveal it. Subsequently, I explained the importance of tape recording the interview and asked them if they were willing to do so. Before doing the interview, I thanked them in advance for their precious time and the important contribution to the project and apologized in case the questions would bring
about sad memories or feelings. Finally, once finished the interview, I thanked them again and asked them to provide me with their civil status details.

5.1. Face-to-face with forced displaced victims

Every Thursday in Aguablanca, Cali, the “Peace and Wellbeing Foundation” organizes an event called “Thursdays for Peace” for the victims who have been obliged by the conflict to abandon their homes. I got in contact with some of these victims through the director of the foundation, Sister Alba Estella Barreto. When I first approached them, and explained the aim of the project, they were a bit hesitant and asked me if they would receive something in exchange for being interviewed. They accepted, though, to participate and fixed an appointment for the next weekend. Therefore, I went to the fixed appointment with a psychologist who offered them her psychological assistance.

As a result, an unexpected project was established by: Margarita Rosa Vanegas (a psychologist), Juan Carlos de Jesus Medina (an agro-economist) and myself. The program was carried out at the “Paz y Bien Foundation” during a whole year (from December 2008 until December 2009) in which the participants and two of the organizers, Margarita and Juan Carlos, met periodically. The program was financed with collected minimum resources. The participants paid their transportation tickets by selling products that they learnt how to prepare during the program. In fact, Juan Carlos taught them techniques to prepare natural products (i.e. Shampoo) that they would sell in their neighborhoods.

The program consisted in addressing the origins per se of the internal disorder of 10 victims of forced displacement and other forms of victimization such as loosing a beloved one. The program intended, thus, to understand their background and the events that have occurred in their lives to try to find solutions to move on and to leave behind the suffering, revengeful feelings, and above all, to try to value and accept their lives despite the tragedies they have gone through and their extreme poverty conditions. The program was based on conventional and non-conventional psychological techniques, and guided by the restorative values of respect, understanding, dialogue, empathy and humility.
Three participants were interviewed before the program had started and a focus group was organized just after the program had ended. The interviews were done at one of the respondent’s house and the focus group was carried out at the “Peace and Well-being” Foundation.

5.2. Face-to-face with the victims of kidnapping

As it has been explained earlier before, I got in contact with the victims through a network of people who knew other people who have gone through kidnapping or family members of the victims. I contacted them by a simple phone call and explained my interest in conducting an interview with them. Apart from the interview to Sócrates that took place at a Hospital, the rest of the interviews were done either at the personal addresses of the victims or at a public place (i.e. a restaurant). I spent various hours with each one of them. Besides conducting the interview, I was sometimes invited to join them for a drink or lunch and to discuss with them, and with their family members, about the topic of the research project.

5.3. Face-to-face with members of the indigenous communities

Together with Dinamo, I organized a trip to Santa Marta by the end of December 2009 to meet with the members of the Arhuaco community as well as with other members of the indigenous communities from the Sierra Nevada de Santa Marta. The interviews took place at the “Casa Indígena”, in Santa Marta. When I arrived to Casa Indígena, I spent a whole day with two representatives of the Arhuacos, Constantino and Elmer, discussing the topic of the project. They wanted to analyze the nature of the research and see whether they were likely to participate or not. In fact, they told me that they were tired of being “analyzed” by the bonachi (Western people). Fortunately, after talking with them thoroughly about the research project, they happily agreed to participate.

The field trip with the indigenous communities lasted 10 days in which I had the opportunity to deeply talk with them about their visions of the conflict, their situation as

8 Sócrates is a Colombian politician who got kidnapped with 11 fellow deputies in 2002 by the FARC while being deputy in the administrative department of Valle del Cauca. Sócrates survived the massacre of his 11 colleagues in 2007 and was released on February 5, 2009.
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victims and their principles and values. In fact, at the very beginning of the project, I had in mind to interview the Arhuacos and to deeply analyze their conflict resolution techniques in order to draw, if possible, some lessons applicable to the transitional justice mechanisms in Colombia. For multiple practical and security reasons I took the decision not to focus on the indigenous judicial practices and just to interview them as victims of the Colombian conflict. First of all, I would have been obliged to go to the Sierra Nevada where the communities are located, and more precisely the Mamu, who are the spiritual guides. The Sierra Nevada is still a dangerous zone with presence of illegal armed groups. Secondly, there is no literature on the topic and I would have needed a translator, which would have taken time and implied additional financial resources. For these reasons the idea of studying in depth these practices was left behind. But still, I conducted longer interviews with them than with other victims, in order to gather additional information on their justice practices.

5.4. Face-to-face with former combatants of illegal armed groups

As it has been explained, the interviews with the middle/low rank ex-combatants were carried out at the Office of the High Counselor for Reintegration (ACR) in Cali, and the interviews and focus group with the leaders, were carried out at the prison of Itagüí.

5.4.1. Interviewing the ex-combatants of lower rank

Besides having the privileged opportunity to freely go to the ACR as many times and as long as I wanted, I counted with the help and kindness of the people working within this institution; they would fix the appointments with the participants who were introduced by them, if a room was available they would lend it to me and they would always remain helpful and accessible.

Although it was not easy to coordinate the interviews, this availability of time and optimal conditions to conduct the interviews, allowed me to spend long time with participants and carry out various interviews in safe conditions. These almost perfect conditions of interviewing ex-combatants, didn't go without a particular inconvenient: the noise. In fact, since the ACR is a very busy and hectic place, the noise behind the interview interfered in the good understanding of the words. Additionally, participants often employed particular
words related to the conflict vocabulary that were not easily comprehended. These inconveniences affecter in someway the audio quality of some parts of the interview but, fortunately, didn’t affect its general understanding.

5.4.2. Interviewing the leaders of illegal armed groups

Since the access to the prison was so complex, I could only spend one day at the prison of Itagüí. I was able, however, to spend the entire day with them. When I arrived, I was conducted to the area zone of the leaders of the GRG, which consisted of a prison/apartment in which each one of them had their own room and they shared a common kitchen and dining room. I spent 6 hours with them (from 9.00 am to 3.00 pm) in the dining room, discussing and interviewing them. They invited me to have lunch with them and I accepted. At 3.00 pm, the leader of the Paramilitaries came to the zone of the GRG and I interviewed him from 3.00pm to 6.00pm.

6. Research methods and data collection

Data was mainly collected through three qualitative research methods: in depth-interviews, focus groups and participant observation.

6.1 Data gathered through individual in-depth interviews

An in-depth interview is a discussion with an individual conducted by trained staff that usually collects specific information about one person. This qualitative research method was an excellent tool in investigating personal and sensitive information. All the interviews were taped recorded and transcribed by a third professional person in Colombia.

In total, the researcher conducted 31 interviews with victims of violent political crimes carried out by both the guerrillas and the paramilitaries, and 25 interviews with ex-combatants of guerrilla groups and paramilitary groups.
1.6.2 Data gathered through Focus groups

A focus group is “a form of group interview in which: there are several participants... there is an emphasis in the questioning on a particular fairly tightly defined topic; and the accent is upon interaction within the group and the joint construction of meaning (Bryman, 2004, p. 346). The purpose of the focus groups in this case, is to further complement the findings obtained through the individual in-depth interviews. In fact, mutual interaction and discussion contributed to create an atmosphere where participants expressed themselves in a very natural way.

Three main focus groups were organized. One took place with victims of displacement at the “Paz y Bien” Foundation, the other one took place in Santa Marta with the representatives of indigenous communities and, the last one, in the prison of Itagüí with the leaders of the left-wing oriented group ERG.

1.6.3. Participant observation

Some data was gathered through notes on the Justice and Peace process and on the discussions with professionals working in the field of transitional justice. Further below we will present a list of visited institutions and people with whom the researcher had discussions on the functioning of the institutions and transitional justice topics. All the organizations have provided the researcher with great material.

- The Justice and Peace Unit of the city of Cali: The researcher attended various sessions of the process established by the Justice and Peace Law where the offender confesses the crimes committed before the Justice and Peace Unit9. She was able to attend it and take notes thanks to the facilitation of the members of the National Reparation and Reconciliation Commission (CNRR). However, it was impossible to tape record the process for security and confidentiality reasons.

- The National Reparation and Reconciliation Commission: Meetings and deep discussions took place in Bogotá and Cali with Eduardo Pizarro, chairman of the CNRR, María Angélica Bueno, from the reconciliation division, Carlos Otálora from the DDR division, Elmer

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9 The Justice and Peace process related to José de Jesús Pérez Jiménez, known as “Sancocho”, demobilized from a Paramilitary group.
Montaña, chairman of the regional commission in Cali and his two assistants: María Elvira Calero and Jorge Arturo Vásquez.

- The Office of the High Counsellor for the Reintegration: Meetings and deep discussions took place in Bogotá and in Cali with Alejandro Eder, High Counselor for Reintegration, Diego Ospina Uribe, Juan Carlos Roldán and Norma Berrío.


- The Javeriana University: The Javeriana University of Cali has been working on projects involving victims and offenders of the conflict. The researcher discussed them with María Lucía Lloreda and Yvonne Leadith Díaz.

- The International Centre for Transitional Justice (ICTJ): The researcher visited the office of the ICTJ in Bogotá, attended a seminar on transitional justice that took place in Cali and spent time discussing with the director of the ICTJ in Colombia, Xavier Ciurlizza, who provided her with great documentation on transitional justice in Colombia.

- International Symposium on the DDR process in Colombia (Beginning of February 2009 – Cali and Cajibío): The researcher attended three intensive days of the symposium. She had the opportunity to discuss with some international experts on their opinion of the DDR process in Colombia. Notes were taken.

7. Data analysis

As it has been previously explained grounded theory consists of theory "derived from data, systematically gathered and analyzed through the research process" (Strauss & Corbin, 1998, p.12). In the present project, data collection and data analysis were carried out simultaneously but not in the conventional way of Grounded Theory. In fact, as it has been noted, the questionnaire used to gather data included questions on the main topics of the TARR model, meaning truth, accountability, reparation and reconciliation. This
semi-structured questionnaire guided the researcher while conducting the interview. However, I tried to remain open enough for the interviewees to express freely their experiences and opinions, and in this way, be able to identify new dimensions that were included in the subsequent interviews.

Due to logistical matters, the analysis done right after the data collection was not done in detail; in fact, since the fieldwork was conducted in Colombia during a short period of time, consisting of multiple interviews, the researcher didn’t have the time to transcribe the interviews and go through them thoroughly. As a result, while being in Colombia during the field trips, the analysis was done through memos, open codes and categories that she built-up as the interviews advanced. In fact, during each field trip the researcher wrote methodological and content memos that were of great utility in the coding process, as well as in the elaboration of theory. In such memos the researcher would write about the interviews (e.g. the atmosphere of the interview, how she felt, the place in which the interview took place, technical issues regarding the sound and the tape recording machine, among others) and about the interviewee and the content of the interview (e.g. emergent topics, new ideas, the gestures and expressions of the interviewee, among others).

The detailed data analysis was done after each field trip so that the decisions on data collection were clear for the next field trip. Since three field trips to Colombia were conducted, three sessions of in-depth analysis of data were done right after each field trip. In fact, after being transcribed by a professional and corrected by myself, each interview was cut and placed into the framework containing all categories. Finally, each category was translated and analyzed.

The in-depth analysis was firstly done with NVIVO and led to the construction of a coding framework in which the accumulated data would gradually fit. In Charmaz’s words, “coding means categorizing segments of data with a short name that simultaneously summarizes and accounts for each piece of data” (Charmaz, 2006, p. 46). However, despite NVIVO’s practical utilities, I decided to switch to a simple word document that contained the same codes and categories. In fact, after some months of using NVIVO I realized that the way in which data was being fragmented, deeply affected the context and narrative fluidity of responses. Although it took me more time to rightly place all data in
the word document, the global picture of what was being said allowed me to better analyze the data.

8. Internal validity and transparency

While in this project we have reasoned in terms of dependent and independent variables we do not intend to conduct a classical causality study. Although the literature suggests that “[t]he very notion of an independent variable and dependent variable presupposes a direction of causality” (Bryman, 2004, p.36), there are various ways of interpreting causality and thus internal validity that goes with it. In our view, internal validity is relevant in studies that try to establish a causal relationship. “Internal validity raises the question: how confident can we be that the independent variable really is at least in part responsible for the variation that has been identified in the dependent variable?” (Bryman, 2004, p.29). However, understanding the notion of internal validity is not an easy task since its importance as well as its meaning varies significantly. First of all, the meaning of the notion varies from a research design to another; it is not the same to talk about internal validity within the framework of an experimental design for example, than within the framework of a case-study. Internal validity, understood as the causal relationship between the cause and the effect, is an essential consideration in experimental designs where the effects of programs or interventions are assessed. “True experiments tend to be very strong in terms of internal validity” (Bryman, 2004, p.34). In case-studies, the importance given to internal validity varies from one author to the other; whereas some consider this term relevant others do not (Bryman 2004). Secondly, the notion of internal validity varies from a quantitative approach to a qualitative approach. The notion of internal validity has been traditionally attached to the quantitative research tradition. Whereas some authors consider that criteria such as internal validity are not relevant to qualitative approaches, others consider them important but propose an alteration of the meaning. According to LeCompte and Goetz internal validity in qualitative research raises the question of whether there is a proper match between the observations of the researcher and the theoretical ideas he or she has developed (LeCompte and Goetz, 1982). Others on the other hand, propose alternative criteria like “trustworthiness” and “authenticity” (Lincoln and Guba, 1985). According to the authors, trustworthiness is composed by four criteria, “each of which has and equivalent criterion
in quantitative research” (Bryman, 2004, p.273). Credibility is one of the criteria and its equivalent criterion in quantitative research is internal validity.

For these reasons, and given the fact that our project is a qualitative case-study, we understand internal validity in the way in which LeCompte, Goetz, Lincoln and Guba have described it. In other words, a qualitative research that has internal validity is a plausible, credible, trustworthy and therefore warranted research in which the findings correspond to the perspectives and opinions of the research participants.

In this research, two techniques have been developed to guarantee credibility: (a) triangulation, i.e. gathering data through more than one research method (Bryman, 2004, p. 275). In the original proposal we included two research methods - in-depth interviews and focus groups - as well as respondent validation. However, the complexity of the Colombian conflict is a real barrier to carry out the methods as originally planned and therefore, respondent validation could not be done. In fact, given the amount of interviews and the difficulties to reach respondents, I simply could not go back to participants; (b) all interviews were transcribed by a certified Colombian firm: Computextos S.A.

9. Network of helpful people

As it has been explained earlier, it would have been impossible to reach most of the participants without the extraordinary assistance of the people mentioned below. Thanks to them the methodological work of the project was carried out in pleasant and secure conditions. Besides from helping the researcher with logistical assistance, they spent time with her discussing on pertinent topics of the project, they provided her with great documentation and invited her to take part of various conferences and workshops.

- Margarita Rosa Vanegas, psychologist
- Alejandro Eder, Office of the High Counselor for Reintegration
- Juan Carlos Roldan, Office of the High Counselor for Reintegration
- Dinamo Villafaña, representatives of the “Arhuaco” indigenous community
- Javier Ciurlizza, director of the International Center for Transitional Justice in Colombia
- Oscar Rojas, member of the National Reparation and Reconciliation Commission
- Sister Alba Estela Barreto, executive director of the “Peace and Well Being Foundation”

Under this chapter we explained our choice in carrying out a four year qualitative case-study on grounded theory. Besides from explaining the methodological choices and difficult procedures to reach participants, the researcher deeply explained the enriching human experience of interviewing 31 victims and 25 ex-combatants of the Colombian conflict.
Chapter 2. Restoring the harm in Colombia: The voices of the victims and the ex-combatants of the conflict

Since this project attempts to analyze the way in which restorative justice could be applied during the Colombian transitional justice process, emphasis will be done on the harm inflicted to the victims and combatants of the Colombian conflict and their perceptions about the issues of transitional justice. In fact, we argue that if Colombia intends to deal with the issues of truth, accountability, reparation and reconciliation in a more effective way, focus should be done on the harm caused by mass atrocities. Accordingly, we will first of all explain the way in which victims and combatants were harmed by the Colombian conflict, the factors or variables that have been useful or could be useful in restoring their harm and finally, their opinions on the way the Colombian conflict should be dealt with to avoid more suffering.

It is important to clarify that the names of participants have been changed for security reasons.

1. The perception of the harm according to victims and ex-combatants of the conflict

As we will see, every victim and combatant has experienced the conflict in a different way. There are however common trades amongst each category of victims and amongst low-level and high-level fighters. We will therefore expose the harm inflicted to the victims of kidnapping, forced displacement, victimized indigenous communities, murder or disappearance and finally, we will expose the harm of combatants.

1.1. The harm inflicted to the victims of kidnapping

Of course, human beings live each experience in their own way, and this was not different with the victims of kidnapping. With the exception of Adolfo, who, apart from the economical damage caused by the kidnapping and loosing some months of his life, didn’t consider being really affected by this event, all the others, as we will see, were deeply
touched by either the experience of being kidnapped, or having a beloved one under such circumstances. Interestingly, and maybe because their experience was exclusively reduced to suffering, as it will be shown, the family members of those who were kidnapped expressed a sadness and retributive attitude towards the combatants that was not present in those directly kidnapped, who, probably because they lived personally the kidnapping, had much more to tell and went beyond retributive attitudes and sadness. This doesn’t mean that they didn’t experience desires of retribution and extreme pain, which most of them did, but simply they didn’t express it in the way the family members did.

Although the ransom given to the guerrillas is obviously considered as unfair and abusive, the respondents didn’t focus on the economic harm. This could probably be explained by the fact that they belong to a socially and economically privileged Colombian social class. In fact, with the exception of one respondent, all the kidnappings were economical and not political. According to Adolfo, for example, the kidnapping altered his economical situation but it wasn’t a serious issue, “the economical situation was affected because my family had to pay for my liberation, but it was not a grave affair. After 10 years we have recovered from that” (Adolfo, V).

The victims of kidnapping went through a hard experience in which they were somehow “dead alive”; away from their loved ones, deprived from freedom and living under the shadow of death. Such extreme situation didn’t go without the additional pain caused by vengeful emotions towards the combatants.

1.1.1. The suffering of being «dead alive»

When I asked Jorge Luis to tell me about the way in which the kidnapping had affected his life, he answered: “Ufff, it means to die and be reborn 100%, it’s like I had a life before the kidnapping, and then I was dead during 6 months, dead alive, and then I was reborn again” (Jorge Luis, V). According to Jorge Luis the experience of the kidnapping was so strong that it affected his life in every sense, his priorities in life, his values; since he could get killed at any time, “surviving” became his number one priority, and secondly, he gave
priority to what really counted in life “the family... life above all, and freedom”. Along the same lines, the only interviewed victim of kidnapping for political reasons, a renowned politician in Colombia whose painful story of abduction was known worldwide, Sócrates, thought of taking away his life while being kidnapped, but with time he realized that surviving was more important: “I thought of committing suicide many times... but I overcame all that, everything is behind and one realizes that the only important thing over there is to remain alive, to survive” (Sócrates, V).

One common feature among the victims of kidnapping is their frustration due to the stillness of time. As Jorge Luis notes “time, the issue of time, everything seemed to take so long, so slow, I wanted everything quickly, I had no patience. I had to learn to be patient, to survive” (Jorge Luis, V). Along the same lines, Matías used to get desperate “because time didn’t pass by”. In his words, “over there the hours don’t pass by, they crawl, everything is very slow... have you read The Metamorphosis by Kafka? Well, I felt like the beetle, I used to say to myself “what is this?” (Matías, V). In addition, he was chained to a bed for 60 days and at one point he was forbidden to talk to the guerrillas and other people since he was considered «dangerous». In fact, nine from the 12 guerrillas who held Matías, demobilized. He was therefore considered threatening for the organization and was changed to another group composed mainly by young fighters. As Matías said, “the oldest in the group, was, listen to this, 16 years old, little kids!” (Matías, V). With time, Matías gained their trust and ended up teaching them as some sort of professor. But still boredom and frustration were two constant sensations.

Freedom is one of the human rights kidnapped people obviously value the most. When I asked Jorge Luis how was he treated by the guerrilleros, he smiled at me and said: “people always ask that question to the victims of kidnapping... ‘How were you treated?’ well, they treated me fine, they gave me food, they didn’t hit me... but really, I was kidnapped! I had to ask for permission to go to the bathroom... I was attached, limited... from the moment that they take away your freedom, they kidnap you, they violently harm your family, there is an abuse” (Jorge Luis, V). In the same order of ideas, Matías answer to this question was: “listen, the most precious thing human beings have after life, is freedom, so, they can smile at you, but you are attached to a bed, so one cannot say that they treated you well. Ummm, the experience was extreme, I felt like in those movies of World War II, one becomes an
impressive calculating machine; I counted the steps from one point to the other... I planned everything for the day in which I could escape” (Matías, V).

As mentioned above, in many cases, family members have a tendency to suffer even more than the abducted. As Beatriz notes, “after the kidnapping, he (her kidnapped husband) overcame the harm better than me, I never overcame it. Never!” (Beatriz, V). Along the same lines, Jorge Luis says, “what happens is that the family suffers more than us, at least in my case I was the one who suffered the least because I learnt about it, I became stronger, I learnt to survive, I survived this event and, better or worse, I knew I was alive, I ate, I slept...” (Jorge Luis, V). The devastating effect of a kidnapping upon a family are well known: Jorge Luis’ parents got divorced, Thomas father died sooner than expected, Adolfo’s children lived under paranoia, Beatriz never overcome trauma...etc. Gonzalo and Beatriz’s testimonies show how difficult it was for them having a beloved one kidnaped. On the one hand, as Gonzalo notes “I went nuts, I grabbed my gun, my vest, my pistol and I intended to go to the mountain like that, I had become completely crazy; I didn’t know what I was doing, I had lost every notion of good sense. Ummm, at that point, someone who I consider today a great friend of mine, a police officer from the GAULA10, shook me hard and said something that I’ll never forget. It was probably the phrase that I needed to hear at that moment. He told me ‘we have passed the point in which you solve this with bullets; now, this needs to be solved with a check book’” (Gonzalo, V). On the other hand, Beatriz, who has not yet overcome his husband’s kidnapping, in tears and sobs explains how horrible it was to live in absolute uncertainty and being obliged to negotiate with the abductors: “It was horrible... the absence of news about the person during two months triggers deep distress, it’s very sad, those people are very bad, they are always threatening you, so it’s very painful, scary. You see yourself useless, you don’t know who to talk to until you finally reach the kidnappers who explain you the whole process” (Beatriz, V). She thought her husband was dead during those two months in which she didn’t receive any news: “Since you do not hear anything about the person you think he is dead, and you continue waiting, hoping to receive some news, ‘we have him, we don’t have him or let’s negotiate’”(Beatriz, V).

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10 GAULA stands for Grupos de Acción Unificada por la Libertad Personal (Unified Action Groups for Personal Liberty). This institution is exclusively dedicated to combating the issue of kidnapping and extortion in Colombia.
According to her, kidnapping can destroy someone’s life. In her case, her harm will never be restored: “There are people whose lives get completely destroyed, even if the kidnapping lasts for one day or ten years, it’s the most horrible thing a human being can go through, it is horrible... this harm has been done and it will never be restored; they have harmed psychologically, they have harmed one’s soul. It is very difficult, very difficult” (Beatriz, V).

Living away from the beloved ones was extremely painful. As Sócrates notes, “Imagine, I was 38 years old and came back at 45; I had no white hair and came back worse than my mother. I couldn’t see my children grow up. It’s hard to live away from what one loves for 7 years. I lived in precarious conditions, tied up to a tree, insulted, threatened, humiliated... that is terrible!” (Sócrates, V). Matías was also separated from his wife and his new-born girl: “They took me away my little girl... no one can ever give me back that, that baby smell, seeing her crawling, those months are lost! When I came back, she didn’t know me, my wife had filled the girl’s room with pictures of me” (Matías, V). In addition to living away from their loved ones, aware of their deep suffering, they couldn’t even really communicate between them. In fact, as Gonzalo explains “we could only communicate with him through radio programs. It is very humiliating to reach your own father through a radio program!” (Gonzalo, V).

Ilana’s kidnapping experience was very different from the others. She was only eleven years old when she got kidnapped on her way home from school. She was told by the guerrillas all sort of lies, “one day a guerrillero came to measure my legs and I said to myself ‘what is this for?’ ‘Well, we will make a uniform for you because you will stay here’. Many things like this, that my parents had gone to live in Miami and abandoned me, that this was very complicated, so somehow it was very tough for me because I had no one to tell me that they were lying, that I shouldn’t pay attention to them... that was very difficult, on the 26th of December for example, a guerrillero woke me up ‘Ilanita wake up, today you are going home’, and I said ‘no, I can’t believe it, I’m so happy’, I couldn’t believe it, I was crying, I gave away all my belongings, everything, and when I had packed my socks, a blanket to sleep on the way back, the guerrillero tells me ‘Ay Ilanita happy Holy Innocents day!’” (Ilana, V).

However, despite the suffering experience she endured during 7 months, Ilana developed a sort of ‘Stockholm syndrome’ for the guerrillas and even got to praise the Marxist ideas.
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Needless to explain how her kidnapping and her change of personality affected her family members and Ilana herself: “It was hard because I guess that when you are so small... you are easily influenced, so I let myself go, I was like one of them, I cooked, I would cut the tree and put the wood on my little back. I got used to their habits, I ate in a small por with a spoon, I washed my hair with “jabón azul”, I even talked like them. So when I got home everything had changed, my room had changed, my mum was thinner, my dad was thinner with white hair, my whole family had lost weight whereas I had gained weight... so they continued to have their habits, and I got here and one day I went to have breakfast in a pot and my mum almost killed me. I used to smell like smoke from the “hornilla”, I talked like a peasant, ummm I got here with Marxist communist ideas, well, I got back with an experience that had changed my life” (Ilana, V). According to Ilana, it was extremely painful for her parents to realise that their daughter had turned into another person. Such radical change was also painful for her, “it was difficult for me to realise that I had changed so much in such a short period of time. Generally, one realises when one changes, but maybe this change was so forced that it was extremely evident. In that sense it was difficult. For example going again back to school where I used to be quite a tough girl ‘you cannot be my friend’... and it was hard for me to know that I was never going to see them again” (Ilana, V). Ilana felt somehow the Stockholm syndrome but “without falling in love”.

1.1.2. Deep rage and the awareness of human cruelty

Rage, anger, frustration, and even desires of revenge against the captors, are feelings and emotions that generally cross the spirit of the victims of kidnapping, and sometimes, they remain. Jorge Luis, for example, felt anger, but didn’t feel like taking revenge. For him, despite innumerable therapies and spiritual exercises to try to forgive them, and while being conscious of the its importance in order to move on, forgiving proved to be a hard step: “many years after my abduction, when I saw that someone who was rescued, or even when the guerrilleros were murdered, I said to myself ‘fortunately, those bastards!’... Forgiving has been a long process and I have worked very much to forgive them, I have gone back the experience many times to forgive them, and it is not against someone in particular, but against the cruelty of that group, of those people. I have seen bad people in life, but I have never seen the evil that I saw in the eyes of the man who kidnapped me, the first one who put a gun to my head and caught me, such a bad person! I would never like to see that
man again! But I cannot say that my anger goes towards them, or towards him in particular, but it goes against kidnapping and the guerrilla as an institution that uses such means to finance themselves” (Jorge Luis, V).

Along the same lines, Sócrates talks about his rage emotions against the abductors, which were little by little erased: “undoubtedly, there are moments of huge rage because I wanted to see my loved ones and I was being chained by some guys; there is obviously anger, rage, desire of revenge, but then, with time, one starts to leave it all behind” (Sócrates, V). Furthermore, Alejandro felt like “killing” the person who had sold him to the FARC, “while being kidnapped I always thought how to take revenge from that “HP” who handed me over... I had in mind to kill that guy, everything was planned... but I’m no longer someone who can kill people” (Alejandro, V). In addition to his rage against the FARC, Alejandro felt “aggressed” by the Colombian state because when he was released he received by mail a letter saying “you must come on Thursday the 28th, at 3.00pm, and if you do not come you will be subject to law number... Can you imagine that?! So I got there furious; when I got in I started to insult...” (Alejandro, V).

So these hatred, and sometimes-vengeful emotions, appear to be a natural or instinctive reaction of the victim of kidnapping, who, despite being aware of the painful and negative effect they might have upon them, cannot easily get rid of them. Gonzalo’s strong and sincere testimony clearly shows such human complex emotional process: “In that period I filled my heart with hatred, ummm one day I realized that I had gone too far because when I was about to go to the bathroom I saw that I had a gun in my left ankle, a pistol around my waist, four gun suppliers, a shotgun, and I intended to go to the bathroom like that! That day, I realized that I was having a problem, that I was strongly poisoning myself, I was being paranoid, thinking of security; ummm, in those days I used to imagine meeting with one of the commanders of the guerrillas, since they usually come down from the mountains and are traced with pictures by the police, the GAULA and the army, and killing him with my own hands, claiming that I had the right due to my state of rage and deep pain. Nine months after, my father came back from the mountains thanks to my mother’s effort; eeeeh he came back extremely skinny, with an amazing beard, with a deep smell of jungle, but happy to return to life; little by little things went back to normality and I was able to clean my heart from those hatred feelings... I was poisoned, completely!” (Gonzalo, V).
Although Beatriz denies experiencing vengeful feelings since it was useless because the guerrillas were too far away, she accepts having her heart deeply touched by this event: “desire of revenge? It’s difficult because against whom we can take revenge from? They are very far away from us. That belongs now to the divine justice of God, he is the only one who can judge them, but definitely one’s heart changes, it totally changes… and it is very difficult to forgive; at least, personally, I cannot forgive that, I cannot forgive that” (Beatriz, V). Matías, on the other hand, experienced some rage but mainly against a person that he knew who collaborated in his kidnapping. In fact, Matías got kidnapped by common delinquency with the assistance of this person, and was afterwards sold to the guerrillas: “the FARC didn’t kidnap me, I was kidnapped by common delinquency and then given to the FARC in exchange of 10% of the total amount I had to pay; my abduction was economical, it had no political goals. Amongst those who caught me there is one person that I didn’t like, and amongst those who were in the jungle there was a detestable young guy and two odious persons. But above all (…), my anger goes against a known person who helped in the kidnapping” (Matías, V). Surprisingly, Matías explains that those from the FARC didn’t consider themselves as kidnappers, but as those who ‘took care of him’: “How do they consider themselves? Like those who took care of me, the kidnappers were the ones who caught me! They - the FARC - are the sisters of the Virgin of charity! They didn’t like when I said to them that they were armed robbers; ‘why do you insult me like that if I haven’t treated you badly?’” (Matías, V). However, he moved on in his anger to the point of being able to freely talk about it: ”Having a feeling of anger or revenge does not do any good to you (…) I will never forget this experience, and I wouldn’t say it was wonderful, I will never forget it, but I have to move on, I have to turn the page over. Fortunately, I can talk about this without any problem” (Matías, V).

From a very different perspective, Ilana never felt vengeful emotions: “I feel that what happened to me was a dream, as if I have dreamed all that because the change was so drastic… but I have no rancor against them, I think the rancor is useless… hatred, revenge and all those feelings don’t bring anything to you, but they take away many things, they take away happiness from your life” (Ilana, V).
The general feeling of frustration was also linked to their condition of total impotence. Sometimes, they would cross peasants in the countryside, or hear the helicopters from the Colombian army, but they couldn’t do anything but wait for time to find a solution to their situation. This powerless impotence, which cause anger and rage, is also nurtured by the attitude of the international community, including some NGO’s, towards the issue of kidnapping. According to some victims, it is difficult to understand how the international community doesn’t really condemn the actions of the guerrilla: “Reality needs to be known, particularly in Europe because there are many people, with good intentions I assume, that still defend the guerrilla. I guess they are good people but not well informed. What we have here in Colombia is a situation in which a group of criminals have a business, a business of kidnapping and a business of drugs, which are both interrelated because the army cannot go to the places with victims of kidnapping, and therefore, they use the kidnapped people to protect their crops” (Adolfo, V). According to Matías, some foreigners still assimilate the guerrillas with Robin Hood. He thinks therefore that it would be extremely important to inform the international community of the Colombian reality: “It is important to open the world’s eyes about the guerrillas; they are not Robin Hood as many people think” (Matías, V). For him, this crime is so cruel that with time humanity “should see it like slavery, it is something savage!” (Matías, V).

1.2. The harm inflicted to those who are obliged to abandon their home

Forced displaced victims have to go through a very harsh process of loosing everything in a violent way and starting from scratch in an unknown atmosphere, away from their traditions, their culture, their beloved ones and in a situation of extreme poverty. Often, in spite of the traumatic departure, their most desirable wish is for one day to go back to their place of origin. In addition, victims of displacement suffer from another unique form of victimization, which doesn’t touch other interviewed victims: feeling ashamed.

1.2.1. The trauma of loosing everything and starting from scratch

The victims of displacement particularly insist on the difficult process of living in extreme poverty; basic human needs such as renting a house, buying food, educating children, become an extreme challenge after loosing everything through forced displacement.
Further, this tragic condition goes generally together with other forms of victimization, like Paulo, whose son was recruited by force by the guerrilla, and Riana, whose husband was disappeared and whose 16 years old brother was also recruited by the guerrilla. Both haven’t received any news from their recruited relatives ever since.

When I asked Paulo about the way in which he was affected by displacement, he said: “Well, in many ways because leaving behind the few things the good Lord has given us, leave your home, your farm, your goods, the family education, the culture which is the main thing since it makes part of our lives, the experiences…” (Paulo, V). Paulo insists very much on the importance of the cultural bond with the community and how difficult it has been for him to cut with it. Moreover, being violently obliged to abandon his home and belongings put him in a deep situation of distress. When I asked him to tell me about those painful moments he explained that they were too sad to believe it: “Deeply sad, but I say imagine if I didn’t have the spiritual knowledge of believing in God, who is the only one who helps us to strengthen and save us from all the difficulties, because my story was too harsh! So harsh, imagine that four or six armed men brake into your home to try to kill you and you survive, and you have to leave your family behind. That is something that leaves you speechless… Maybe in your mind you’re thinking ‘What Paulo is saying is not possible, is the last thing that could happen in this planet to a human being’, but I was there, I experienced it, and have seen other individuals go through it as well” (Paulo, V).

Riana, 4 months pregnant and with young kids, was forced by the guerrillas to leave her house after her husband’s disappearance. This experience was traumatic for her: “Very harsh, very harsh, that affected me so much that I even lost consciousness. Sometimes I feel it was my fault because I got pregnant…” (Riana, V). In addition of the pain of loosing her beloved one and going through the terrible consequences of abandoning her home, Riana had to separate from her children and start a new life in a dangerous neighbourhood of an unknown city: “I left the younger one with my mother and had to send the two elder ones to a boarding school association in Popayan that helped me a lot while I came to work in Cali” (Riana, V). Moreover, Siena’s brother couldn’t survive the displacement: “one of my displaced brothers didn’t make it, he got a heart disease and died” (Siena, V).
One of the aspects that marks the most the victims of displacement is the situation of extreme poverty in which they find themselves after this form of victimization. Even if the state has done efforts to repair some victims’ harm, they happen to fall short. As Paul notes, “the state has helped me with the rent and economically. It has also helped me with the education of my children. But the state hasn’t helped many others” (Paul, V). However, despite the economical assistance given by the government, Paul finds himself in a precarious situation: “One could only have the strength to talk, but we really don’t have anything to survive, we are in ‘ceros’, like when we were born, finding ourselves only with faith and God’s hope” (Paul, V). Along the same lines, Riana explains the limited, and even critical role of the government in assisting the victims of displacement: “they – the government representatives- gave us the equivalent of 3 months of food shopping, and then what? It’s the same with the rent of the house; they pay you three months, and then what? If we don’t find a job, how could we survive?” (Riana, V). Moreover, Riana’s frustration gets stronger by seeing that, unlike the victims, combatants receive a lot of assistance from the government: “I don’t understand why the government pays them – the combatants – when they come out they receive x millions, and us victims, look how we are! I don’t understand that... we haven’t received anything, they say that they will pay to us, but just imagine, I was displaced in 2002 and now we are in 2009 and I haven’t been repaired!” (Riana, V).

Beto, on the other hand, has never received any financial aid: “The state hasn’t helped me”, he says. Beto finds, thus, in a very difficult economical situation, unable to meet the educational needs of his children: “One could only expect to have a dignified life to educate our children, the most difficult part is the education of the children, at least for us the education here in the city is very hard... and the housing, just imagine! Being displaced and having to pay a rent, what we gain is not enough!” (Beto, V). In fact, victims of forced displacement are deeply concerned by the deep precarious situation in which they live. Cecilia and Siena were not the exception. In Cecilia’s words “I have been displaced 5 times and in the first one I lost everything; I wouldn’t say that I was rich but economically speaking we were not in a bad situation, I used to work very well” (Cecilia, V), and according to Siena “there is a lot of pain, starting from the fact that we are a numerous family and we do not have the economical resources. That has been a big issue for us” (Siena, V). Somehow during the interview Siena was transported into what used to be her life before being displaced. Nostalgic about the past, she talked for a long time about her life and the fact that they had
a dignified and nice lifestyle: “we had a house for our big family... we used to have revenues, gained with our own effort... I used to cook and ate and live with dignity” (Siena, V). Siena misses her lifestyle, the “fried fish and seafood” from the Pacific Ocean, her traditions and culture. But she is not alone in nostalgia; in spite of the violent situation in her town of origin, her children “want to go back to Buenaventura, I tell them that they shouldn’t go there, but they wish to go back” (Siena, V).

1.2.2. Feeling ashamed of being displaced

Unlike other victims that I interviewed, displaced people in Colombia feel ashamed of their situation since they are frequently treated without respect and regarded as some kind of street beggars. According to Riana, “when you go somewhere, to Acción Social\textsuperscript{11} for example, or to that type of institutions, they look at you in such a way! You only want to be attended as they should attend you, like any other person, but you have to wait for hours and they tell you to go back another day, and you feel like...mmm” (Riana, V). Similar to Riana, Siena feels ashamed because she is often treated like a “beggar”: “Yes, I do feel ashamed, embarrassed to be considered as a beggar. You can see that almost everywhere, as if we were begging! Sometimes people consider us as criminals...I do feel this and is very strong because I live it, almost every day” (Siena, V). Afterwards, she tells an anecdote in which she got upset with a government employee from Acción Social for being treated like a beggar: “I told him, ‘one minute Sir, I am not begging here because the Colombian state has done this and this, you are just a public employee from the state, so I am not begging!’ I got pissed off!” (Siena, V).

From another perspective, Paulo lives the displacement as a form of discrimination and doesn’t hide his anger against the Colombian state, which, according to him, has promoted poverty: “It’s like a form of discrimination, a social discrimination. It’s like if the poor person shouldn’t exist, I see it in that way. The Colombian state hasn’t allowed the poor people to exist. That’s why the state finances the war, which has affected the poor and not the rich. The rich is becoming richer and the poor, poorer” (Paulo, V). Moreover, he feels ashamed towards the members of his family because he hasn’t been able to provide them with education and financial means: “In my trajectory I have lost so much and I haven’t been able to contribute with the education of the family as I used to do” (Paulo, V).

\textsuperscript{11} A national entity in charge of helping the vulnerable Colombian population and aiming at reconciling and regionally integrating Colombians.
1.3. The harm of loosing suddenly and violently a beloved one

The brutal death or disappearance of a family member triggers a difficult situation governed by sadness, emptiness, distress, fear, paranoia, frustration and economical obstacles, which is very difficult to overcome.

1.3.1. The trauma caused by the violence of the act

Obviously, loosing a beloved one is a deeply sad event. In the words of Amalia, "it was so sad, so painful, because as you know a mother suffers with everything that happen to her children" (Amalia, V). According to Antonio, who “unfairly” lost a beloved one, “there was so much suffering at home, the emptiness, and what comes with time...” (Antonio, V). In addition to sadness and deep depression, loosing a relative in a violent way may deeply affect the psychological and emotional situation of an entire family. Without knowing the author of the crime, Ligia’s husband was shot while they were all celebrating her daughter’s birthday in La Hormiga, Putumayo. This traumatic event marked her life forever: “I had a horrible nervous breakdown, I didn’t want to work, I became single mother, I didn’t want to work anymore, I only wanted to be locked with my girls. I though that everyone who looked at me wanted to kill me... I even wanted to kill myself” (Ligia, V). Similarly, Ariana became single mother with three children. When I interviewed her in the Unit for Justice and Peace, she seemed very paranoid and was completely lost in the whole process. In addition, she hadn’t eaten anything because she had already done a big economical effort in buying the bus ticket from Yumbo to Cali to attend the free versions. This case scenario, single mother with no financial resources, is very common with the victims of the Colombian Conflict. In any case, it was the case scenario of almost all the victimized women that I interviewed, except for the victims of kidnapping.

So I asked Ariana to tell me about the consequences of her husband’s murder and she said: “I was scared, stressed, I felt like putting my little children inside of me so that no one could see them” (Ariana, V). For her, this traumatic experience was governed by fear and paranoia: “horrible, one cannot sleep calmly, always thinking, one cannot go out because one is always stressed out. When one hears cars and motorcycles, one thinks ‘could they be the
combatants?’ And you ask yourself the one million questions: Why? Who? I am horribly tensed” (Ariana, V). Along the same lines, Carmen, in her tears and deep paranoia, told me: “what can I say? at that moment I didn’t know what to do, I saw him laying on the floor, without being able to do anything... It was very difficult for me, I said to myself ‘what can I do my God?’ I was locked within four walls with no place to go... I was stressed, I was traumatized” (Carmen, V).

Ingrid, who could hardly speak due to her tears, sadness and anger, explains how the paranoia of being followed has been present in her life ever since her husband was murdered: “The same paramilitary that threatened me was always surrounding the house. He used to stand in front of the house and stared at me to check out what we were doing... so, always that persecution, I was scared because they were going to do something to me” (Ingrid, V). In addition to paranoia and fear, her little daughter, who wants to know the truth of what happened, obviously suffered the consequences of the violent murder of her dad: “When I arrived this morning - to the office of the prosecutor - I was paralysed with fear, I am still afraid of talking because I don’t know who could be listening, I still have a daughter... my daughter told me ‘mami, I want to study in another country, I want to go somewhere else’, I told her ‘wait, study strongly and then we’ll see what to do’. I’m scared of this town...the guerrillas are bad, the paramilitaries are bad... the girl suffered, imagine that she continued to pee in bed until the age of 10. The Doctor said that it was normal, she was traumatized, it is due to her father’s death. I haven’t told her the truth, yesterday she asked me ‘mami, why are there so many things that I don’t know?’” (Ingrid, V).

Facing human cruelty has not been easy indeed. In her desperate quest to know the truth about her husband’s disappearance, Riana went to see the “supposed” offenders, whose cruelty left her speechless: “they told me not to wait for him, that if I was being such a pain, excuse me for the expression, well, that I had to look for him in the river, which means that they had killed him and thrown him into the river. I had words. I would like to hear the truth” (Riana, V). Cecilia’s husband was killed in front of their children: “they took him out of the house and killed him in front of the kids” (Cecilia, V). She explains, in deep suffering and crying, how this event had terrible consequences on her children: “My older son got affected psychologically since he was the spoilt one of the father. He got into drugs at the age of 13” (Cecilia, V). In fact, all these stories are tainted with extreme human meanness, and, as
Álvaro says, everyone can be a victim of this cruelty at anytime: “Today, we live in such distrust, in such anxiety, the social problem here in our country is not only present in the countryside, but also in the cities, everywhere. This society is distorted, I don’t know, maybe it’s due to the situation of poverty affecting our youth. Today you go out, right there, and you can get shot, or stabbed, everywhere” (Álvaro, V).

The violent murder of Ligia’s husband didn’t only affect her emotional system but also her economical situation. Another single mother whose emotional situation would stop her from working: “I was in such a bad situation that I couldn’t even go out and sell (merchandises)” (Ligia, V). The same happened to Ingrid: “It was so hard that I needed to wait for my family to help me with a milk pot, with diapers” (Ingrid, V). Tatiana’s economical situation also obliged her to leave her house. Today she lives at someone else’s place: “I had to leave my house, work to survive. Right now I have nothing, I don’t have a house, I work, but I don’t even gain the minimum wage. It has been so difficult to survive. What can I say? This has been so difficult!” (Tatiana, V). Ariana as well had to look for a job and abandon her studies to be able to provide her children with food: “My children and I used to study, he was the head of the family and now he’s gone. I didn’t finish my studies, I had to go out and find any job, anywhere to buy food. Food is the most important thing for a mother, so that the children won’t go starving to bed” (Ariana, V). In fact, single mothers have an enormous pressure to raise their children by themselves. This was very clear to Ariana: “I got desperate, worried, stressed … how could I raise three boys? Everybody told me that the boys were very difficult. I used to say ‘Oh my God, what can I do now with three boys?’” (Ariana, V).

1.3.2. The harm of desiring revenge

When I asked Tatiana if she had felt rage and desire of revenge, she answered: “Of course I did (...) I looked for him –her husband- in hospitals feeling so vengeful, I wanted to take revenge from everyone, uyyy it was horrible! I wanted to destroy everything!” (Tatiana, V). However, today these feelings have disappeared: “Everything is now in the hands of God” (Tatiana, V). Along the same lines, Riana says: “Yes, I will not deny it, I felt bad, furious against them, there was even a woman with them and I begged her to tell me where he was, I
was desperate because I was pregnant and I already had four children. I felt bad, I wanted to become invisible... I wanted to find them, I was so resentful” (Riana, V).

From another perspective, Álvaro insists on the importance of trying to leave behind resentful feelings since they can cause harm: “One has to find the way to forget because being angry and sad... we are still sad because we have lost a loved one, but I think we should leave behind any feeling of rage and revenge because they harm ourselves” (Álvaro, V). Nevertheless, he explains how his wife continues to feel eager: “She is still very eager; I tell her 'mija, you have to calm down'; she is very angry and melancholic, just now she was saying 'money will never replace a son, nothing in the world can replace a son’” (Álvaro, V). Along the same lines, Antonio did feel vengeful feeling but then he realized that “revenge doesn't solve anything... one cannot get back a human life, neither with money, nor revenge” (Antonio, V).

Ingrid went further in her revengeful emotions. When I asked her if she felt any of these emotions she answered in tears: “I think I did, I think I did, because I could only think of finding human help to kill those people (…)” (Ingrid, V). Afterwards she talks about a person who supposedly participated in the murder of her husband and says: “I will be happy to hear that he is dead” (Ingrid, V). In fact, she hasn’t been able to cease her rage: “I try to diminish it, but the rage is always there” (Ingrid, V). It is not surprising thus to hear from Ingrid, “my suffering could heal when there won't be any responsible combatant in the streets and when I get to know that they are all paying” (Ingrid, V). Moreover, Ariana’s revengeful feelings didn’t only go against the combatants but also against her dead partner: “I got even more angry with my partner since I asked myself ‘what was he doing?’, ‘with whom, why did they do it’? Above all I was angry with my partner, why didn’t he tell me what he was doing? I was very angry!” (Ariana, V).

Unlike Ingrid, Iva’s spirituality didn’t allow any space for vengeful or hatred feelings. However, her youngest child did: “You know, the little one was small, so he grew up with the rage of having his eldest brother assassinated. But regarding myself, I didn’t feel emotions of rage or resentment since, fortunately, I knew God. I just felt pain because losing a child is like having something wrenched from you” (Iva, V). Similarly, Cecilia’s Christian orientation
didn’t allow her to feel any revengeful desires: “*I had no vengeful feelings since I am Christian*” (Cecilia, V).

**1.3.3. The frustration caused by the absence of truth**

The truth behind these tragic deaths is rarely known. Not only many of the dead bodies disappear; but also, little is known about these misfortunes. Very rarely, relatives get concrete answers on who, why and how their loved ones died. Needless to explain that such situation brings about a profound sense of frustration and distress. Although we will later treat the topic of truth, it is worth clarifying by now, that generally, ignoring the truth behind this type of aggression causes deep harm and frustration.

Despite knowing the material author of the killing of his father in 2002 in Suarez, Cauca, Sergio and his family have undertaken a long judicial process of more than 8 years to unveil the truth about the intellectual author of this murder, meaning, “*those who paid to kill him*” (Sergio, V). When I asked Sergio if vengeful emotions appeared, he denied it but insisted on a strong sensation of helplessness: “*Not that much, a strong feeling of impotence appeared, though, given a state that didn’t react despite such convincing proofs. So there was no revengeful feelings, but an impotence sensation; we went before the competent entities and things didn’t work, so we decided to go before all the organisms, the ministry, the office of the prosecutor to unveil the truth and make the responsible ones pay for their actions*” (Sergio, V).

In fact, many are the victims who will never know the truth behind the death of their loved ones. Regarding Riana’s story, in addition to losing her husband and being displaced by the conflict, her brother also disappeared at the age of 16: “*Yes I have a disappeared brother, he also disappeared in Putumayo, at my brother’s farm. Already five years have gone by and we still don’t have any news from him. My elder brother says that the guerrillas had recruited him; he was only 16 years old…*” (Riana, V). In the words of Tatiana she would like to know the truth, “*to leave behind the general state of uncertainty in which I find myself. In any case... they never kill them in a good way, they always do such horrible things*” (Tatiana, V). Neither Ariana knows who killed her partner and father of her children, but wishes to
know the truth about what happened: “I don’t know who did it, I don’t have the slightest idea... I am curious to know what happened” (Ariana, V).

Ingrid’s situation was different though. She knew who the offender was but was afraid to notify the police. Surprisingly, according to her, everyone in the village could recognize the offenders but no one dared to denounce them. In fact, Ingrid feared the offender’s eventual revenge: “I didn’t go to the police because I was afraid, I was afraid. Only last year someone told me ‘you should denounce him to finally learn what happened’... everyone knew who the offenders were, everyone, but everyone remained silent... they have killed a lot of people” (Ingrid, V).

1.4. The pain of the indigenous communities persecuted collectively

Unlike other victims, who were interviewed according to a particular form of victimization, the indigenous communities were interviewed as a community, which has been collectively affected by the conflict. In fact, those who I interviewed live in The Sierra Nevada de Santa Marta, an astonishing natural beauty in the north of Colombia that has been directly subjected to the conflict with constant presence of all the illegal armed groups. Given this conflict situation, the indigenous communities have been constantly victims of forced displacement and other forms of serious victimizations, like disappearances, executions, rape, among others. However, and remarkably to our Western eyes, despite all these obstacles, thinking in terms of collectiveness has remained a priority; in fact, from an indigenous perspective, when a member of the community suffers, the latter suffers as well.

1.4.1. The pain of being physically and mentally brutalized for more than 500 years

Interestingly, when I asked the indigenous communities about their experience of the conflict and the way in which they had been victimized, they went beyond the illegal and legal armed actors of the conflict and explained how they have always been victimized by the Western mentality. As it will be later shown, according to Dinamo, the causes of the conflict are not reduced to illegal armed actors, but could be understood as a problem of mentality of the Western world. Correspondingly, Enrique explains in his own words how
the Arahucacos have been brutalized for more than 500 years: “For more than 500 years we have been victimized physically and mentally by various actors, call them Catholic Missionaries, Conquistadores, Colonos, peasants, guerrillas, paramilitaries and delinquents, all of them inflamed by their needs, in one way or another ended with the peace in our territory, amputating our rights as a community” (Enrique, V). As Constantino explains, the Western society has been trying to influence the Arhuaco in every aspect; their “head”, their “mind” and their language have been colonized. Different put, Colonization has taken place in every sense of the word: “Even our language, we’re loosing it, people are now speaking a mix of Spanish and Arahuaco, I’m afraid we’re killing it. Our maternal language that screams and weeps is the one we’re displacing, we’re even teaching English in the Sierra nowadays! There is a form of colonization in every aspect... Yes, we’ve been victimized by the evangelism, the state, massive industrial projects, the landowner, the guerrillas and others and now we’re facing another form of colonization that’s directly destroying our homes and families: alcohol. It’s something many don’t want to hear or acknowledge, but people are starting to disrespect one another and not even the government can do anything with this poison ivy that’s spreading” (Constantino, V).

Dinamo explains the sadness of the indigenous communities when they lost their pride and identity after the influence of the Capuchino missionaries in the Sierra Nevada in the 18th century. In fact, as he notes, the Western world aimed at establishing its traditions and beliefs by controlling, diminishing and fighting different cultures, like the indigenous: “I believe there was an extermination political movement to end all cultures... even in Colombia, if you check the early records of the DANE you will see that the numbers of indigenous registered were very high... but what the vast inquisition campaign brought was... what did they expect? To discredit the other? Diminish him? Inconsiderate his values and culture?... Finally the community ended up loosing the sense of belonging, they abandoned their traditions, they ended up feeling ashamed of their ancestors and origins, and that’s the reason why today when asked for their cultural backgrounds they rather call themselves “peasants” than be identified as aborigines” (Dinamo, V).

In fact, the Sierra Nevada de Santa Marta is no longer the peaceful and calmed place it used to be when the indigenous communities exclusively lived there. The Sierra constitutes the

12 DANE stands for Departamento Administrativo Nacional de Estadística
“ancestral land” of the various communities that have the right and obligation, according to their “law of origin”, to protect it. As Amandino notes, they are no longer the owners of the Sierra: “Today we can’t really claim that we are owners of our own ancestral land. Before we didn’t need anyone’s permission to cross a border, today is always a problem to leave and come back in, everything has become a conflict in The Sierra” (Amandino, V). Such obstacles have obviously forbidden the indigenous communities to rightly practice and maintain their values and traditions. Moreover, there has been forced recruitment by the armed groups and forced displacement which have also enabled them to apply their laws and continue their path: “We have been able to keep them –the ancestral values - but not fully, there are for example many places that are important for us, that we no longer have access to because other people live there now. There are many things that as natives we should do, that we can’t do as we’re supposed to... We have laws we lived by, these laws were not just invented, they were given to us by our ancestors one generation after the other, for example forced displacement is not allowed by our laws” (Amandino, V).

1.4.2. The pain of dealing with extermination and loosing their spiritual guides

While explaining the conditions of his father’s « dodgy » death, which circumstances are still unclear, Dinamo states that his death was an offense to the whole Arahauaco community and not just his family: “In la Sierra Nevada, the victim it’s not just the family, we’re all affected by such violent acts as a community” (Dinamo, V). This reasoning comes from the fact that the indigenous communities from La Sierra see themselves as one, they are interrelated “collective subjects”. Such spirit of collectiveness and belonging, unknown to the Western man, was affirmed and re-affirmed by each one of the representatives of the communities. As Dinamo notes: “When you affect the community obviously the effect is general, when for example they kill a « Mamo », he who is someone destined to live, how much does the community really loose? How can you measure the backward state in the community when one of its leaders is murdered? What does this imply, at what cost ?” (Dinamo, V). Likewise, Constantino also reasons in terms of community when explaining the way in which the Arhuacan community faced the guerrillas. In fact, at the very beginning the indigenous communities seemed to coexist peacefully with the guerrillas, but afterwards such coexistence broke: “Well, you get several stages, at the beginning it was subtle when there was a « philosophy », there were many deceptions because some people trusted them as human beings. But after a while the calm environment stopped and they
started to show their true colors; at the beginning of this turning point the relationship was still cordial but after a while it became conflictive, aggressive and the Arahuacan community stood proud; I believe we had the balls to stop them and they left this area eventually” (Constantino, V). Along the same lines, Amandino notes: “Obviously when one loses a parent in the violent hands of illegal armed groups, or because of forced displacement, there is a huge amount of pain, in anyway, it’s not nice to be told by someone that you have a couple of hours to leave your home permanently but, we’ve managed to help one another and as a result the pain has become less acute” (Amandino, V). Moreover, this sense of community is strongly acknowledged by Enrique when considering necessary to fight for the wellbeing of their future generations. He considers in fact that “the introduction of armed violent forces” in their territory “can only bring destruction and a type of sorrow that cannot be cured” (Enrique, V). However, despite the “unbearable” pain experienced for over 500, they “can’t give up” and must continue “fighting for our future generations so they can have one day a better life” (Enrique, V).

The indigenous communities have all deeply suffered from the ignorance and egoism of the Western man (the Bonachi). As Constantino notes, such situation has triggered a sense of frustration and also rage, “there is no social justice, no social balance, no respect, there is egoism, envy... and there comes a minority up there inventing laws, and we call that democracy! That’s embarrassing! That pisses me off!” (Constantino, V). However, as we will later see, the indigenous communities from La Sierra practice the principle of non-violence. As Amandino notes, despite such deep suffering, one must fight against rage feelings: “It has been very cruel for us; we’ve lost family and very important members of the community; we’ve lost during these forced displacements, children, also our main source of economic support like our animals, everything is lost and that is very sad and outrageous, one has to learn to control the rage, but mmm” (Amandino, V). Likewise, when I asked Enrique if he felt the urge to take revenge, he answered: “Of course, having to go through all that pain and sorrow in our family, community and territory, develops a thirst for vengeance, but our principles of “non violence” prevail” (Enrique, V).
Summary

So victims live victimization in different ways. Although some have suffered more than others, these terrible experiences have drastically changed their lives, shaking their emotions and perceptions as well as their daily routines. They have been traumatized: by spending months or years kidnapped under dreadful conditions and away from one’s suffering loved ones, by the emptiness of a brutal death of a beloved one, by being displaced and having to start from scratch away from one’s culture and people, by being submitted for more than 500 years under the power and control of a selfish western mentality. In addition to the sadness and the consequences in their daily lives, mass atrocities temp to develop hatred and revengeful feelings, which are very hard to live with on a daily basis. Although some have managed to overcome such feelings, the road to recovery has been harder for others.

1.5. The harm pursued by ex-combatants

Combattants have been marked for life by the conflict. As we will see under « the causes of affiliation », being victimized, or considering themselves victims in a way or another of the Colombian situation, is one of the main causes of joining one of the illegal armed groups. Accordingly, Homero explains that before becoming a left-wing combatant he was a victim: “Right now we’re sitting in the strand of the accused, but above this reality, we’re also victims from this conflict, because the Colombian conflict has origins and it is in these roots that we found the motivation to take our arms and fight” (Homero, ELN-ERG). Similarly, Alexandre explains how his initial displacement influenced his path towards Paramilitarism: “I started by being displaced and ended up being part of a subversive armed group...I don’t totally agree with the term “offender”; people tell me I’m an “offender”, but you must not forget that I was first a victim, we, a family of 20, were forced to leave our hometown Amalfi...” (Alexandre, AUC).

In addition to this first form of victimization, being subjected to the horrors of the war has definitely caused a weighty harm that will be hardly restored. A harm generally consisting of a life lacking of love and affection, away from the relatives, living on the edge of death in
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extremely difficult conditions, seeing their war mates die, having to kill and watching others killing, etc. Moreover, the trauma of a violent life doesn’t go without additional forms of harm, which generally appear after demobilization: having the feeling of losing their youth, starting from scratch in a situation of extreme poverty, hiding their identities, and very often, regretting from having harmed innocent victims, their families and themselves.

1.5.1. The trauma of a violent life

War, in the words of Homero, has both pleasant and unpleasant aspects: “It’s a nice feeling being totally convinced that what you’re doing has a meaning. You’re doing the right thing in body and soul, you are embracing fully and with conviction the cause. Not nice? I would say that war in itself is a hard experience, and even more when there’s death involved” (Homero, ELN-ERG). As leader of a guerrilla group, Homero was at the beginning fully convinced of the ideological causes behind the conflict, which encouraged him to fight. However, as we will later see, although today he remains faithful to the social causes of the Colombian conflict, he no longer considers the guerrilla groups as representatives of these social values, neither violence or armed conflict as the right means to fight for them. As he notes, there is death in wars and this obviously is not pleasant. In fact, most fighters of the Colombian conflict have lived under the traumatic shadow of death. Along these lines, Wilson states: “Every day you feel the shadow of death crawling near you...this feeling never leaves you, death is always a present reality” (Celestino, FARC).

Luis, who was gravely injured twice, also explains how difficult it was to pass from having a normal life to a life in which death is a common feature: “It’s not easy to pass from your home to the training fields, one is not used for example to see dead people, and in a war there are plenty of dead bodies...I was injured twice in the battlefield and I saw death really upon me, I remember thinking ‘Why the hell am I here?’” (Luis, AUC). Along the same lines, Ricardo describes how he passed from being fear free to being deeply scared due to war: “From the age of 14 until I was 18 I felt no fear... then I got shot and I lost it, I could no longer hear shots, they wouldn’t take me to the battlefield, I couldn’t sleep for three days on a row...I couldn’t wait to get the hell out of there” (Ricardo, FARC). Similarly, Francisco describes his war experience as being painful since innocent people and friends die and they cannot do anything about it but continue fighting: “Let’s see, painful because you know that there is
always collateral damage; innocents are going to die and that hurts, it hurts not to be able to help them, same thing when a friend is hurt in the battlefield and he’s crying for help, you want to help him but you can’t... it’s very frustrating, afterwards you feel demoralized, it’s there where you have to be strong or else the guerrilla will get you” (Francisco, AUC). Besides from being extremely painful for Dario, losing friends strongly encourages revengeful and anger feelings: “I saw my friends, fellow soldiers fall; seeing them slaughtered drives you mad with anger, one wants to eat the enemy up!” (Dario, FARC). As a matter of fact, such sadness and rage could be somehow understood and explained since friendship, as we will see, is one of the only sources of affection in war. Correspondingly, when I asked Ricardo if there was any room for love in that kind of life, he answered: “Like everywhere I suppose, like in schools, you develop a friendship with one of the guys, you chat, share the barracks, you save him food when he’s late, yes there’s friendship even until death... sometimes you have to watch a friend die and what can you do? There’s nothing you can do, it just hurts like hell” (Ricardo, FARC).

The spirit of the combatant is governed by paranoia since dying becomes a reality that can happen at any moment. In Wilson’s words: “War is tough, one has to know how to defend oneself, you are always aware of everything in your surroundings, one moment of inattention and it’s your life on the line of fire, your survival depends on your focus, on the ability to execute orders, follow instructions” (Wilson, AUC). Moreover, combatants have to be very careful with the members, chiefs and low-level combatants, of their own group. As Camilo notes: “Even amongst us there was rivalry, we loved each other as brothers? No way! More than one wished you dead” (Camilo, ELN). In fact, as Camilo explains, since life was worthless, their own companions could kill them at any moment “because of chief’s order, a bad word, a stupid quarrel, you could loose your life in a split second...” (Camilo, ELN). Ramiro explains in fact how difficult it is particularly for those at the bottom of the pyramid who do the nastiest tasks and receive very harsh punishments, including death: “The first days as a recruit are really hard, one get’s to ranchar (to cook) as they call it there, to be on guard duty... There is a tight schedule for everything, to eat, to sleep, to shower and you always have to keep silent. We all come from different backgrounds, we all have our own capacities, and abilities or disabilities and we all have to fit into the same mold; it’s very strict the real war. Some guys arrived in the morning and by the end of the afternoon they were already dead, executed for a mistake or because the commanders thought them suspicious” (Ramiro,
In addition to fearing the enemy and, even the members of their same group, the combatants do also fear the geographical and natural conditions of the Colombian jungles and mountains. This is shortly but well explained by Alexandre: “We started with 12 men and in 10 years we grew to be 1534, it’s not easy, and besides our territory was so harsh, tropical diseases, constant rain, such humidity, very poor areas, but strategically key to win the war” (Alexandre, AUC).

1.5.2. An empty life without love and freedom

Combatants have an empty life that lacks of love and freedom. Given the strict schedules, rules and lack of freedom, paradoxically, most fighters are somehow «kidnapped» by war. There is however a big difference between paramilitaries and guerrillas, at least, between the low-level combatants who really fight in the battlefields: whereas the paramilitaries do have a salary and a temporal periodical permission to visit their relatives, the guerrilleros don’t. With the exception of some milicianos, the “informers” of the war who remain far from the battlefields, most guerrilla members are in fact completely cut from family ties. But still, paramilitaries, as noted by Natalia and JFrancisco, do suffer from being away from family and having such strict schedules: “In moments of sadness one misses the family but you have to respect the schedule, you have a date to see them and you’re forced to wait until that date, it’s really hard” (Natalia, AUC); “You feel sad when something goes wrong in your family and you cannot go because you have to ask for permission” (JFrancisco, AUC). Even during crossfires, ex-combatants thought of their families: “I thought about my mother…. Getting out of there and of my mother, those thoughts are very painful when you’re in the middle of crossfires” (Osma, AUC).

The total lack of family affection seems to strongly affect the guerrillas. In the touching words of Celestino: “When you see a family, a mom giving love to a child or a father protecting his children, you feel jealous, you crave that; you pretend you don’t see it but deep inside you want that, maybe even more because you never had it… It’s hard to know you’re not free, you don’t have free will, you can’t call your family… the first thing they tell you when you join the FARC is ‘forget your family, forget God, they’re dead to you now, your only God is the FARC from now on’” (Celestino, FARC).
1.5.3. The pain of feeling betrayed and the anger towards high-level fighters

In the Colombian conflict there are indeed various different illegal armed groups, but among them, there are various levels or ranks of fighters. For the purpose of this analysis we will refer to low-level combatants or foot soldiers and to high-level combatants or chief commanders. As we will see, victims perceptions towards the combatants vary considerably according to the rank; whereas low-level combatants blur the line between victims and fighters, the commanders are mainly considered to be the unique beneficiaries of the war. In fact, many foot soldiers enroll in war chasing a dream, being promised heaven and more, but in reality, as many note, only the high hierarchy takes profit of the war. They shared a feeling of having been tricked or duped by the conflict, by the chief commanders, and this, independently of the illegal armed group. Therefore, when I asked Celestino if he had any sense of guilt, he answered: “No, not really, I was tricked, I was deceived into this and when I realized it, it was too late... I was already trapped” (Celestino, FARC). JFrancisco, from the Paramilitaries, shares the same vision when arguing that: “One gets used –by the commanders- is our chest in the line of fire, while our bosses get rich on our backs, spending buckets of money travelling and enjoying the good life, and you remain unknown...” (JFrancisco, AUC). Although we will not quote them all, foot soldiers, be they from the guerrillas or paramilitaries, constantly insisted in having been used by their commanders for their own and unique profit: “Everyone wants to take profit and you are just the pawn stuck in the middle of your commanders personal war, because bottom line you’re not getting anything out of this war, they are” (Kevin, FARC).

As a result, foot soldiers feel that they have lost their youth and the best years of their lives in the war. As Camilo notes: “I left back there everything I had, my youth, my knowledge, all the things I dreamed of doing, back there, I lost the opportunity to do them. When I think about all the things I could have done instead of being there, I feel conscience-stricken... I’ve always wanted a bright future, a career, now with God’s help, I am going to make by best effort to study and make it right” (Camilo, ELN). Dario’s youth was definitely stolen. Born in the FARC, at the age of 13 was given a gun and “had the same tasks as any soldier” (Dario, FARC). When I asked Natalia if she had harmed herself, she answers: “Yes, of course, I lost the best years of my life, at the time I thought it had common sense, today I realize what a waste it was!” (Natalia, AUC). Along the same lines, according to Kevin “they were lost years,
one learns only bad things, I wish I could have used all that time to learn better things…” (Kevin, FARC).

1.5.4. Carrying the heavy burden of being an ex-combatant?

Although not all of them feel guilty since they haven’t been able to obtain a new identity and thus continue to see themselves as victims of the situation, or because they continue to justify their conflict, many of them do feel the heavy burden of having caused so much suffering and becoming someone they didn’t want to be. Jerónimo, from the FARC, is one of those who do not regret much. When being asked if he had felt a sense of remorse for fighting this war, he answered: “Sometimes I do, sometimes I don’t (he hesitates) actually no, because I tried to do things right, I like equality” (Jerónimo, FARC). Neither did he feel ashamed, “no, no, that I don’t feel”. Surprisingly he felt proud of having participated in the conflict “yes, I say yes because I did a lot of good and I keep that in mind…” (Jerónimo, FARC). Jerónimo was in fact born and raised in the FARC, his whole family was part of it and he doesn’t know any different.

From a different perspective, Alexandre doesn’t regret really belonging to the AUC but he would have desired to work for the state: “No, I don’t, what I feel is that I could have done a better job if I had been on the side of the law or part of a legal institution, but I never got this opportunity, I ended up taking the illegal side, maybe if I had received a better education I would have never taken the path I took, I was ignorant” (Alexandre, AUC). Homero, on the other hand, regrets only one part of his conflicting story: having stayed and fight in a senseless group. According to him: “I feel that while the ideology remained coherent and clear, our fight was valid, and I don’t regret that, what I do regret is fighting a war without sense or logic… I don’t see why I should feel ashamed of fighting for the revolution, I did it with conviction, I believed in our struggle. And I feel even less ashamed to be today here in prison, I believe I am adapting to this new reality that is evolving” (Homero, ELN-ERG). However, as we will see, today Homero doesn’t agree defending social causes through violence, neither he considers guerrilla groups representatives of the social ideals they “defend”. Although he doesn’t feel ashamed of having participated in the conflict, Homero does some deep soul searching and admits: “I see things now under a different light, from another perspective, being deprived of freedom makes you realize what a waste of time it is,
one thinks of all the better things one could be doing: enjoying your family, doing something healthier for yourself and society... As I told you at the beginning I really believed our struggle was going to bring a positive change in peoples lives, but the fact is that all the negative actions and the collateral damage a war generates is not worth it, it goes against all human things, so we can’t accept something that destroys and threatens the most perfect form of life, the human life” (Homero, ELN-ERG).

Many are those who feel guilty and deep remorse. Supposedly, the FARC represent and protect the poor and the peasants. However, as Celestino notes, the “protected ones” end up being victimized by the war: “One hurts the ones you were supposed to protect, you realize the mistake... of course you feel ashamed towards the people you have hurt” (Celestino, FARC). Although foot soldiers were obliged to execute orders, some do regret the harm done: “You feel guilty sometimes and responsible for the children that have lost their parents, or the mothers that you have taken away. Sometimes they ask you to go take someone down, you don’t ask questions, you just execute the orders...” (Wilson, AUC). In his words tainted of deep remorse, Wilson explains: “I regret it because we’re all equal, we’re all children of God, we’re all made from the same flesh and bone, born from a loving mother, we all have brothers and sisters, a family. I regret all those lives I took, each one of them had families and loved ones, we took those lives following orders but I can’t stop thinking, what if it had been my own brother? My own son?” (Wilson AUC).

Similarly, JFrancisco describes how difficult it is to face life feeling guilty: “Of course I feel guilty, one thinks about all the people that had to run away from their homes, leaving all their possessions behind, without knowing where to go, with small children... and you are at the origin of this, one is part of this... It’s very hard to stand tall and proud again, I carry the culpability always with me, I know I have to face it” (JFrancisco, AUC). Camilo, who admits that he “will regret it all his life”, also describes the heavy burden of having participated in the conflict while trying to explain that despite all the horrors, he is still is a good person, trying to overcome remorse: “Yes I feel the weight on my shoulders, I saw too many deaths, too much violence in which you should have not taken part of to start with, I always tell people I was not a mean person while I was in the organization, I ask for forgiveness, my true nature is not violent, I did not hurt or will hurt anyone... All that misery I impose on myself, I
try to erase it day by day, the fact that I am no longer part of any illegal organization anymore helps me forget the suffering I inflicted” (Camilo, ELN).

Today, as Osmar notes, combatants do regret taking away innocent lives: “When you got the monstrous order to go grab such person, tie them up and murder them afterwards... and then you find out that he or she were not guilty, that they had no link with the guerrillas, that they lost their life unfairly, in vain... yes I feel self reproach” (Osmar, AUC). Colombian legal soldiers obviously fight in the battlefields against combatants. Although they are not considered as “innocent civilians”, Ricardo explains his remorse when he saw a soldier victim of a landmine placed by themselves in a village: “I had to carry him myself and watch him cry, he was imploring God to help him ‘Good lord what am I going to become?’ to look at that young and capable boy in the eye, at that moment one feels really small, pangs of remorse beat in your heart, I kept on telling myself ‘you could have stopped that from happening’” (Ricardo, FARC).

1.5.5. Grief inflected upon the family

Not only combatants harm themselves, but their participation in the conflict subject their families to deep suffering and stigmatization. According to Alexandre, his family has suffered more than himself: “I have harmed more my family than myself... the children and the family get stigmatized” (Alexandre, AUC). Along the same lines, Ricardo describes how combatants’ children get stigmatized: “The consequences are brutal; you can have a nice life for a year and then ruin your next twenty years of life, if for example you have a son you’re going to indirectly hurt him too, no child is going to like being stigmatized at school, being the son of a murderer, of a drug dealer, the pain you have caused him is irredeemable, so it’s not just you that you have compromised” (Ricardo, FARC). In Wilson’s case, his family never agreed with his role in the conflict: “My family never agreed with my decision of joining the paramilitary forces, they begged me to stay but I had my mind set up” (Wilson, AUC). Some may even hide their role in the conflict to their families. Osmar’s family, for example, remained unaware of his situation: “At home they didn’t know where I was working, they knew I had a job not far away from home. I kept sending mainly to my mother money every month. My fixed salary, that was my main motivation” (Osmar, AUC).
Besides from being stigmatized, family members live under constant fear of losing their loved ones in the battlefields: “You always felt that uncertainty, concerning your destiny you become a fatalist, is your family who really suffers, always hoping for your return, 3 times they thought I was dead, they even organized a service at Church on my name” (Camilo, ELN). When asked about what went through his mind before a battle, Ricardo confides: “First thing in my mind was God, I asked for his protection, and my family, my mother and brothers who were always so worried for me, every time there was a clash they suffered the agony of not knowing if I had survived” (Ricardo, FARC). From a different perspective, Kevin considers that he disappointed his family. When I asked him if he felt ashamed, he confessed: “Yeah I regret... I feel ashamed because I was raised by my grandmother, those were not the values I was brought up to respect, most of my family chose to scrape me away from their lives, nobody ever really told me off at home, but I do it myself, I feel self-reproof, because we caused a lot of harm... and it was pointless, because our main motivation was money and we never saw any of it, one can’t help but feel restless” (Kevin, FARC).

1.5.6. The difficulties of starting from scratch hiding their identity

Demobilizing is the beginning of a laborious path. According to Alexandre: “From one day to the other you take off your costume, you give back your gun and you’re suddenly unleashed in a concrete jungle” (Alexandre, AUC). As previously exposed, most combatants feel that they have lost their youth in the war, learning nothing but how to fight the enemy. The transition towards civil life is a wake up process in which many realize that fighting had no sense and that now they don’t count with the intellectual and economical capacities to rebuild their lives; “all that time in war and having to start from scratch!” exclaims Luis (Luis, AUC).

As Jerónimo notes, their financial assistance is not enough to cover all their needs: “Our main problem right now is economical, I don’t have a job, I am worried, I have 2 boys, they don’t live with me, but I still have to send their mother money for child support, that’s my obligation; the little help we get is not enough, they pay for our studies, I’m studying to become a nurse and they’re always asking for so many things and you have to find the money to get them. One has to struggle, find little jobs here and there, work double shifts, you can’t give up” (Jerónimo, FARC). According to Celestino, his monthly allowance is not enough to
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live: “Here you get paid like $ 480,000 pesos per month. That can only cover the room that I rent. I am therefore obliged to work from Monday to Friday to buy the food...” (Celestino, FARC). In fact, Celestino is lucky enough to have found a job. Many are those who can only count with the monthly allowance given by the ACR.

In addition of being subjected to extreme difficult economical obstacles, ex-combatants tend to hide their identity to avoid being stigmatized by society. Like Dario, who remains silent about his past: “I don’t tell people who I am, I feel fine around the friends I have now, I treat them normally” (Dario, FARC). JFo has also hidden his identity and has decided to never tell anyone about his past. He describes, though, the difficulties he has been subjected to when looking for a job: “At the beginning of my demobilization it was hard, when I started looking for a job and they would ask me ‘What have you been doing for the past two years?’ you had to answer nothing! I have been working for two years now in the same place and still nobody knows who I am, I have never mentioned it to anyone and never will, if I do they will look at me differently and I don’t want that” (JFrancisco, AUC). Kevin also exposes some of the obstacles posed to demobilized combatants in their job searching process: “In reality lot’s of us don’t have the same opportunities as others, let’s say for a job, as soon as they find-out you are a “desmovilizado” they won’t give the job to you or they would fire you... one has to learn to live keeping that part of your life secret and that’s not always easy” (Kevin, FARC).

So they have to face this duality in their everyday lives. When asked if he was ashamed of whom he was before, Ricardo answers: “Yes I am. Let’s say you’re going to a community meeting or a workshop you have to attend to, you make the effort to look nice, you’re feeling fine, you watch the beautiful girls in the street pass by and then someone asks ‘Who are they?’ and they answer “desmovilizado” and everyone starts staring at you as if you were a criminal, an immoral human being ...and one feels ashamed” (Ricardo, FARC). Luis has also been subjected to an indirect form of stigmatization: “At University, the director knew who I was but not the students. Once, we had a subject about violence to discuss during class, and lot’s of my classmates agreed that the paramilitary forces were violent and brutal and that the government should have never allowed them to exist...you feel rejected and different, you know you’re not liked, so you keep your real identity secret” (Luis, AUC).
Summary

The paradox regarding the ex-combatants is that even if they have been at the origin of hostile acts, they experience themselves some of the victims feelings: fear, sorrow, sadness, despair, this accentuated by the fact that in most cases, they were at some point in their lives victims themselves: dysfunctional families, lack of education and opportunities, forced recruitment, absolute poverty.

While bringing tremendous amount of suffering, the offenders are often victims of the system they evolve in, most of the time in the impossibility of abandoning or quitting this horrible atmosphere. The lack of love during the period of combat, the extreme conditions of their lives at camp, the fear for their lives, watching friends die, loosing the sense of time, the hunger, pain, sickness, only makes their personal hurt more intense and therefore their journey to recuperation much harder.

Once they take the very hard decision of demobilizing, they find themselves in extreme poverty, at the door of a society that in most cases doesn't want them or understand them; they are faced with administration paperwork, trials, jail for some, community service for others, in addition to this, life as they knew it before the war has changed dramatically, some of them have been away in combat for years and others have known nothing but the life in the jungle, so its extremely laborious to make a fresh start, to have a normal life and to find peace at heart.

2. Healing the harm of the victims

Many factors influence to get through the ordeal of being kidnapped, displaced, loosing a loved one or being subjected to a long lasting extermination policy, like the one regarding the indigenous communities. Among these variables, the love and support of family and friend becomes crucial; facing such traumatic experience alone becomes almost impossible. So, as many victims have noted, having relatives that take care of them and taking care of others, considerably helps in overcoming trauma. In addition, spiritual life like faith in God or receiving the spiritual orientation of the Mamo (spiritual leaders of the Arhuacos), and listening and being listened by professionals or other victims are also
frequently mentioned healing factors. Although we will not develop the importance of time in the healing process, it is worth mentioning that this aspect is necessary for many victims to overcome traumatic experiences. As Gonzalo notes, time is necessary to heal trauma: "Time, the only real useful thing is time" (Gonzalo, V). The same is confirmed by Ingrid when explaining what has been useful in her healing process: "I think time, seeing my daughter growing up..." (Ingrid, V). According to Enrique, time has been key in understanding the tragic events: "Every day we understand better the moments and events our indigenous life has been subjected to" (Enrique, V). But still, despite all the possible sources of help a human being can have or use, some victims seem to be deeply drawn in suffering with no hope of overcoming it. According to Antonio, for example, “nothing heals the harm, let me repeat myself, nothing” (Antonio, V).

2.1. The love and assistance of the loved ones

Friends and family become essential in the healing process of victims of mass atrocities. Relatives act as the necessary moral support, and as we have seen, particularly with single mothers, as the unique financial source. In addition, family becomes the main looking forward goal, the main reason to fight for life during victimization, like in the case of kidnapped victims, and after victimization. When I asked Sócrates how did he overcome his traumatic 7 years of kidnapping and the tragic death of his colleagues, he answered: "With the love of the family, coming back, the love of the family, life’s opportunities. You get to appreciate an evening, a morning, friendship, everything, you get to value things. Every little thing becomes source of happiness, everything stays behind, you have to move on" (Sócrates, V).

Similarly, “being together (with family), enjoying happily life” helped Gonzalo in his healing process. As he explains, “in fact, we have always been a united family. Doing simple plans but always together, which makes me think of the “gringo” saying ‘the best real way is live well’, and that’s exactly what we are doing” (Gonzalo, V). So family is essential morally speaking, but also economically and as a general guiding support. Ariana’s family helped her in every sense when her husband died: “The family members got together and helped me so much! Mainly economically, with food, with money to buy the kid’s school materials. They took care of the little one while I was working. Both, his and my family helped me!” (Ariana, V). Along
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Moreover, victims find the strength and motivation to live and continue fighting for those who remain. In Iva’s words: “When the older son died, the younger was 2 years old. Today, he’s 10. My kids have helped me, and the little one has been my strength to move on” (Iva, V). In her depressed state, Riana also made it through thanks to her children. Somehow, single mothers have no choice but to fight to be able to offer education and food to their children: “I moved on for my children. Thank God they are alive. I made it through with them, with some obstacles, though, but right now I’m with them which is the most important” (Riana, V).

Desiring a bright future to their children and fighting for this wish encourages victims to move on and heal their harm. Siena’s main motivation is to see her children succeed in life and being able to say one day “I was displaced, but I recovered from this, at least economically, and my family made it through” (Siena, V).

2.2. The power of spirituality and values

For many, not only spirituality strengthens in situations of deep distress and sorrow, but it represents an important healing tool and source of power; God, the Mamo, religion or values in a broader way, usually play a crucial, and even necessary role in overcoming a traumatic experience.

While acknowledging being thirsty for revenge, Sócrates highlights the importance of faith in overcoming his revengeful feelings: “Faith helps. I put everything in the hands of God. Little by little I started to purify myself, understanding forgiveness in Christian terms as
putting aside hatred and revengeful feelings, and understanding that we were in the middle of an armed conflict, that we were victims and we needed to understand this but never justify what they were doing with us... If a kidnapping is difficult with God, I could not even imagine how would it be without God! Terrible, it must be terrible!” (Sócrates, V). In fact, Sócrates strengthened his spiritual life with his kidnapping: “Yes, adversity is the best soul training, the spirit takes form” (Sócrates, V). Along the same lines, when I asked Ligia if she had revengeful feelings, she said: “No, no, no, I thank God... I just prayed God because he is the only one who knows why this happened, I have put everything in the hands of God” (Ligia, V). In fact, her only “psychologist” was God. As she notes: “God is the only one who has sincerely helped me and given me peace. I am very devoted to God, I ask him for orientation with my girls...” (Ligia, V). Religion didn’t allow Paulo to develop any form of revengeful attitude and emotions. In fact, when I asked him if he had felt desires to take revenge, he exclaimed: “No! I just felt sad of seeing the ignorance of humanity. As I have told you, I am spiritually prepared. God gives us all the strength to overcome this obstacle. I pray to God to forgive them and make them reconsider their actions and stop this foolish war in our country. We are killing each other among ourselves, sons, fathers, mothers, etc. This is an internal death. This is an internal war that shouldn’t exist” (Paulo, V).

From another perspective, values and a peaceful philosophy of life, instead of any particular form of religion or spirituality, were essential in Gonzalo’s recovering procedure, who, in fact, went through a dark episode in his life. He could therefore overcome his pain “by living in peace with myself, with my loved ones, having short and long term illusions, having a philosophy of treating well one’s neighbor, being an instrument of peace, avoiding judging others; I am not a very friendly person but I am polite with everyone and in 99% of the cases I receive back such courtesy. So I live in peace with myself and those who commit crimes do not live in peace with themselves, because even if they live in castles, in luxury, they won’t last long, they will be murdered by their enemies, so that helped me a lot. If I were an obscure person I wouldn’t have been able to leave behind my wounds. Today, these are 100% restored, it has been quickly and sincere, I don’t feel pain anymore” (Gonzalo, V). In fact, during his father’s abduction, Gonzalo “got into a fight” with God. He couldn’t understand how God allowed his father’s kidnapping while he was in his own house praying, “where was God’s power?”, he said, “I became atheist for a long time. Today I have regained my
spiritual life, I don’t believe in symbols and those things, but the purification of the soul from all those hatred feelings has nothing to do with my spiritual life” (Gonzalo, V).

Jorge Luis, Matías and Adolfo, all victims of kidnapping, found in prayer strength, power and a means to soften the brutality of their experience. As Matías notes: “I prayed a lot! And let me tell you a story, one prays Our Father’s prayer since childhood, well, I had forgotten it... from the very first day that I got there I had a Bible, no for devotion reasons but because maybe a 2000 years old book must be good! So they gave me a Christian Bible, not a Catholic one... I was always trying to remember Our Father’s prayer but I couldn’t remember it, so when they brought me the Bible I opened it and pin: St. John’s gospel, Jesus teaching the Our Father’s prayer to the apostles! So I said, ‘My God you haven’t abandoned me, how wonderful!’ So I read that book, with the deepness I was looking for... Religion helped me both to heal the harm and to prevent the wound from growing; when I was released I didn’t go to see a psychologist, but a priest” (Matías, V). Similarly, spiritual life and particularly, the contact with God, helped Jorge Luis in becoming patient and alleviate the kidnapping conditions: “The contact with God, with a superior being, with faith...physically speaking one is powerless, one only has the head, the being and the faith in God, so this helped me in becoming patient... Spirituality, not religion, together with the prayers of my family kept me alive. The power of praying is so strong; I spent 6 months with not even a tooth ache, I never got sick, never caught a cold, the body is wise. God. I was overprotected and I know they prayed a lot for me. Praying is powerful, so much! Jajaja” (Jorge Luis, V). Even after kidnapping, Jorge Luis strongly worked to heal and move on: “After my abduction I have worked with psychologists, spiritual guides, Mayas, representatives of indigenous communities, psychologists, everything!” (Jorge Luis, V). Spirituality also played an important role in Adolfo’s kidnapping experience: “Yes, I have always been catholic, I was even kidnapped in a Church, jajaja !”. For him, spirituality helped him in “seeing time pass by more easily” (Adolfo, V).

Ilana also strengthened her faith in God through this experience. In fact, she always remained calm during her abduction thanks to her prayers and faith in God: “I believed I was going to come out of there, I was always very calm, I prayed. Over there no one believes in God because they are communists and Marxists, so believing in God is shameful. I remember once a guerrillero told me ‘Ilana, come here’ he was sitting on his bed, in his tent,
so I got in and sat down next to him. ‘Look at this’, he opened his wallet, I was impressed because first of all he showed me 1000 bills/notes, the blue ones, and then he showed me some little cards of the Virgin and Saint something, and I told him ‘why do you have all this if you don’t believe in anything?’ ‘No, it belonged to a soldier that I killed, I stole them from him and I thought they were cool, like a decoration’. I thought that was so harsh that I started to cry and cry and cry, and he told me, ‘Ilana don’t cry’, but I thought God was so sacred to put him as a decoration... at that moment I got so sad for them, I thought they were so lonely. I felt accompanied through my prayers... Today I am much more spiritual, yes, I think these situations strengthen your faith. I know that was one of the most difficult experiences in my life, but I also know it won’t be the only one. So it’s good to be prepared for that and avoid saying ‘God, why are you so unfair?’” (Ilana, V).

Amalia, Olivo, Iva, Cecilia, Ariana and Siena, all found in God and religion great source of power and support. According to Iva, for example, God has played the most important role in overcoming trauma: “My God, mainly my God, because he gives you that strength, that courage to go through that” (Iva, V). Along the same lines, Cecilia notes: “God is so big and powerful... God’s mercy is so big, being in God's arms in the most wonderful thing!” (Cecilia, V). From another perspective, according to Sergio, spirituality, and particularly divine justice, have played a very important, though different, role. Given the general feeling of impotence triggered by human justice, Sergio and his family ended up clinging to divine justice: “We believe very much in divine justice, so despite the incompetence of human justice, we always hoped that this will be decided by the one above” (Sergio, V). According to Sergio, in spite of all the human efforts and injustices, “the Almighty God” doesn’t hide anything. More than a healing tool, believing in divine justice has, thus, been helpful in overcoming the problems related to human justice that Sergio and his family have been subjected to.

As it will be shown under « the solutions to the Colombian conflict », a very deep and particular Cosmo-vision and spirituality makes part of the daily life of the indigenous communities of the The Sierra. The Mamo, spiritual leader of the Arhuacos, have played an incredible role in maintaining and protecting the culture and traditions of the community, and this, despite all the Western obstacles previously mentioned, which have deeply harmed the indigenous communities in a general and collective way. Summarizing up the reasons behind the cultural protection, Dinamo argues: “This is a matter of leadership.
Despite contextual circumstances, leaders have to develop strategies to guide their population. I think we were very lucky to count with great leaders, great Mamo, who succeeded in maintaining the culture. We still have our traditions; we are so lucky to have the Mamo! They have kept up our tradition, our knowledge and this is precisely what has helped us facing any problem” (Dinamo, V). Spirituality has not only been essential in keeping the indigenous culture alive, but is has been crucial in the healing process of those who have undergone any form of victimization. As Amandino notes: “The greatest support an indigenous person may have is spiritual guidance. That’s the best path to overcome any catastrophe” (Amandino, V). Likewise, Constantino argues: “Restoration has to take place in two dimensions: in the material one and in the spiritual one” (Constantino, V).

Although Jorge Luis has no indigenous origins, he has worked with the indigenous communities to heal his harm: “For the past 5 years I have been working with the Maya philosophy, their respect towards nature, there’s no religion, I have a Mayan spiritual leader friend, we have done some ceremonies that have been very helpful…” (Jorge Luis, V). As we will later see, Jorge Luis considers crucially important to include the philosophy of the indigenous people of Colombia into the conflict resolution agenda.

2.3. Psychological professional assistance

Although many victims have not received psychological assistance, they would like to talk to a psychologist and consider important to receive a personal treatment because, as Ingrid argues: “Everyone has its own universe, its story, its harm” (Ingrid, V). Ligia was so deeply touched by the loss of her husband that when I asked her if she would like to receive psychological help, she answered: “I would like to, but I would have preferred right after being victimized because everyone at home told me that I seemed crazy, I didn’t even want to open the door to anyone, I thought they would come to kill me and my daughters” (Ligia, V). Further, Ariana would like her children to receive psychological assistance because “they were very small and deeply touched by their father’s death” (Ariana, V). Given his wife’s deep suffering, Álvaro argues that talking to a psychologist would be very important: “Yes, yes, of course. That’s very interesting at least for sensitive people because there are stronger people (referring to himself) who deal with issues with strength, even if it hurts, but there are very
sensitive people (referring to his wife) whose situation cannot even change with time, so a psychological treatment would be very important” (Álvaro, V).

Beatriz and Jorge Luis have both worked with psychologists to heal their harm. When I asked Beatriz if she would like to receive psychological assistance she told me: “I have received it all the time” (Beatriz, V). As to Jorge Luis, he has worked hardly in various ways to heal his harm and particularly to forgive the combatants. According to him, forgiveness would help him to erase “destructive emotions”: “When I found freedom I said to myself, well, this has already passed by! But I realized for the first time with him—a psychologist—that, shit, this had marked me! It touched me, it shock me. So we worked on forgiveness because unconsciously I had developed destructive emotions that I needed to heal” (Jorge Luis, V).

Although Sergio, Adolfo and Matías do not desire psychological assistance for themselves, they believe many victims need it. It’s worth to clarify, though, that Sergio was interviewed in the Unit for Justice and Peace; without doubt, the saddest and most overwhelming environment I have ever been in my entire life. In this place, victims get to know, through a life video camera, the atrocities committed upon their loved ones. Although he didn’t consider necessary talking to a psychologist, he was aware of the suffering of others: “It all depends of each person, everyone is different, there are victims that need a permanent psychological treatment” (Sergio, V). Sergio believes that spirituality is more convenient for him: “There are people like me who have gone through so much in life that we know how to deal with these situations and I would say that the most important would be to find spiritual support, instead of human assistance” (Sergio, V). Along the same lines, as we have already noted, when Matías was released, he looked for a priest and not for a psychologist. He admits, however, the need for many victims to follow a psychological treatment. Furthermore, Adolfo argues: “Well, it all depends on each case, I was kidnapped during 6 months and I went out with my 10 fingers, nothing really happened, but there are people that have gone through dramatic situations or that haven’t gotten opportunities in life, that couldn’t be educated, that have no family, that are displaced, for these cases there must be institutional solutions instead of particular...” (Adolfo, V).
2.4. Sharing with other victims

Whereas some victims consider fruitful to dialogue with other victims about their experiences, for curiosity, to heal their harm, or to compare their victimization with others, some would prefer avoiding such encounter for security reasons. According to Sócrates, for example, a space for victims to share their stories would be useful, “as long as doesn’t turn into a moaning symphony, where people would meet up to build-up and not to cry” (Sócrates, V). “It could be good”, argues Amandino, “not only to dialogue but to get to know victims better and mutually support each other to move on” (Amandino, V). Sergio would also like to meet with other victims: “Yes, I think a space to share with others would be convenient. You could learn how to deal with the harm. Sometimes you think you have gone through the most terrible experience and then you realize that others have gone through worse and have overcome it, so I think it would be very important” (Sergio, V). In her distress and lack of dialogue with her family members, Carmen considers important to talk with victims and listen to other stories: “That’s important because you get to know worse stories than yours, that might be helpful. In my case, I don’t speak with my family, so that makes you withdraw into yourself…” (Carmen, V).

Moreover, some victims do already meet with other victims to discuss between them. This is the case of Matías, Adolfo and Alejandro who have in fact met with other victims of kidnapping after being released. Today they have built a good group of friends and see each other periodically. According to Matías, “you look for that meeting space automatically... I like it, I don’t know if it’s for curiosity or to feel that I am not the only one” (Matías, V). Contrarily, Ilana hasn’t shared her story with other victims of kidnapping. However, she would like to do so: “It would be very cool because everyone has a different story, maybe we could all help each other, some might feel sad, others less (sad), one could give hope because we speak somehow the same language... it’s different to talk about kidnapping with someone who hasn’t gone through it. Well, I hope they will never experience it” (Ilana, V).

Siena has also met with other victims from their neighborhood. When Siena arrived in Cali after being displaced, she immediately looked for other victims of displacement from the community of Aguablanca. Actually, when I first met her, she was participating with other victims at an event called «Jueves de Paz», organized by the Peace and Well-being
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Foundation, which aims at supporting the victims of displacement. Accordingly, Siena notes: “I have always liked to share with the community... we support ourselves” (Siena, V).

Many victims are however afraid of talking even among them. Whereas Iva considers fine talking to the victims who are participating in the JP process, because they all share a type of suffering, she wouldn’t dare talking with others outside that circle of people because “one doesn’t know who you talk to” (Iva, V). Similarly, Tatiana considers good a place for victims to share their stories as long as it is “discrete” and “with the same group of people” because she is still afraid. (Tatiana, V). Further, Ingrid, after hesitating for a while, argues that she would prefer to avoid any encounter with other victims for security reasons: “I don’t know, I don’t think so, well we are all suffering, we all have a story, but I don’t think it – talking among victims – would be helpful... personally I don’t think so because I live paranoid, I don’t know who is who and I always think that if those people get information they can do something to me or to my daughter. However, I do think psychological help would be good because I think that I haven’t been able to close that chapter of my life” (Ingrid, V).

2.5. Participating in a deep periodical healing program

As noted under the methods, an unexpected program was established with victims of displacement in the poor neighborhood of Aguablanca, Cali. This program aimed at healing the harm of 10 victims of displacement, some of which had gone through other forms of victimization like having a loved one disappeared, recruited by the illegal armed groups or violently assassinated. The program lasted 1 year in which the victims, their family members and the coordinators, Margarita and Juan, met periodically. In 16 December 2009, we had a Christmas breakfast in which the victims shared with me the various episodes of the program and the way in which they benefited from it. I was impressed by both the remarkable human capacities of the coordinators and the wonderful results of the program, but given my possible lack of objectivity, I decided to randomly interview some of them: Riana, Mali, Paulo and Beto. My intention was to obtain from them information on the variables (factors) that were useful in their healing process. As we will see, a successful healing program should count on competent and charismatic leaders or coordinators capable of guiding with affection. In its quest to heal trauma, a healing program should try to build relationships among participants, offer a space for participants
to express themselves and listen to everyone’s stories, try to connect them to their roots to have a feeling of belonging, promote an optimistic philosophy of life, treat the issue of forgiveness, among others.

Obviously, not everybody has the adequate characteristics to work with victims of massive crimes and obtain positive restorative results. Besides being professionally capable, Margarita and Juan had a particular charisma and caring spirit that went beyond traditional programs. In fact, many of these victims had participated in previous programs, but, as we will see, according to them, this one was special. According to Paulo: “Margarita and Juan are engraved in our minds, in our hearts, for being persons of high idiosyncrasy who could easily explain to others, with such charisma, such spirit. They have received a divine gift from God and I would like to continue to share with them” (Paulo, V). While referring to the affection given by Juan, Mali notes: “so much! Just calling him and seeing that beautiful way of being, you feel like having family, you feel so happy when approaching each meeting. My older daughter used to tell me ‘mami, your professor is so chévere «cool!»” (Mali, V).

One of the main important goals of this program was precisely to teach the victims another way of interpreting suffering and gain strength to overcome, or at least reduce, suffering. Introducing a different and optimistic philosophy of life was key in attempting to overcome the «status of victim». As they state, listening to the coordinator’s words had already a healing effect. According to Mali: “Their words were like a melody, that’s what I liked the most! Listening to those beautiful words, with that you already have enough!” (Mali, V). Riana feels thankful for being able to restore her harm to some extent and leave behind her guilty conscious state. In her words “I am so thankful because, sincerely, I overcame so many things, I was mentally tormented, depressed, with such a guilty conscious, and Margarita and Juan made me realise that I shouldn’t feel guilty because it wasn’t my fault. They opened my eyes to see that I was not guilty; it was so helpful! They have given me the strength to face all the recent obstacles I have gone through. Thanks to them I have overcome them” (Riana, V).

Not only the program intended to break through with the traumatism and blocked mentality of the victims, but it also aimed at showing that one can learn from a difficult or traumatic event. According to Beto: “The program helped me in a very special way, I was
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blocked... they taught us about our roots, our old ones, our families, many important things. Violence has brought to us so much suffering that you don’t know where to go, what to do, you have no knowledge, but they do, they taught us how to start to forget about the conflict, having a new life, leaving things behind but acknowledging that one has family... it was helpful to heal ourselves, to heal others, I have loved this so much!”(Beto, V). Likewise, Paulo notes: “They taught us that bad things do also bring benefits and that’s the path we must undertake to find solutions, instead of thinking that life is about failure. We will find an exit to this process” (Paulo, V).

Margarita and Juan’s program also intended to heal the suffering caused by revengeful attitudes towards the combatants. Since I had interviewed and deeply talked with Riana before the program, I knew she was thirsty for revenge, so I asked her what had happened to those resentful feelings she had towards the combatants, and she answered: “They made me see that as well, and thanks to them I understood the value of forgiveness despite their crimes”. Would you be ready to forgive? I asked, “No, I have already forgiven... I thank God because resentment doesn’t do any good, it just increases violence because it would go to my children or my children’s children. They made me see that” (Riana, V). Paulo, according to whom the Bible has great value, talks about the importance of forgiveness: “If we do not forgive, God won’t forgive us, ‘forgive to be forgiven’, yes, and peace is achieved only through forgiveness, giving love, giving your affection... Dialogue, love and affection are important... God has sent us to this world to love each other, if we work in harmony for our nation, our village, our region, to help society... so we need to get that reasoning, that knowledge, that love, that affection towards others, I think in that way we can achieve a consensus” (Paulo, V).

In addition, participants built up very strong bonds of friendship and companionship among them. Their past stories and the emotions of sadness and happiness were unveiled and known to each other. This deep sharing was extremely helpful in various ways, particularly in seeing that they were not alone in their grief and that they could count on others, either friends or, surprisingly, ancestors, to find strength and overcome difficulties. As Riana notes: “We got to know each other through dialogue and realize that I am not the only one to have problems but the other ones also did, even tougher. It helped us to unburden ourselves and to get to know each other’s problems” (Riana, V). Similarly, Mali argues that
listening to others stories, sometimes worse than hers, helped her in realizing that she was not the only one who suffered: “When I listened to my friend’s stories I realized, man, my problem is nothing compared to Beto’s, at least! ... There are others who have suffered more, and that doesn’t make me happy, but that helps me in getting strength and say there are others who suffer more” (Mali, V). In addition, that deep sharing made them closer to the point of becoming friends: “The contact with our friends – the program colleagues- they are like a family to me, they come to my house and say ‘we are getting married!’ jajaja, and I hug him – Paulo –... it’s been how long without trusting men?!” (Mali, V). After her husband’s death, Mali had taken a huge distance with any masculine presence. But with the program she has overcome this problem and built a solid friendship with Beto and Paulo, for example, whose families know and support each other. Accordingly, Beto notes: “Yes, yes, it has been helpful given your sadness, sometimes you are alone and a friend comes by and you start to talk of different things and you start feeling lighter” (Beto, V).

Moreover and surprisingly, participants got in contact with their dead loved ones. This peculiar exercise proved to be very successful. “I remember the ancestors as well. All that helped a lot”, says Riana. Mali explains how getting re-connected with her ancestors helped her in gaining strength: “I felt different since the first day that Riana brought me –to the program-; the program goes further, it goes here –she touches her heart- to the heart. I have been to many workshops, ‘so tell your story’ and that’s it! Here is not like that, they start examining you deep inside, about your family, who is your mother? Your dad? Your grandfather? When I had almost forgotten my grandfather, and well, yes I have a grandfather who loved me so much. So when I arrived home I said to myself ‘I’m not alone, I have a family’, and, although they are resting in peace, for me they are alive, they came into my life again, I felt again protected, because right now I am single mother of four children, so that made me stronger. Yes, I had a mother, a father, grandparents and they loved me so much! Remembering the beautiful moments I lived with them gave me strength” (Mali, V).

Needless to say that participants would wish to continue with the program and would strongly recommend it to other victims of the conflict. Riana would recommend it blindfolded because “you feel supported, like in a family... it’s like a light, yes, because they opened us doors towards understanding because we were so blocked by rage, we were not going anywhere, we were going to remain stuck, depressed. So the program was really
helpful, they made us see that we could move on. I was very depressed, I thought I was not going to make it, thank God I have overcome many...” (Riana, V). Along the same lines Beto considers important to share the program particularly with people from the countryside: “I would like many people to participate in the program, to realize what life is... people in the countryside lack of knowledge; we should take advantage of these opportunities to open our minds and obtain knowledge to have something to say to our kids” (Beto, V). They would like it fact to share with others their drawn lessons and to continue to learn. According to Mali, “Oh yes, it would be great to teach others what I have learnt... I can’t wait to see them again... I feel very thankful, is the first project that treats the human aspect instead of the financial, jajaja! I told Juan, listen, I thank you so much for this, your contact, calling us, listening to us...” (Mali, V). In fact, as Paulo notes, suffering people do need assistance, “one needs someone to help you, to support you, otherwise we won’t make it” (Paulo, V).

2.6. Healing the harm of the victims through institutional assistance

After studying the various personal variables that may contribute in the healing process of victims of the Colombian conflict, the elements or variables that may normally need the intervention of the state will be now analyzed. Amongst these factors there is the encounter with the offender and some issues of transitional justice like truth, accountability and reparation.

2.6.1. Meeting the ex-combatant? (The encounter)

The encounter between victims and offenders has played a key role in restorative justice rhetoric. I wanted therefore to analyze the attitude of victims towards an eventual encounter with ex-combatants. Are they willing to meet with the fighters or not? Why? As we will see right away, whereas some victims would refuse to meet with them, others would like to do so.

The fear of the consequences of meeting the ex-combatants, reliving trauma or simply the absence of interest in meeting them are some of the main reasons why many would prefer to avoid any form of encounter. When asked if he would like to participate in a justice process with the ex-combatants, Gonzalo exclaimed: “Never, never, for me that’s a closed chapter in my life, and if I had to meet them, although I wouldn’t like to, I will let them know
that I have forgiven all the suffering and resentment they made me go through” (Gonzalo, V). But “would you like to talk to them?” I asked, and he replied: “Never, never, never, never, because we all have an animal instinctive and it’s better to keep it calm and bury it up” (Gonzalo, V). “And see it through a videoconference?” I asked, and he answered: “Never, never, never because once you have turned the page over and you have forgiven, instead of contributing to forget, that could reopen negative emotions from the past and make you lose your peace” (Gonzalo, V). From a different perspective, Ariana would like to see him “just on the screen” but not personally. She is in fact afraid of meeting the ex-combatant personally, “Oh no, I would be so afraid, so afraid, no!” (Ariana, V).

Additionally, according to Amandino, meeting the ex-combatant would not be worth it: “I don’t see the need of receiving an apology, or being told ‘I was wrong’, the harm has already been done” (Amandino, V). Along the same lines, and without further explanations, Sergio simply would not like to meet the ex-combatant: “No, personally I wouldn’t, I have seen him through the camera... I’m not thirsty of revenge, but I wouldn’t like to meet him” (Sergio, V). Likewise, Iva argues: “No, no no I am not afraid but I wouldn’t like to meet him” (Iva, V).

Jorge Luis and Beatriz, both victims of kidnapping, have a similar particular position regarding the encounter. With the exception of the person who caught him and put a gun in his head, Jorge Luis “wouldn’t have any problem in talking to them”, and would like to see them to tell them that he has “worked to forgive them” (Jorge Luis, V). Along the same lines, whereas Beatriz wouldn’t like to meet the direct kidnapper of her husband, since she “wouldn’t be able to talk to that person”, she would like to talk to other fighters hopping “to contribute in their process of overcoming difficulties” (Beatriz, V).

On the other hand, understanding why, who and how the fighters committed such atrocities, sharing their suffering, making them realize the impact of massive crimes, are some of the reasons behind the willingness of some victims to meet with them. Accordingly, Álvaro and Ingrid would like to meet them “to hear why he killed the boy” (Álvaro, V) and “to have his version of the facts” (Ingrid, V). Similarly, Olivo would “obviously” like to meet the ex-combatants to know “what, who and why they did it”. In addition, he would also like to know “if it was the victim’s or the ex-combatant’s fault” (Olivo, V).
Further, some victims like Cecilia, Siena, Riana, Amalia and Paulo would like to dialogue with the ex-combatants to make them realize how much they have suffered from victimization and make them understand that they are wrong. According to Cecilia there should be dialogue with the ex-combatants “because they are also human beings. They should realize their acts. They shouldn’t be doing that because we are all brothers! Why are we fighting amongst Colombians?” (Cecilia, V). Similarly, Siena and Riana would like to meet them “not to take revenge but to make them understand how much we suffer” (Siena, V) and “to look at them and receive an explanation, to see if they regret” (Riana, V). Amalia would also like to meet with ex-combatants to know “why they did that to my son” and explain them the hard time she has gone through because she believes they “have to be a little bit sensitive and feel part of what one feels” (Amalia, V).

Moreover, Paulo considers an encounter important because “God hasn’t discriminated against anyone...”; He would like in fact to hear from the ex-combatants the reasons why they do what they do and therefore enter “into a reconciliation process and forgive him! Forgive him!” (Paulo, V). Ilana would also like to talk to the person who kidnapped her and forgive him: “I would like to ask him ‘why did you do it? What do you feel? Do you regret or not?’ what would he do to restore what he did to me, what would he propose? Yes, I would like to know...I would like to personally tell him that I forgive him, that I don’t understand why he did it but I won’t make him feel bad... I would like to talk to him because I think life has given me an opportunity and in spite of all the harm he caused me if I could make him feel better, I would” (Ilana, V).

Others, like Sócrates would like to meet with ex-combatants, but under some circumstances: “Only if they really regretted what they did and told the truth to the Colombian society; it would be worth it only if there was a serious process, otherwise it would not be worth it” (Sócrates, V). Constantino’s willingness to meet with ex-combatants would “depend on their degree of evilness”; in fact, he would meet them “if they are still human beings”, but would avoid meeting them “if they have already become devils” (Constantino, V).
2.6.2. The issue of truth

Unveiling the truth has always received great importance in the transitional justice rhetoric. Participants consider this process important in order to better understand the Colombian society and the actors of the conflict, to inform the international community about the reality behind the Colombian conflict and to know the truth of the facts. However, although many victims consider the truth about the facts an essential tool in the healing process of their harm, others, particularly the members of the indigenous communities, do not see such interest in unveiling the truth behind the crimes committed.

The victims of the Colombian conflict have defined truth in the various following ways:

- "An X-ray of reality. According to the Sophists, the truth doesn’t exist. The truth is the official truth, the known one, the one written in the history books, in the journals. But the truth behind each violent act, behind each Colombian massacre is never known; the victim’s truth remains hidden, unpublished” (Sócrates, V).

- “Within the framework we are talking about, truth means not to hide neither the good things nor the bad things. This will be useful for the victims who haven’t turned the page over and forgiven. But I guess it would be better to avoid telling the truth to explosive personalities” (Gonzalo, V).

- “Everything that is not dressed up, that is not decorated; it is the real reality of facts, with all its factors” (Sergio, V).

- “Means to speak from the heart, with a pure feeling, aiming at encouraging long-lasting coexistence and social well-being” (Enrique, V).

- “Truth means to tell the truth, right? To be honest in every sense” (Ligia, V).

- “Not to lie. Those who are coming out from there (demobilized) should come out with the truth, without hypocrisy, that is truth” (Riana, V).
"To know the facts, to know who was behind them, why it happened and what they gained with that" (Ingrid, V).

"To know the truth about the facts" (Iva, V).

"Truth is what is real, transparency, what comes out from the heart; something real, not a lie" (Cecilia, V).

"To be sincere, to tell the truth" (Amalia, V).

"It’s like absence of hypocrisy" (Adolfo, V).

"Reality" (Matías, V).

"Truth is like being sincere with regards to every fact...not to invent something one hasn’t done" (Amandino, V).

"Truth is to walk through the right path, where the sun comes out... looking for light" (Constantino, V).

**The importance to unveil the truth to society**

So, knowing the truth is important to understand the Colombian society as a whole and inform its citizens about the role of bystanders in the conflict. When Sócrates was asked if he considered important to reveal the truth in order to heal his harm, he answered: "I do think so. It means to recognize to ourselves the type of society we live in; to observe it, who are we? Where do we come from? Why do we act in this way? Even if this truth is harsh it would be useful to create clear criteria of our society" (Sócrates, V). According to Sócrates, who mentions the declarations given by H.H\(^1\), there is an unknown truth in Colombia: "Behind each material murderer, behind the masacrandores, there were important people from the Colombian society, business men, stockbreeders who remained untouched. H.H

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\(^1\) Former AUC commander Ever Veloza García, alias H.H.
declared that he killed more than 3600 people in the Valle del Cauca and that he met with members of the high society of the Valle de Cauca. He mentioned some proper names and that’s why he got rapidly extradited, so that he wouldn’t confess. But he said ‘I got invited and paid by business men to do this and that’. That truth is not unveiled and will never be, that’s the truth the Colombian people needed to know. The real murderers who gave orders were representatives of the Colombian ruling class. The paramilitaries got extradited before they confessed who was involved” (Sócrates, V).

Similarly, Siena considers that extradition has interfered in the Colombian truth seeking process: “We have to truly listen to them because when one of them wants to talk he is moved to the USA, and « la cosa » remains over there. It’s good to listen to them, to know why they did it, but I think things are still tangled; there is no clarity behind the conflict in Colombia. In my opinion, things remain blurred” (Siena, V). Along the same lines, and as we have already noted, Sergio and his family have strongly fought to judicially uncover the intellectual murderer of his father, which was carried out by the paramilitaries. As he notes, knowing the truth “would help me to feel that I live in a country with real justice” (Sergio, V). Sergio, as we know, is participating in the process of JP in which the Paramilitaries have accepted that they committed the murder of his father. Although I do not intend to measure the impact of this process, Sergio notes that “before I really felt an ineffective state”. Although he’s not fully satisfied with the whole judicial process, he does feel that “today the free versions are helping in unveiling the truth” (Sergio, V).

From another point of view, Adolfo considers mostly important to inform the international community, particularly the Europeans, about the reality of the Colombian conflict: “There is great interest in unveiling the reality of things, specially in Europe, because there are a lot of people, I guess with good intentions, who still defend the guerrillas” (Adolfo, V). Moreover, when I asked him if he knew the truth behind his kidnapping he said, “I did, but the public didn’t”. He thinks, though, that what really counts is to inform the society about what happened, “I know who kidnapped me and what happened to me, but what matters is that the society gets to know that there was a kidnapping and that there is a punishment that will deter from re-offending” (Adolfo, V).
The importance of unveiling the truth behind the facts

The victims of kidnapping know the factual truth because they went through this form of victimization. This is confirmed by Jorge Luis when stating, "I know who kidnapped me, I lived it, I knew almost everything" (Jorge Luis, V). Maybe this is one of the reasons why the above mentioned victims of kidnapping, Sócrates and Adolfo, insist on the importance of informing society and the international community about the truth behind the conflict, instead of the factual truth. Nevertheless, some victims of kidnapping are willing to know that part of truth about their abduction that remains undiscovered. In the words of Matías, "you taste part of the truth but you never get to know the whole pie... I would like to know who caught me ... that person is not in the mountain freezing up, between mud and rain; that person is drinking whisky with you, that person is even more dangerous!" (Matías, V).

As we know, Riana was told to look into the river for her dead husband, which supposedly means that he was killed and thrown into the river. She still wants to hear from the ex-combatants what really happened: "I would like to know if he was immediately killed... I would like to hear the truth from the ex-combatants" (Riana, V). This desire of knowing the truth of the facts is shared by many victims who still haven't heard the stories behind their dead loved ones. Accordingly, Ingrid notes: "I want to know everything, I want names, I want to know how much they gained with my husband's death... because I think that there are many people having fun with the money they gained. I want those people to pay in prison for all the harm they have caused" (Ingrid, V). Tatiana would also like "to know the truth about their disappearance; what they did with them, where did they get buried; it's been 6 years and I don't know anything" (Tatiana, V). Likewise, Ariana wishes to know "why and who did it, why and who; one knows more or less thanks to the free versions, but who exactly and why because you stay in that uncertainty state in which one day he went to work and never came back..." (Ariana, V). Further, Amalia would like to know why they did it and the exact details about what happened: "I would like to know why they did it since I think he was not a person who deserved to die like that" (Amalia, V). Knowing the exact details would make her feel "a little calmer since she's concerned about the fact that he was killed in the evening, and she discovered everything on the following day" (Amalia, V). Riana would also like to know the details "it's hard but one would like to know the details" (Riana, V).
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From a different point of view, there are those who consider that unveiling the truth is not worth it. According to Dinamo, “*what has been done, has been done; the person is already dead...*” (Dinamo, V). Similarly, Antonio considers that “*there’s nothing else to be known, the harm has already been done*” (Antonio, V). Constantino goes further and lets us understand that there is no point behind the discourse about the truth, which has become very common in Colombia: “*I really do not understand why offenders have to tell the truth, and just the truth. Well, apparently that helps to clarify things, but I think it’s a very hypothetic concept, so uncertain. Personally, I do not believe in that topic of ‘political truth’...*” (Constantino, V).

2.6.3. Obtaining reparation

Under this section, I intended to gather information about the meaning of reparation according to the victims, the way in which they would like to be repaired and their opinions about who should repair their harm. It would make sense to treat each of these topics separately. However, in my intention to better respect the respondents’ answers and avoid cutting up their phrases, I have opted to leave large quotations, and therefore, treat firstly the meaning and the way in which each victim would like to be repaired, and secondly, the question on who should repair their harm. In fact, frequently, when I asked the question about the meaning of reparation, the respondent extended him or herself beyond the simple meaning, to cover aspects on how the harm should be repaired.

Although, as we will see, respondents argue that their harm could never be repaired, the form of victimization as well as the financial situation of the respondent had great impact in their answers on the meaning of reparation and the various ways of getting repaired. I have decided thus, to treat each category of victimization separately. As to the question of who should repair, I classified the various answers according to the responses and not the form of victimization.
Repairing the victim of kidnapping

Unlike displaced victims and those victims who suffer from poverty, victims of kidnapping do not give much importance to an economical form of reparation. According to Sócrates, who insists on the importance of repairing the dignity of the victim, financial compensations could only be helpful if they come together with truth, the sanction of the combatant and forgiveness. Accordingly, when I asked Sócrates about the meaning of reparation, he answered: “In the dictionary, repair means to fix something broken, the problem is that the moral damage left by violence can’t be fixed; after loosing a loved one, after they’ve killed your father, mother, brother, wife, after they’ve kidnapped your child, your father, they have taken away so many years of your life, that has no cure. The damage can’t be undone. Financial amends only help when they come hand in hand with justice, when the aggressor is punished by the law, when the truth is fully displayed, then and only then, the financial amend, complements and helps restore some dignity in the victim’s life, it helps stop the prejudice of the crime from getting dimensional and larger. When you have these three elements together: the absolute disclosure of the truth, how things really happened, the sanction of the offender and the economical and moral amend of the victim, the chances of getting back your dignity increases” (Sócrates, V). Sócrates further insists on the importance of asking for forgiveness and punishing the combatants: “I would like to receive reparation in front of « El grillo », the murderer of my friends; I will like to see the chief of the kidnappers asking for forgiveness to their children, truly repenting, explaining the reasons why, only then I could start healing as a victim, no economic compensation is going to take away the pain, I repeat, only if they asked for forgiveness to those children and obviously that they get years in prison, otherwise I would like for them to be judged by the International Criminal Court” (Sócrates, V).

Gonzalo considers money important but not for him or his family but to compensate those who really need some financial assistance: “Considering they can’t put things as they were before, giving some sort of compensation helps, something symbolic like money, these gifts help alleviate the pain of the victims that went through all that suffering” (Gonzalo, V). When I asked him if he had received any financial reparation, he said: “Never, and it doesn’t interest me, if one day I receive a cent, it would go directly to the hands of some soldier’s widow, whose husband died in the battlefield fighting so we could have some peace” (Gonzalo,
V). Gonzalo would love to receive some money, “to give it right away to that poor woman or his child who might not even have the means to education” (Gonzalo, V).

Similarly, Ilana wouldn’t like to receive any financial compensation. She would prefer in fact “to see the government creating incentives for the poor. That would heal my prejudice because in that way I know many people would not experience it (the kidnapping)” (Ilana, V). According to her, the government should build up “strong educational and diversion/fun plans. It should invest in the social sector” (Ilana, V). Further, she believes “the victims, the offenders and the government should get together and start to rebuild the country from below, to create people, identity, respect... in that way Colombia could be repaired, because I was kidnapped, I was displaced, but we all Colombians have suffered from violence” (Ilana, V).

Adolfo, while acknowledging his privileged social position, considers that any financial assistance should be rather used to get the fighters: “No, but it’s easier for me to say, I’ve had the good fortune of having enough means, not necessarily considering myself a wealthy man, I believe others might need it though. I was entitled to ask for an economical amend, but honestly I would feel ashamed to ask the government for money to repay for something other guys did to me, they should rather use that money to get them” (Adolfo, V). Along the same lines, Alejandro wouldn’t like to be financially compensated, “I don’t expect that (money), as I’m telling you, I would like to see that there are no more kidnappings” (Alejandro, V). Furthermore, Beatriz considers a financial compensation as a “bribary”. When being asked if money could help, she answered: “No, that is bribery, not a good method, it’s not going to take away the pain” (Beatriz, V).

Jorge Luis and Matías would like to be repaired by having the guarantee that kidnapping won’t happen again. Accordingly, and being somehow pessimistic, Jorge Luis notes: “I wish they could find a solution to end kidnapping, how? I don’t know. I don’t expect anything anymore! Jajaja” (Jorge Luis, V). Matías, who doesn’t believe in justice a posteriori, believes that the best deterrent factor would be to sanction the fighters. He would like in addition to receive back what his family had to pay to cover the ransom: “To repair is not to “resarcir” what has been done, they can’t give it back to me. The prejudice they caused me can’t be compensated. Would I like to have the guarantee that it won’t happen again, how? I believe that with sanctions for the offenders but even that, what they did to me, what my family had
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to endure? They can’t repair it, I really don’t see how... I think that what’s done is done, what we have to do is guarantee for it not to happen ever again, not to you, not to me, I don’t believe in justice a posteriori, it should be done to prevent, it’s such an infamous crime, it should not exist, period; I think that the future generations will look back at it, as we see slavery today, as something primitive...The constitution states that the state is responsible for each and everyone of the citizens living in this country, and should guard their well-being and safety. I believe the state should have paid the ransom my father had to pay for me” (Matías, V).

**Repairing the Indigenous communities**

Constantino has a vision of reparation that is related to nature. In his words, reparation means: “I made a mistake and opened a hole in the relationship between man and nature, repairing is like filling up that hole” (Constantino, V). Amandino has also a global vision of reparation: “To repair is to contribute to the positive development of the towns and families affected by the conflict” (Amandino, V). According to him, the best way to repair his harm is by recovering the territory of the indigenous communities. In his words, the state “should give us back our territory, that’s fundamental” (Amandino, V). Enrique considers that given the difficulty of recognizing a best way of reparation, one should go to the roots of the conflict to try to find solutions. In his words: “to be honest, I don’t know what to answer. However, having identified the problem, we should start looking into finding deep solutions” (Enrique, V). As we will further see, prison sentences are not really an option for the members of the indigenous communities. According to Enrique, “we’re not going to solve this just by sending someone to jail” (Enrique, V). According to Dinamo, a financial compensation would seem somehow insignificant to repair the harm of a lost beloved one; guaranteeing the non-repetition of the crimes and achieving respect would be the only real option for reparation. In his words: “I don’t know, there are many ways to amend; one could only think of a material reparation because otherwise it’s impossible, but, a reward per dead person? I think that they should just stop killing us and respect us... if we achieve respect we’re ‘coronados’” (Dinamo, V).
Repairing those who lost a loved one

After defining what reparation means to him, Sergio considers that given the impossibility of bringing his father back to life, sanctioning the fighters and obtaining some sort of remorse would be helpful in compensating his harm: “people use to have a certain quality of life, the crime affected tremendously this equilibrium, many were displaced, others lost a loved one or lost the means to support their families... reparation should begin by giving those people the minimum, so they get at least a sense of what they had before... In my case, they can’t bring me back my father, but one way to compensate the victim is to take away the freedom of those who were behind the crime, for them to pay in prison for their acts... It would also help to see true remorse in the eyes of the offenders” (Sergio, V). Psychological guidance, financial assistance and security guarantees are some of the mentioned factors that would contribute in the healing process of those who lost a loved one. According to Ariana: “First, a psychological guide, talk, talk and talk to heal, to feel better, then, some financial aid to secure my children’s future, to be able to give them proper schooling so they can become who they want in life” (Ariana, V). Similarly, Álvaro notes: “One wonders, with all the suffering and destruction these illegal groups have inflicted, why should the government take all the blame? Because this became a social problem when people were forced to leave behind everything they owned: houses, animals, their land, fleeing the wave of violence, forced to arrive to the cities without a clue, without any money, what should the government do? Lend them psychological help, give them the financial means, protect them in their new environment...” (Álvaro, V).

Repairing the victims of forced displacement

Victims of displacement attach particular importance to housing. Accordingly, Riana wishes “they could help me more, at least with housing, that’s the most important. We used to have our own house, we didn’t have to pay a rent” (Riana, V). While considering financial and housing assistance imperative, Siena insists on the importance of full reparation to the victim and not just economic: “They give to a person 18 million pesos (7.000€ aprox) as amend for the loss of a loved one, and they dare call that reparation? That is nothing but a bit of help, that’s all, don’t call it anything else... to start feeling better I would like to get a place to live, some financial support to have a dignified life, to finance my children’s education, so
they can become professionals here in Cali and say ‘well, we couldn’t go back to Buenaventura but we have achieved something’” (Siena, V). Paulo would feel better by recovering the peaceful life he used to have: “To me feeling better means being able to go back to my hometown in peace and safety, to be able to live somewhere where you feel out of danger, so you can become a proper human being and do something positive for the country” (Paulo, V).

**Symbolic measures**

Although I didn't ask everyone about their vision of symbolic measures carried out by the ex-combatants, some victims gave their opinion about these measures. According to Ligia, the ex-combatants should make symbolic amends: “It could be nice if all these people who have harmed so many, asked for forgiveness, maybe in that way, we could get to a sort of ‘forgiven, forgotten’, I also think they should make the effort to rebuild this country which has been completely destroyed” (Álvaro, V). Similarly, Ingrid agrees with this possible initiative: “All the good they can do for the people is welcome” (Ingrid, V). Interestingly, Ariana compared the symbolic measures with the schools and houses Pablo Escobar gave to the poor: “Should they undertake building projects to help those who have lost everything? Pablo Escobar style, who gave schools and housing to the poor? Yes, that would be very nice” (Ariana). Differently, Adolfo considers irrelevant the symbolic measures carried out by the ex-combatants: “All they have to do is stop being delinquents, that’s all they have to do. Repenting and doing social service? That is irrelevant” (Adolfo, V).

**Who should repair?**

As to the question of who should repair the harm caused, the victims mainly referred in first place to the state, which has failed in protecting the Colombian citizens, and to the ex-combatants, who have deliberately and violently acquired extraordinary financial power. In addition, although slightly mentioned, the international community and those who financed the conflict like businessmen and industrials should also participate in the reparation of the harm. In fact, as it will be further explained, participants consider the state, the international community and other bystanders, responsible for what has happened in Colombia.
With the exception of Amalia, who considers that the “aggressors” should exclusively repair the harm caused “since at the end of the day the government shouldn’t be held responsible for something he didn’t do” (Amalia, V), the rest of the victims consider that the Colombian government should take part in the reparation of the harm. When I asked the question on who should repair the harm, some even considered that the Colombian state exclusively: According to Riana, “I think it’s the government’s job” (Riana, V), to Cecilia “the government, otherwise who else?” (Cecilia, V), to Antonio, “the state, for allowing this to happen in the first place” (Antonio, V) and to Carmen, “the government has to repair” (Carmen, V).

As we will see, other victims argue that both, the state and the ex-combatants should repair the harm caused. In the words of Sócrates: “The ex-combatant has to repair, what happens is that when the state is not able to guarantee the basic needs of safety and freedom of one of it’s subjects, then the state also has to repair” (Sócrates, V). According to Dinamo, ex-combatants should in fact give back what they have taken ruthlessly in open violence from the people, so it can be evenly distributed amongst the victims of the conflict. All the armed groups should give back «to the state their goods for reparation” (Dinamo, V). Similarly, Amandino considers that in addition to the reparation provided by the state, the ex-combatants should also repair the harm with the goods they have deliberately obtained, “well they should, they have acquired richness and possessions through their violent acts, and it’s not fair that even if they go to prison, when they get out they get to keep those possessions, illegally obtained” (Amandino, V). Ingrid distinguishes low-level ex-combatants from high-level ex-combatants in this process of reparation. She considers in fact that only the latter should repair, “I think the commanders in chief who have become rich through drug trafficking and extortion because those who directly commit the crimes are executing orders, and the Colombian state as well, because it allowed these criminals to expand through all the territory, leaving a trail of misery and horror as they went by” (Ingrid, V).

Moreover, some victims consider that everyone who had participated in the conflict should also participate in the reparation process. Accordingly, Sergio notes, “well, all those who are guilty, not just the paramilitary with their possessions but, also the government for its
institutional absence, the industrialists who financed the auto-defense paramilitary forces, everyone who is responsible of this war” (Sergio, V). Siena considers that the international community has also a role to play in this process: “Primarily the Colombian state should repair the harm, also the aggressors, like the paramilitaries and the international community” (Siena, V). Ilana, in addition to seeing the government strongly invest in the social sector, she believes “offenders should get together and prevent others from joining the guerrillas, they should talk to them about their experience and let them now that the war doesn’t bring anything positive, that there are other possibilities because today there are possibilities not like before…” (Ilana, V).

2.6.4. Holding ex-combatants accountable

As it has been largely insisted under the theoretical framework of this thesis, the role of punishment has triggered intense discussions in the field of restorative justice; this question touches in fact the delicate issue of accountability, protagonist in the debate restorative accountability vs. retributive accountability. The intention here is precisely to study the victims’ vision on the place and role of punishment and accountability. What does accountability mean for the victims? Do they consider relevant to punish the ex-combatants? Who amongst them? Why would it be relevant or not to punish them?

As we will see, according to the victims, accountability may mean one or many of the following aspects: to tell the truth, to stop committing criminal acts, to punish ex-combatants, to gain consciousness of the acts committed, to repair the harm, among others. Accordingly, when being asked about the meaning of assuming ones responsibility of the crimes committed, the victims answered:

- “Let’s see, to me assuming ones responsibility is to repair the victims and stop being part of the armed groups; in this way they can reintegrate into civil society and have a life in harmony” (Paulo, V).

- “To acknowledge and repair the errors” (Enrique, V).

- “To assume the responsibility of our acts is to be conscious about our good and bad acts” (Sergio, V).
- “To acknowledge what has been done, to tell the truth. To assume the truth and explain why they did it” (Riana, V).

- “To acknowledge our guilt and unveil the truth about the facts” (Ingrid, V).

- “To confess and be punished by human justice; there cannot be impunity” (Tatiana, V).

- “They –the ex-combatants- have to go to prison” (Antonio, V).

- “To tell the truth, all the truth, why they did it, what pushed them to do it, what were the policies behind their acts; the truth needs to be unveiled in Colombia and the rest of the world, but this has to be something real” (Siena, V).

- “They have to pay” (Carmen, V).

- “To assume one’s responsibility is to confess and to be part of any plan” (Olivo, V).

- “Every act has an effect; the law and religious codes constitute rules for our peaceful social coexistence. So people have to pay for their acts” (Matías, V); According to Matías, one assumes its responsibility “by doing what has been established by the civil and criminal code. There is a sanction and they need to pay it. This won’t make me feel better, and won’t take away what has been done, but will deter them from reoffending others” (Matías, V).

- “To tell the truth independently of the motif behind the act and to draw guidelines to repair what has been done” (Amandino, V).

- “To acknowledge, be conscious and feel that one has done something wrong is the first step. To truly feel that an error has been committed” (Constantino, V).

After analyzing in a broader way the question on the meaning of accountability, I wanted to investigate more precisely the victims’ opinions on the way in which ex-combatants should be held accountable for their acts. In addition to the various elements just mentioned, like
unveiling the truth, obtaining reparation, sanctioning the ex-combatants, etc. the victims insisted on the importance of establishing a real and clear process, returning back what has been illegally stolen by the Colombian fighters, breaking the illegal criminal and drug trafficking structures and encouraging actions that would deter others from offending. Moreover, although we will treat the issue of forgiveness later, forgiving the fighters was also mentioned. Further, some victims do not consider themselves apt to judge others. Accordingly, Ligia notes: “I am no one to judge, I couldn’t say ‘listen, you have to do this and this’” (Ligia, V). Along the same lines, Iva has no particular opinion on what should really happen to ex-combatants; in fact, whereas her sadness would encourage her to know the truth, the absence of hatred emotions wouldn’t allow her to judge others: “I don’t know... if one’s heart was resentful, eager or resentful, one could give an opinion” (Iva, V).

Gonzalo, Sócrates and Dinamo agree, among other factors, on the importance of handing in the goods and massive richness illegally obtained by the Colombian ex-combatants. When I asked Gonzalo how should ex-combatants assume their responsibility, he answered: “they should hand in the goods they have obtained through drug trafficking and use that money to indemnify the victims. And above all, the sounds of rifles should cease” (Gonzalo, V). Similarly, Sócrates answered: “Come here, confess the truth, absolutely everything, give back what you have illegally obtained, and in exchange of that you won’t be extradited, you’ll pay your sanctions in Colombia; in exchange of truth and reparation to victims your sanctions will be reduced. But the rules must be clear to everyone. What happens is that when they started to touch sensitive topics in the country, they were immediately extradited to avoid unveiling the truth. The process of reparation was also broken and, once more, they made fun of the victims. So the rules have to be clear and applied; this must be a condition for the future peace process in Colombia to guarantee a real reparative justice” (Sócrates, V). As we have seen, Sócrates criticizes the transitional justice process, which, according to him, lacks of clarity and objectivity. Although it is not my intention to measure the grade of effectiveness of the transitional justice process in Colombia, I refer to this process when respondents highlight factors of the process that interest our study. Along the same lines, Dinamo joins Sócrates in this argument and goes further by evoking the absence of a real demobilization: “It has to be real, but what about those who keep their richness, lands and arrogance? They have to give back with remorse what they have stolen. Their schemes – structures- have to be broken down, and then we can talk about stopping this from
happening again. But the demobilization has been symbolic and the schemes are still working. I don’t agree with this, it’s a joke!... There has to be a real process of reconciliation and the structures must be broken down. We have to have the certitude that it won’t happen again and in that case we can even hug each other” (Dinamo, V).

Punishment infliction is without doubt key in the way in which ex-combatants should be held responsible. In the words of Sergio: “I believe people have to be forgiven, but there must be a punishment that would let them reflect on the bad things they have done. I’m not talking about death penalty or life imprisonment, but there must be something proportional to the act” (Sergio, V). Ingrid joins Sergio’s opinion about punishment: “My suffering could heal when I get to know that there is no one single responsible person in the streets; when I get to know that they are all paying” (Ingrid, V). Tatiana, considers in fact that prison sentences constitute the only intimidating mechanism that would stop combatants from committing criminal offenses; according to her, combatants need to go to prison “otherwise they continue to cause misdeeds; seeing yourself behind bars intimidates anyone” (Tatiana, V).

Along the same lines, Adolfo considers a balance between the lex talion and Christian forgiveness a necessary tool to stop reoffending: “The most important thing for a society is to avoid the reoccurrence of bad things. How could this be achieved? I don’t know. There is on the one hand, the Talion’s law, “an eye for an eye, a tooth for a tooth”, which made people respect each other, and on the other hand, there are the Christians, with the good will of ‘don’t do unto others what you don’t want others to do unto you’ and ‘put the other cheek’. I don’t know which is the right mechanism; maybe a mixture of both aiming at avoiding reoffending. As long as impunity exists, people will continue to offend because they have nothing to lose” (Adolfo, V). In fact, Adolfo constantly insists on the critical fact that human rights organizations have a tendency to protect the guerrilla organizations like the FARC: “Human rights constitutes a very subtle way of defending the guerrilla and the terrorists; they are protected by everyone, poor them!” (Adolfo, V).

Others, while insisting on the importance of deterrence, do not necessarily consider punishment infliction as an adequate form of accountability. Since her grand children lost their father, Amalia would like the combatants to, “repair the (her) children in one way or another or provide them with some assistance” (Amalia, V). According to Enrique, acknowledgement is key in assuming one’s responsibility. In his words, ex-combatants
should be held accountable by “acknowledging his/her error and searching for mechanisms that would deter others from committing the same error” (Enrique, V). Siena considers that they should particularly quit the conflict and reintegrate into the Colombian society: “The best thing they could do is to leave behind that war mentality, quit the conflict and join the Colombian society as Colombian citizens” (Siena, V), and further, Paulo insists on forgiving ex-combatants: “they should be forgiven because God always forgives us; without God’s forgiveness planet Earth wouldn’t exist... If we do not forgive we cannot be forgiven” (Paulo, V).

**Differentiating high-level from low-level combatants**

Interestingly, whereas some victims argue that there is a big difference between chief commanders and foot soldiers, other victims consider all combatants equally guilty.

According to Adolfo, for example, whereas high-level combatants should be held accountable in a severe way for being the real offenders of the conflict, low-levels should be offered opportunities and be treated as victims. In his words: “There are two chapters: the chief commanders, who are mafioso, live very well, with luxuries that cannot be found in the mountains, and the smaller ones, who are also victims because they are physically, or for other reasons, obliged to join the guerrillas” (Adolfo, V). In fact, for Adolfo, “the chief commanders are the only offenders; foot soldiers are victims like us... I wouldn’t apply any Christian charity towards the chief commanders because they are very bad people; I believe foot soldiers should be offered opportunities like every Colombian citizen” (Adolfo, V). Along the same lines, Beatriz considers that only chief commanders should be judged and go to prison: “Foot soldiers have no education and they join the guerrillas for financial reasons without knowing what they are doing. There is no cause behind their war” (Beatriz, V). Likewise, Sergio considers that “chief commanders should be judged because foot soldiers have no real education, no opportunities. The law should be tough with the commanders who started everything and with those who were behind this conflict” (Sergio, V). Dinamo and Cecilia also consider that those who order are more responsible than those who execute the orders: “I think that those who take decisions are more responsible, but in real life happens the opposite” (Dinamo, V).
Ilana makes also a distinction amongst combatants, not necessarily between chief commanders and foot soldiers, but between those who are real evil and those who were somehow obliged to join an illegal armed group. When being asked about inflicting prison sentences to combatants she replied: “There are some persons that will continue with criminal activities being in prisons because they don’t have a heart, because they just care about money, because they don’t care about other people’s suffering... on the other hand, there are people who have been obliged to become guerrilleros... they need a healing process, to recover, to reintegrate into society because they are not bad people, they have been obliged to do bad things... I don’t believe prisons are for everyone, but it’s very difficult to know who commits evil acts, more or less or not at all” (Ilana, V). As to the question on how chief commanders should be treated, she replied: “I think they should go through an introspective process. I think they have done so much harm that they could even believe that they haven’t done so much. For me it is important to make them realize what they have done, yes, they should go through a process in which they could feel bad for the acts committed. The law shouldn’t forgive them because they do not deserve it yet, they do not deserve to be free probably causing more harm... it is difficult because they have lived like that for many years, they are mature, grown up, so it’s difficult to make them change their way of thinking. So there must be a process of introspection... prisons should become like centers, educative centers in which they could also work, or teach” (Ilana, V).

From a different perspective, Sócrates considers that all combatants need to be judged “because they all have committed brutalities” (Sócrates, V). Similarly, Olivo believes that both, “the one who orders the sin and the one who commits it” should go to prison and Antonio agrees with sending all the combatants to prison because “it’s the only way in which they can compensate the social harm they have caused” (Antonio, V). Amalia goes even further in considering that, “foot soldiers may even cause more harm than high-level combatants” (Amalia, V).

Other victims believe that despite the existing hierarchical difference between high-level and low-level combatants, all of them should be prosecuted and punished, but in a proportional way. Accordingly, in Álvaro’s words, “the chief commanders are the most responsible ones since they give the orders to kidnap” he thinks however that foot soldiers should also go to prison because “they follow instructions” (Álvaro, V). Matías also believes
that all should go to prison: “The brains wouldn’t find pawns if they knew they would also be sanctioned... sanctions should be proportional to acts. I think the man who participated in my kidnapping is more responsible than “Jimmy”, the little 14 years old guerrillerito who needs to be trained to do something useful in life” (Matías, V). According to Gonzalo, whereas the chief commanders, “those merciless, guilty of genocide, kidnappers and child murderers should be executed in a public square”, low and medium-level combatants “should be objectively judged by the judicial body, guaranteeing due process but publicly and rapidly, as an important historical character said, ‘justice that takes long is no justice’” (Gonzalo, V). For him, the latter category of combatants should in fact go to a “positive prison” that would insist, “on reintegrating combatants instead of encouraging their criminal skills”. Gonzalo insists in fact on the importance of reintegrating those who have been wounded with difficult personal experiences “who are not yet sick” (Gonzalo, V).

**The JPL’s prison sentence (5 to 8 years)**

In my desire to analyze the victims’ opinions on punishment infliction, I included questions regarding the role of prisons and the actual prison sentence stipulated by the JPL, which goes from 5 to 8 years. I intended therefore to see their reactions towards a concrete example of punishment which is the one applied to combatants charged of having committed serious violations of human rights and who have voluntarily demobilized.

When I asked Adolfo his opinion about the 5-8 year prison sentence, he said: “I don’t know, it depends of each human being; some people may feel remorse after one day, others won’t change in a lifetime; the most important is to build up an environment in which those things –atrocities- are no longer acceptable” (Adolfo, V). But regarding those chief commanders he believes, “they should be separated from society, for ever” (Adolfo, V). From another perspective, Matías considers punishments necessary to prevent combatants from committing atrocities: “punishments must exist. There has to be the certitude that the authorities will get them to deter them from doing that; they need to know that it is dangerous for them” (Matías, V). According to Riana, before attending the healing program, combatants should go to prison, “to realize that what they do is not good and to make them suffer a little bit” (Riana, V). She also considered that they should go to prison because they
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are dangerous to society and “one never knows if they are truly demobilizing from the heart” (Riana, V).

As we have previously seen, Gonzalo considers that chief commanders should be publicly executed. Beatriz joins Gonzalo in her desire for execution: “I think they should receive death penalty... they should be inflicted the maximum punishment; what they do is the most cruel and merciless thing you can do to a human being... the harm caused is so immense that justice will never repair it; they completely destroy peoples lives” (Beatriz, V). It is not surprising that she finds the 5-8 years prison sentence “ridiculous”; according to her, “they should be sentenced to death penalty or life imprisonment” (Beatriz, V). Beatriz is not alone in considering the 5-8 years sentence too short; in Carmen’s words: “The prison sentence is too short compared to what they do; they destroy peoples lives” (Carmen, V). In fact, some victims consider this sentence too short compared to the harm caused. As Cecilia notes: “I think is too short because the harm caused to families is very big, starting from the psychological harm and the consequences inflicted to the children; those harms have no reparation” (Cecilia, V). Cecilia thinks they should go to prison “to realize and regret what the have done because in prison God’s lessons are also preached” (Cecilia, V). Tatiana also considers the 5-8 years sentence “nothing compared to what they do, the harm they have caused” (Tatiana, V) and according to Antonio this sentence is nothing but “a joke”. In his words, they should go to prison “at least for 40 years, meaning the prison sentence established by the criminal code for crimes like murder and terrorism” (Antonio, V).

Sócrates raised another thought when I asked him about his opinion on the 5-8 years sentence. For him, this sentence is paradoxical and may raise delicate issues when compared to the sentences applied to other crimes such as drug trafficking. According to him: “In Colombia, someone who massacres 15, 20, 50, 200, 2000 people is less punished than someone who takes 1 kilo of cocaine to the United States; in Colombia, drug trafficking, sending 1 kilo of cocaine to the US, is far graver than killing 100 people. So, whereas the drug trafficker gets extradited to the US and pays a prison sentence of 20, 30 or 50 years, the 100 people murderer pays 4 or 5 years. I think one day the ICC will have to take a look closer to these contradictions” (Sócrates, V).
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Gonzalo also shares the same thought regarding other crimes, “certainly, those sentences (5 to 8 years of prison) won’t come into force regarding the issue of drug trafficking in the US; the north Americans judge this matter almost as a capital offense; people get to rot in jail” (Gonzalo, V). Matías raised another contradictory aspect of this sentence by considering it “trivial and a great business! How much money can they get for a kidnapping? One thousand, two thousand million pesos... hum, they’ll be in better conditions than me when I was kidnapped! Can you imagine if they were treated like they treated me? Imagine if they gave them spaghetti without salt for 8 days being tied-up to a bed? Without blankets! What really bothers me is the fact that many people from European countries believe they are Robin Hood, the charity brothers oppressed by the Latin-American landowners!” (Matías, V).

From another perspective, Gonzalo considers correct the 5-8 prison sentence for the combatants who can still be reintegrated: “I think it is proportional as long as they do not reoffend; life imprisonment would achieve the opposite effect in the sense that they would continue to poison their hearts. It has to be a prudent period of time” (Gonzalo, V). Sergio also argues that this short period of time is adequate since Colombians need to reconcile among themselves. In his words, “I believe there are such atrocities that would never correspond to such a short period of time, but since we need to unveil the truth and reconcile the country, I think that should be done... I believe they should go to prison to think over their acts, to have some time with themselves in solitude. I wish prisons aimed at reintegrating” (Sergio, V). According to Ariana, they should go to prison “to guarantee more security...” but she doesn’t believe prison “would help them to reconsider what they have done”. As to the 5-8-prison sentence she notes: “It’s too short but what would they achieve with 50-60 years prison sentences? Their mentality will be the same; neither 5, nor 8, nor 50... they have to go to their own consciences” (Ariana, V).

Against prison sentences

Members of the indigenous communities and other victims do question the real added value of prison sentences. In the words of Amandino: “We –the Wiwa, indigenous community – do justice in a different way than sentencing the combatant to prison; punishment doesn’t mean to do justice because when a harm is done there is a base or a fundament behind; the external justice – Occidental justice– never looks for that base, the
person gets punished x period of time and that’s it, but this person will never have an adviser to make him understand the origin of his/her fault. Our justice system, on the contrary, offers this... I believe that there has to be a non-aggressive treatment; most of the members of the illegal armed groups do not do it because they want to, they are obliged to do it and if they don’t they will be victims of their superiors” (Amandino, V). Similarly, when I asked Dinamo his opinion about prison sentences, he replied: “But with what type of education, how would they be reformed? If he goes to prison he should go forever, but 5 years? It would be better just to stop reoffending and contribute to peace” (Dinamo, V). So I asked him: “Do you mean that it is better all or nothing than this in-between position?” and he said: “Exactly, all or nothing! Jajaja” (Dinamo, V). In fact, indigenous communities do not consider prison sentences appropriate accountable mechanisms since they do not really find a solution to the origin of the problem, to the cause behind each offence. Accordingly, Enrique notes: “It is not the most suitable justice mechanism. According to the indigenous man, putting somebody in prison means to imprison him/her physically and spiritually; it means to condemn his/her mind and to block the way to acknowledgement of his/her fault” (Enrique, V).

According to Siena, prison is not an adequate solution: “The most important thing is to make them realize that they were wrong and that instead of destroying we need to build up a new country” (Siena, V). But then I asked her opinion about combatants being obliged to go to prison, and she replied: “During that time they would need psychological assistance and get in touch with the community, respecting each person’s religion and way of thinking... it won’t be worth to make him suffer, neither treat him as the king of the world, but he should get in contact with the community to get to know the real suffering of each person, and perceive his own learning and sensitive process. One needs to verify the combatant’s process to give him or not an opportunity” (Siena, V). Siena also considers that chief commanders should guide foot soldiers in the process: “They should try to make the others aware; if you are my boss and you tell me ‘we are wrong, don’t go that way’ I will follow your orders” (Siena, V). Along the same lines, Ilana fears the consequences of an inadequate 5-8 year prison sentence: “Eight, five years may increase their resentment, because I’m 30 I will come out at 38, if I’m 60 I will come out at 68, I would probably come out with lots of rancor... that’s why I think a constant psychological process is very important” (Ilana, V).
Jorge Luis also doubts about the utility of prison sentences. In his words: “It’s difficult, who should be sanctioned? I don’t believe prisons are... it’s not the prison sentence that would stop them from kidnapping, I don’t believe prisons are effective... no!” (Jorge Luis). So I asked him about his opinion on the JPL sanction (5-8 years prison sentence) and he replied: “Ay, that’s tough! (jajaja) I don’t know, I don’t believe prisons are the right answer, so, 5,8,10,15,20... it’s not the time, there must be something that goes beyond. I question myself about prison sentences” (Jorge Luis, V). Furthermore, Alejandro deeply doubts about any positive effect the Colombian prisons may have upon combatants. According to him: “Here – in Colombia - the penitentiary system is so terrible, bad, that it would probably be counterproductive” (Alejandro, V). In addition, Alejandro doesn’t really know what to think about the JPL sanction: “It sounds good, but who are the most responsible ones?... the landlords started the paramilitaries since they were obliged to find some kind of protection, and they couldn’t handle this, so who should go to prison? I don’t know, jajaja!” (Alejandro, V).

2.6.5. Guiding combatants psychologically and spiritually?

Although assisting combatants psychologically and spiritually does not necessarily help to restore the victim’s harm, I thought it could be interesting to observe their opinions about such assistance. According to some victims, combatants are “sick” of violence and therefore need psychological assistance. In Sigifiredo’s words: “Yes, everyone should receive it. Combatants are sick; I know sicarios that get sick without killing; they miss killing like the drug addict who gets sick when he doesn’t consume any drugs. They get sick when they don’t kill, they obviously need a treatment” (Sócrates, V). Similarly, Beatriz, Siena and Ingrid find psychological treatments convenient since they “are completely sick” (Beatriz, V), “they must be insanely affected to some extent to be able to commit such atrocities” (Ingrid, V) and because “a person committing those things in such a cool way, as if they had no feelings towards life, towards the harm they have caused, is a sick person” (Siena, V). Moreover, Tatiana thinks they need psychological assistance “because, sincerely, they are possessed by the devil” (Tatiana, V).

From another perspective, Amandino agrees with the idea of submitting combatants to a psychological treatment “because many of them do these things without meaning to” (Amandino, V). Moreover, Dinamo and Enrique insist on the importance of analyzing case
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by case. Accordingly, Dinamo argues: “It implies a deep analysis of the situation; there is not such thing as a general formula because each human case is different” (Dinamo, V), and Enrique further notes: “They need psychological assistance. They also need to be oriented, motivated and each situation needs to be constructively and productively analyzed” (Enrique, V). Additionally, Sergio argues that offering combatants psychological assistance would allow them to rightly reintegrate into civil life: “Yes, I think we all commit errors in life but we have the capacity to fix them and to reintegrate into society. They have taken a big step forward by demobilizing and making part of the program; they have also been victims of a system and have had other people behind who must come to light to avoid the reoccurrence of atrocities. But this needs to be handled with respect” (Sergio, V). Furthermore, Alejandro doesn’t believe in psychological assistance unless “the psychologist or psychiatrist is very very skilled…” (Alejandro, V).

Moreover, some believe combatants should receive spiritual guidance. In Ligia’s words: “They just need to ask for orientation and God’s assistance; they need to change that lifestyle and regret their acts. They need to get to know God” (Ligia, V). Further, as previously mentioned, members of indigenous communities cannot envision life without spirituality. When I asked Enrique if he thought the combatants should receive spiritual guidance, he answered: “All the time; the lack of this (spiritual assistance) makes as fall into wrongdoing” (Enrique, V); However, Sócrates doubts about the positive effect of any spiritual assistance. In his words: “What happens is that in this country the murderer “crosses” himself and recites the “Our Father” before killing, so I don’t know what to think; they believe in God, in the virgin and in Christian principles... the boys need to have educational and job opportunities different from those of drug trafficking and violence” (Sócrates, V).

Summary

It’s a long and rocky road to healing for most of the victims, overcoming trauma is often very difficult and, although each person lives the process in different ways, and have had different traumatic experiences, most of the victims share the same ‘remedies’. Family and friends are crucial, they help share the burden, they remind the victims that somehow with love, life goes on and their moral and sometimes economical support is vital for the victim’s stability. In many extreme cases, the idea and memory of the family
becomes the main reason to fight to stay alive during victimization, like in the case of kidnapped victims.

Colombians are very attached to religion and spirituality and they often turn towards God in moments of despair. The local church is not just a place to go on Sunday's to pray, is more of a community where they share a common belief, problems, fears and where they know they are going to find support; so, it doesn’t come as a surprise when most of the victims develop a fervent link to God and their religious community to help them overcome their sorrow. Even in Indigenous communities like the Arahucos, their spiritual guide, the Mamo, plays a key part in guiding victims to the light.

In a more pragmatic way, therapy and psychological support also helps; being listened by professionals or other victims are also frequently mentioned healing tools. Although many victims haven’t had access to this kind of assistance, most of them agree that it could make an important positive difference. Having the possibility to share their experience with others that can help or can identify with it, helps to ease the aggravation.

We can see then that healing is best achieved when it's a joint enterprise, whether is family, friends, a religious community, open dialogues with other victims or with the help of professionals, the experience is smoother with the help of others.

Regarding some of the features where the state assistance is needed, for example the encounter, the victim’s don’t always agree, many remain skeptic when offered the chance to face the person who victimized them, others would like to meet him/her/them. Likewise, the issue of reparation also varies from victim to victim, for instance victims of displacement would like to obtain the economical means to find the dignified life they lost. Kidnapping victims give less value to economical reparation; instead, most of them want acknowledgement and the recognition of the guerilla's true colors, since according to some of them, many people see them as modern Robin Hoods enjoying a sympathetic reputation. When it comes to truth, most victims want and need to unveil it. Interestingly, the indigenous communities believe that knowing the truth won’t change the pain they feel or help them heal. Concerning the issue of accountability, whereas some victims regard prison
and punishment in general as fair; others believe that prison is not the best way to hold offenders accountable.

3. Healing the harm of ex-combatants

Unlike the victims of the conflict who consider spiritual life crucial in the healing process, ex-combatants didn’t make any reference to spirituality when being asked about their healing factors. However, later on, when treating the issue of forgiveness and reconciliation, many of them admitted asking for God’s forgiveness. Homero’s case is different since he insists on the importance of spirituality in his personal process in prison. He explains that although the existence of God is questioned by the guerrillas, this “Supreme Being” has been essential in the difficult process in prison: “This space is apt for reflection, to examine oneself, to try to reunite with oneself deeper, to clarify our spirituality and the divine; we cannot deny that there’s a supreme Being thanks to whom we live... He gives us hope and he’s our greatest assistant in our daily lives” (Homero, V).

Amongst the aspects that have been helpful or that could be helpful in the healing and reintegrative process of ex-combatants there is the love and support of their family members, taking the good path, being free to decide for themselves, and stopping from thinking about the past through studies or a job.

3.1. Healing through the love and support of family and friends

As we will see, falling in love, the desire to build-up a family or becoming parents are some of the main reasons why ex-combatants demobilize individually. On the one hand, taking care of the family becomes the new raison d’être of those who become parents, and on the other hand, the love and support of family members become essential in their reintegration process. In fact, according to Jerónimo, demobilizing and reintegrating into social life becomes a huge challenge for those who do not count with such love and support. As he notes, his children have been the real incentive to move on: “The love and tenderness of my children, they mean so much to me! They bring me joy, I need to be with them, see my daughter going to school, and help my son with his homework. When they ask
me ‘dad, when are we going to the zoo, to the swimming pool?’ These little things are new to me. I lost time and right now I want to catch up as much as possible” (Jerónimo, FARC).

Becoming parent gives strength to ex-combatants and offers them a whole new horizon. When I asked Kevin what had been helpful in his healing process, he answered: “Uy, right now, my biggest motivation is my coming son; I would like to give him a good example” (Kevin, FARC). Similarly, Marco notes: “I feel good because now I have a son; I am happy to be able to live with my son and my wife. This counts a lot for me” (Marco, FARC). Wilson and Jorge also insist on the crucial role of the family in their difficult process of reintegration. According to Wilson, “the affection of my wife and children and my studies have helped a lot...” (Wilson, AUC), and according to Jorge, “My 8 months little girl gives me strength to move on and offer her a brighter future” (Jorge, FARC).

Besides from encouraging Homero to demobilize, his family has given him unconditional support and strength. In his words: “The family is constantly that voice suggesting to verify our path, which might be the wrong one, sending you words of encouragement, pointing out a different horizon. Families have in this way a positive influence over you. Secondly, the family was crucial in our demobilization; I could even say that our family had the greatest influence over the decision of quitting war... as the saying goes ‘families and friends are known in the hospitals and prisons; the family is always present no matter the circumstances’" (Homero, ELN-ERG).

3.2. Healing through the path of goodness, freedom and work

Taking the path of goodness, freedom and finding a dignified job are three factors that have considerably contributed in cutting with the difficult past of ex-combatants. By demobilizing they put an end to a life submitted to difficult physical and emotional conditions, and above all, as foot soldiers argue, they put an end to the innumerable orders of chief commanders. Henceforth, low-level ex-combatants are free to decide by themselves, about their own lives and futures. This is new to then, pleasant but not necessarily simple. Therefore, ex-combatants insist on the importance of finding activities, particularly a dignified job, that would maintain them busy, away from the memories of the past.
Although Homero is currently in the Itagüí prison and obviously lacks of physical freedom, he considers that changing his path has been his “best healing formula”. According to him: “I think that having taken the right path not only heals my pain but also that of my family, the victims and society; having realized that the scenario I was fighting for had no sense anymore and having taken a new scenario is what heals the most. Otherwise, if I hadn’t changed, I would be causing more harm to myself, my family and society. The best healing formula is having taken the right path” (Homero, ELN-ERG). Along the same lines, Ricardo notes: “It’s helpful to be able to say ‘I am going through a good process, I feel useful, my hands are bearing fruits instead of committing massacres” (Ricardo, FARC).

Trying to forget about violence and the difficult past is crucial in the ex-combatant’s healing process. Ex-combatants attach therefore great importance to the activities that make them think about other things. Accordingly, Jorge notes: “The family, the studies, the trainings –at the ACR- have kept me busy. I do not think of weapons anymore. I think of my studies and my family’s future!” (Jorge, FARC). Camilo and Ricardo wish above all to obtain a permanent job to stop thinking about the past. As Camilo notes: “Something that would help me to erase the past; something important like studies, a job, that would keep me busy and prevent me from thinking” (Camilo, ELN). According to Ricardo, “it would be helpful to find a job, to be busy and unable to think of harming someone else; I want to be busy 12 hours per day. 80 % or 70% of the demobilized population spend a lot of time doing nothing. That’s a problem” (Ricardo, FARC). In addition, he would like to become useful to society and participate in a humanitarian organism: “I don’t know what would help... I guess becoming a more useful person, you know, like helping out at internal refugee organization, or helping the elderly or the illiterate and saying ‘excuse me, look here, this is how you can do this or go there'; belonging to an institution that helps people out. Even here in our program there are a lot of people with problems. I’d like to belong to this community and tell the people that act bitter that I have lived through war, I have lived through hunger, and the person who is sitting in that chair in front of the computer arrives to their full fridge with juice, fruits and yogurt and takes it whenever they please, but those of us who came to fix our problem have nothing but ice in the fridge and that’s it. So, you can talk to people, that’s how I would like to help” (Ricardo, FARC).
In fact, although ex-combatants greatly praise the opportunities provided at the ACR/HCR, they complain about the lack of job opportunities. Accordingly, Luis argues: “The way I see it we would need greater opportunity, first through education and skill-building because most people that are there don’t even have a school degree, and can’t read or look beyond their duties. So in that respect, opportunities are missing: what good is accomplished by signing an agreement if there is no work opportunity and you have two children? When you’re thinking what you can do [for sustenance], you end up in a region where there are armed groups and drug trafficking and that is exactly what’s happened here” (Luis, AUC). Likewise, Kevin thinks “that the program has its upsides but I feel that sometimes not everything that was promised has been delivered. In other words, I didn’t say that I should get everything but I really wish we’d have more job opportunities” (Kevin, FARC).

Moreover, gaining freedom and being away from chief commanders are two of the mostly mentioned healing elements by low-level ex-combatants. As Jerónimo notes: “I feel lighter. It’s easier, no one is giving me orders, I don’t have to be pleasing anyone and doing bad things. Thank God I feel good, I have a clear conscience now…” (Jerónimo, ELN). Similarly, when I asked Wilson if he felt happy of having demobilized, he answered: “Of course, jajaja, most of us were very happy! Why? We were going to rebuild our lives, with no chief commanders, we were going to be free, we were going to be with our families” (Wilson, AUC). JFrancisco now considers that he is a free person: “I feel free now. I couldn’t say this before. Today I can go wherever I want, before I couldn’t” (Francisco, AUC). This new lifestyle is so precious to ex-combatants that when I asked what would encourage other members of the FARC to demobilize, Kevin answered: “I think Freedom” (Kevin, FARC). Moreover, today ex-combatants may start to live in a constructive and future oriented way. This was clearly expressed by JFrancisco: “I have changed since I begun the program with the ACR. I have met different people, I have saved some money thanks to a new job, I am studying, I have set up a home, I have a family now and I live with my wife and my daughter. I am now thinking of getting a little house. There’s a big change. Although I was paid over there - by the AUC – I wasted all the money in stupid things” (JFrancisco, AUC).
3.3. Healing the harm of ex-combatants through institutional assistance

In addition to the personal elements that have contributed in the healing process, ex-combatants have various opinions on some issues, which normally involve the intervention of the state, such as receiving psychological assistance, telling the truth, repairing the harm and being held accountable for the harms committed.

3.3.1. Listening and being listened

Both, the ex-combatants from the ACR/HCR and the Itagüí prison, have been in contact with demobilized fighters belonging to their own groups and to different ones. For example, I interviewed Alexandre (AUC) in the prison sector of the Guevaritas. Today, they get along very well; they have built a cordial relationship and practice together activities such as football. With regards to the ACR's/HCR's participants, whereas some appreciate sharing with other demobilized, others prefer not to do so. As to the first ones, sharing with other demobilized members would be interesting “because you meet new people. You learn from their experiences” (Abraham, ELN). However, others would not like sharing with ex-combatants mainly for security reasons. Accordingly, Dario notes: “It’s a difficult situation because there are many combatants with hatred feelings; the trainings and workshops have proved futile for these conflicting colleagues... they still have the same mentality. Instead of changing, they keep on thinking on bad things. I think they’ll be like that forever” (Jerónimo, FARC).

We will now present the ex-combatant's visions and perception on issues like psychological assistance, truth, and last but not least, the encounter with victims.

Receiving psychological assistance

After having spoken with the ex-combatants about the utility of a psychological training, it seems almost evident that this form of training in not only useful but necessary; cutting with the violent life of the conflict implies a deep and very difficult process of adaptation and reintegration that may not succeed if it is not well followed by psychologists and even therapists.
Although those interviewed at the Itagüí prison haven’t been offered any psychological assistance, Homero considers that “it is fair and necessary” to receive such assistance, “not because we are crazy but because our freedom, which is the most precious gift human beings may have, is right now called into question. It would be every helpful to receive psychological assistance until we get out of here” (Homero, ELN-ERG). Psychological assistance has proven necessary in forgetting about the difficult past. As JFrancisco notes, “I have tried to forget the past, find new friends and reintegrate into society thanks to them (the psychologists)” (JFrancisco, AUC). Likewise, Wilson argues that the psychological assistance “has been very useful because this relevant new vision makes you forget about the past and you start to fill your mind with positive thoughts. You think about your future” (Wilson, AUC). However, although psychologists have really helped Marco in leaving his past behind, there are some aspects that will always remain: “We talk a lot with one of the psychologists. He explains us this and that and one starts leaving things behind. But there are things that remain; one is touched for life” (Marco, FARC). Nevertheless, he really appreciates the support given by the ACR/HCR: “I feel very good with the support offered by the ACR; I hope they will continue” (Marco, FARC).

The psychological assistance has also been helpful in transforming some of the ex-combatant’s difficult personalities. Natalia, for example, overcame her hatred feelings and revengeful attitude thanks to the training received at the ACR, “I’m so grateful to Dr Heidi Morales; thanks to her today I am who I am” (Natalia, AUC). Celestino has also benefited from this assistance: “Of course, they teach you so many good things... I used to feel so ashamed of saying that I was a “desmovilizado”, but they have explained us many things that make you feel lighter” (Celestino, FARC).

Moreover, according to some respondents, there are ex-combatants who need psychological assistance to change their aggressive war mentality. In the words of JFrancisco: “Psychology is necessary for those who still act as if they were over there – in the battlefields-, using the same vocabulary. They haven’t cut off with that” (JFrancisco AUC). Along the same lines, Camilo considers the psychological assistance relevant because “more than one is mentally ill; some of them come out of the conflict with the same ideas, others act as if they were over there, and still want to exhort people” (Camilo, ELN). Similarly, according to Wilson: “the
psychological support is convenient, even the best tool, because there are many who come here with a conflict mentality, of weapons. So the psychological assistance is very important in this process to leave the past behind” (Wilson, AUC).

Further, the psychological training has been useful to make them realize the importance of humility and that they are equal to everyone. Before starting with the program, Dario used to have an explosive character and felt like “a big and strong person”. However, ever since he started the program at the ACR he has worked on himself and feels today “equal to others” (Dario, FARC). In addition to understanding the importance of humility, he considers psychologists the best way of calming down the “blind restlessness caused by the organization -the FARC- ” (Dario, FARC).

In fact, ex-combatants do not necessarily distinguish what is right from wrong, and therefore, they need constant support. Marcela explains how grateful she is for being able to constantly count on the psychologists of the ACR: “I have been participating in the psychosocial trainings with Dra. Isabel and Carolina. They are very nice to me; when I doubt of something I call them and they tell me what to do, what is right or wrong” (Marcela, FARC). Wilson would like in fact to receive “more support from the ACR; not just come here to give a personal detail or each 15 days attend the psychosocial workshops. I want to feel that I belong to the ACR” (Wilson, AUC). He explains in fact that the absence of feeling of belonging has stopped many colleagues from attending the trainings and regain the wrong path: “Many of them don’t see the need of coming because they will hear the same things. We have to be taken more into account. We need to feel owners of this - the ACR program - ” (Wilson, AUC).

**Sharing with victims?**

Not all ex-combatants would like to meet with victims. Besides from feeling ashamed and increasing their guilty conscious, they fear the consequences an encounter may have. As to those who wish to meet the victims, they express their desire to explain the reasons why they committed the atrocities, ask for their forgiveness, and to prove them that they are truly changing. Although we will treat afterwards the issue of forgiveness, it is worth
mentioning now that whereas some ex-combatants would really like to meet with the victims to ask for forgiveness, others would not dare doing so.

Jerónimo, for example, fears the consequences of meeting the victims of the conflict. To him, it would be “difficult to say ‘I am sorry’ or something along those lines. There are people who don’t like that and who might get even more upset” (Jerónimo FARC). Similarly, Luis considers that meeting the victims “might be a big shock. Victims may reject us” (Luis, AUC). Further, Camilo fears the effect an encounter may have over the victims: “For me that would be very painful and difficult. More than one could take things badly… the family members may want to take reprisals against us” (Camilo, ELN). Moreover, although some ex-combatants wouldn’t fear the victims’ possible reaction, they would prefer to avoid an encounter since they would feel further guilty and ashamed. Accordingly, Abraham notes: “Well, one feels guilty; I didn’t kill anyone but I made part of a group that killed, so one would feel guilty” (Abraham, ELN). Dario wouldn’t even dare meeting the victims: “No, it would be outrageous; it wouldn’t be logical to commit the act and then ask the victims to forgive us” (Dario, FARC). Talking to the victims would be painful and he would feel “very guilty because killing someone’s relative is hard” (Dario, FARC).

From another viewpoint, JFrancisco would like to meet the victims and apologize: “I would like to meet them, talk to them, ask for forgiveness because in those days we were in a different world; sometimes we didn’t mean to harm others but we needed to execute orders otherwise they kill you” (JFrancisco, AUC). Osmar would also like to personally ask for forgiveness: “I would like to ask them to forgive me for the harms we caused” (Osmar, AUC). Moreover, Wilson told me about a meaningful experience he had some years ago with some victims of the paramilitaries: “We had an experience in Sogamoso in 2007. We were a bit more than 30 “desmovilizados”. We got together with the victims of displacement and whose children had been killed by us. It was beautiful. There were no setbacks. We asked them to forgive us for the past. It was good and beautiful” (Wilson, AUC). In addition, Wilson explains that he would like to meet and talk with the victims because he feels sorry for them: “I would like to listen to them; I used to be a combatant but I can feel their harm because it’s very painful to loose a loved one in unknown circumstances. Imagine your son, or dad or brother going out one morning and never coming back and then you get to know that some people caught him with a pick-up and you will never receive news from them again.
That is very painful” (Wilson, AUC). Finally, as Homero notes, meeting the victims is crucial for a real process of reconciliation: “Yes, there must be a process of reconciliation; there’s no reconciliation without dialogue; there must be an encounter and dialogue between victims and combatants” (Homero, ELN-ERG).

In addition to this encounter with victims, some ex-combatants consider crucial to explain to the Colombian society that they have taken the right path and that they are really in a process of transformation. This could be useful in preventing the youth from taking the road of the conflict. Accordingly, Ricardo notes: “It would be helpful to be able to tell to the entire country that the conflict and the violence are senseless; one can live one year of happiness in exchange of 20 of bitterness. Do you get the idea? You can be very happy, have power, have all the women you want, money if possible, but then you have to face the consequences and that’s the end of your happiness. The conflict doesn’t take us anywhere” (Ricardo, FARC). Along the same lines J Francisco “would like to organize a public campaign, talk to the people, help those who need help, give gifts to the children –the poor- in December; This would make people realize that we are truly changing” (J Francisco, AUC).

3.3.2. The issue of truth

Telling the truth becomes quite a challenge in a country whose conflict has not yet come to an end. It was interesting to observe that despite the healing effect unveiling the truth may have, this process faces some obstacles: the death threatens sent to high-level ex-combatants, the fear of talking among other fighters and the fear of being punished or sent to prison.

According to ex-combatants truth means:

- “To accept, to tell the story, to acknowledge the facts that took place during the conflict in which I participated. That is truth” (Homero, ELN-ERG).

- “Truth is very important to me. It means to say all what one has done and committed without keeping anything to oneself. If one doesn’t say everything one is misleading oneself and the Colombian society” (Wilson, AUC).
"To be sincere" (Luis, AUC).

“It’s what I do and tell what I do” (Dario, FARC).

“Truth is to talk with the truth, without lying; is something that comes from the heart, pure and real truth” (JFrancisco, AUC).

“Is to say everything without hiding; to speak with the truth” (Francisco, AUC).

“Truth means many things; it means to be honest, act as one should without using fake methods to obtain something or gain power...” (Ricardo, FARC).

“Well, what could I say? Jaja, truth is what it is; not invent things that aren’t” (Jerónimo, FARC)

**Healing through truth**

Telling the truth about the past has proven to be extremely successful in lightening the heavy burden carried by ex-combatants. As Jorge notes: “Given the resentment that one feels, confessing the errors of the past makes us feel better” (Jorge, FARC). Celestino also argues that telling the truth “feels like a relief... confessing makes one feel freedom” (Celestino, FARC) and Luis considers telling the truth important “because you get rid of many things” (Luis, AUC). Before telling the truth Marco was completely “paranoid” and “couldn’t sleep” (Marco, FARC). In fact, confessing allows them to take away the heavyweight of the past. Accordingly, Marcela notes: “One gets rid of so many things! One calms down through truth and takes away that heavy burden that one has always carried” (Marcela, FARC). Along the same lines, Wilson notes: “One used to feel a terrible weight. Imagine seeing the mother of the child you killed. So one wants to let off steam and say ‘we are the ones who killed your husband, your child or your father’. When we demobilized we had to unveil the truth and now I feel better” (Wilson, AUC). In fact, as Camilo notes: “For each word that you speak out, there’s a weight that you take away” (Camilo, ELN).
In addition to lightening one’s guilty conscience, telling the truth is important to inform the Colombian society about a dark unknown past and the victims about the various destinies of their loved ones. According to Camilo: “Besides feeling relieved, one informs the families about their dead beloved ones, about all those tortures. The families need to vent their sad feelings. Right now there are many people suffering from the disappearance of their loved ones. It’s important to tell the truth” (Camilo, ELN). Francisco also considers important to tell the truth “to the country about many things they don’t know. People do not know what happened so it’s very important to tell the truth” (Francisco, AUC). Further, according to Homero, the truth is a necessary trust building mechanism. In his words, unveiling the truth “is necessary to clarify the facts and build up the path towards trust, which is one of the crucial elements in building national peace and reconciliation. Victims obtain clarity and satisfaction through truth. Truth means to tell to the society and the Colombian state that we are committed in a transparent way with this process. Through truth we also heal the harms and consequences of the conflict” (Homero, ELN-ERG). Moreover, according to Alexandre, the truth is important “because a society that doesn’t know its past is doomed to repeat the story” (Alexandre, AUC).

**Being scared of telling the truth**

In spite of its crucial importance, telling the truth in an ongoing conflict faces multiple obstacles. Alexandre, for example, hasn’t unveiled all what he knows due to several threatens against his relatives. In his words: “We have received messages ‘hey, be careful, don’t talk about me if you want to avoid problems: I have a big family, how could I take the risk of putting them in danger? Just imagine, some have been sent to the United States, others have received messages, they have killed our family members and they send us these type of messages with many people ‘hey, be careful with that’” (Alexandre, AUC). In addition to these concrete life threats, which obviously hamper the country’s truth seeking process, ex-combatants are afraid of telling the truth even if there are no direct threats. This could be illustrated through Jerónimo’s words when I asked him if fear was a common feeling during the conflict: “One is always afraid. It’s scary even to talk. I am right now afraid of talking with you! Jejeje” (Jerónimo, FARC). Jerónimo is not the only participant at the ACR who fears to talk. Accordingly, Marco argues that “telling the truth is very important but it all depends on the circumstances in which you find yourself, because imagine if you risk your
life for telling the truth, no one will speak out” (Marco, FARC). Likewise, JFrancisco notes: “Yes, you feel relieved through truth, but one needs to know where to say the truth”. In fact, according to him, telling the truth in a public place like a tribunal may be dangerous (JFrancisco, AUC).

As a matter of fact, some ex-combatants simply confessed that they are not fully unveiling the truth. According to Dario: “I have told the truth but I have kept some aspects to myself ... one doesn’t say everything”. In fact he would only tell the truth “as long as they give me guaranties” (Dario, FARC). Ricardo also acknowledged having constantly lied: “It’s very important to tell the truth but one has to lie during this process. Although one knows that is not good to lie, one has to, in 80% of the time” (Ricardo, FARC). Besides from fearing reprisals from other combatants or other people, as Jerónimo notes, they are afraid of being sent to prison for unveiling the truth of the acts they have committed: “I think that people don’t say everything because they are afraid of going to prison” (Jerónimo FARC). Along the same lines, Kevin argues: “Each person adapts the truth to their own interests” (Kevin, FARC).

Although I do not intend to measure the efficacy of the JPL in terms of truth seeking, I did ask some ex-combatants about their vision of the free versions. According to some of them, although the JPL process has advanced in the truth seeking process, many things remain unknown. According to Jorge and Francisco, “there are still things that need to be told” (Jorge, FARC & Francisco, AUC). Moreover, Wilson explains how it becomes almost impossible to fully unveil the truth behind the atrocities committed by the groups. In fact, high-level commanders are way too far from the acts to know what really happened. According to him, the process of free versions has been useful but remains limited. In his words: “On one hand, I think it has been useful, but on the other hand, they haven't told the entire truth. They are keeping things for themselves... The group committed so many violent acts; there have been so many murders that have not been registered, so they say x number of killings, they say 'we ordered 10 murders', but one doesn’t know how many were killed and disappeared. The number is not known because the chief commander orders to kill some, but the one who executes the order can kill more…” (Wilson, AUC).
3.3.3. The issue of reparation

As we will see, many ex-combatants consider themselves victims of the conflict and think they deserve reparation. This particular vision affects considerably their opinion and relation vis-à-vis the victims of the illegal armed groups. In fact, after demobilization, foot soldiers have to find their way to reintegrate into civil society, which, as previously noted, is far from being an easy process; they have to overcome poverty and multiple psychological and practical obstacles. These ex-combatants have not yet constructed an identity and do not have the moral and economical strength to repair the victims; firstly, they have to go through a personal deep process before being able to do something for the victims. However, many are those who would like to participate in one way or another to the direct or indirect reparation of victims.

According to ex-combatants reparation means:

- “Reparation means to repair, to re-construct something that is falling apart” (Dario, FARC).

- “Reparation to me means to be in this process and become a better person” (Osmar, AUC).

- “As I was telling you, the pain and human loss cannot be repaired, so it’s like a relief, so I think people should get somehow repaired economically or spiritually. Many people have been harshly beaten by the war” (Kevin, FARC).

- “To me reparation means essentially to acknowledge ones errors and correct them. Ask for forgiveness and not re-offend again” (Homero, ELN-ERG).

- “I understand reparation as, well... being able to sit down with you and tell about the reasons why I joined this conflict, why I hurt you. That conversation might not end up in hugs, some might end-up hugging because their heart is big. It is not simple... reparation means also to be granted security, guarantees. Reparation means also to offer the possibility for my children to go to school, for you to live in your farm, to know why your son was killed and meet those who could have been your aggressors” (Alexandre, AUC).
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- “To repair all the harms that we have done, that I have done” (Marcela, FARC).

- “Reparation means, what could I say? Like to fix something, like trying to fix it because something that has been damaged cannot get fixed, that’s why we call it reparation, like trying to make it work again but it will never work like it did before” (Jerónimo, FARC).

- “To repair the harms that one has caused or that they have done to you” (Marco, FARC).

With the exception of some ex-combatants including chief commanders, low-level fighters remained silent when I asked them if they had done anything to repair the victims. So I decided to ask them if they had thought of doing something for the victims or willing to do so. As we will see, they are in fact keen to participating in activities intended to help those who suffered in the conflict. Maybe they wanted to please me, or they were simply sincere, but I will mention some of their answers to the questions on reparations of victims.

According to Alexandre, he has repaired the victim’s harm by “telling the experiences of those 12 years so that they get to know them. Being at their disposal. If they don’t get to know these experiences by the end of the process I will publish them all, because they need to know them... I have given everything that belonged to the organization and to myself to the reparation fund” (Alexandre, AUC).

Although Dario would like to repair the victims he doesn’t know how: “I have searched for ways of doing so but, let me repeat, one doesn’t know how” (Dario, FARC). So I asked him if he would like to make community service or something similar and he said that he would like to do so “because we harmed many people” (Dario, FARC). Working for the victims would in fact free him from the guilty conscious he carries. Moreover, JFrancisco has not thought about repairing the victims’ harm but when being asked if he would like to do something for them he said: “Of course I would like to! Doing something for the elderly ones or for handicapped people” (JFrancisco, AUC). Neither Marco nor Ricardo have done anything to repair the victims but would also like to participate in their reparation. According to Marco, “one has participated in causing harm, one wants to participate in repairing it” (Marco, FARC), and according to Ricardo, “I would like to because so many people have been obliged by the conflict to abandon their belongings, their animals, their farms, and then they have to starve in the cities. If I have to share my food with them I would
because they are innocent” (Ricardo, FARC). Ricardo would like in addition to ask for their forgiveness: “I would like to ask for their forgiveness and somehow help them” (Ricardo, FARC).

From another perspective, Wilson would like to prove to Colombians that they are willing to contribute to peace in the country and thinks that participating in the reparation of the victims harm would be a convenient way to prove it: “I would participate in one of those programs because there are many people who do not believe neither in this process nor in us; that will help them realize that we really want the peace for Colombia and their forgiveness. I think many colleagues would also participate” (Wilson, AUC). Kevin believes in fact that he contributed to the reparation of the victims when he demobilized: “I think so, through demobilization”, and adds that he has encouraged others from the FARC to demobilize: “I have talked to colleagues or friends about this process and they have demobilized. Many people are afraid of getting killed by the government. So one can help explain to them how the process goes” (Kevin, FARC). Although Kevin would like to do community service, he fears the reaction of the people: “There is so much pain and harm that you never know how they’ll react, one doesn’t know what they are going through” (Kevin, FARC).

3.3.4. Being held accountable

Unlike many victims who associate “accountability” to punishment, among other factors, ex-combatants do not include punishment in their understanding of accountability. Since I didn’t obtain many understandable responses regarding the meaning of “assuming one’s responsibility”, I will also list the answers of ex-combatants on the way in which they have taken on responsibility for their acts. As we will see, they strongly insist on changing and becoming better persons. Surprisingly, very frequently they talked about themselves without making reference to the victims.

According to ex-combatants, assuming one’s responsibility for the acts committed means:

- “I think it means to accept it, correct it, and not repeat it... and assume it means also to do what the justice system determines” (Homero, ELN-ERG).
- “Assume one’s responsibility is to be in charge of what one owes” (JFrancisco, AUC).

- “To accept that what I did was wrong and to try to fix it up; to try to make a new life and avoid falling in the same error” (Marco, FARC).

- “To assume, what can I say, to accept one’s mistakes; I did this but I am asking for a new opportunity, right? I am truly changing from the heart, and what else… thank God we have received this opportunity, we have to make the most of it, we have to leave behind all those things which didn’t bring about anything positive” (Kevin, FARC).

- “Responsibility is to build up a career or someone who is changing” (Luis, AUC)

As to the question on how they have assumed responsibility, these were some of the answers:

- “Being at the justice disposal, ready to ask for forgiveness to the victims, and to commit myself not to do it again” (Homero, ELN-ERG).

- “Telling the truth, saying I have done this, I am responsible for what I illegally did… acknowledging the misdeeds one has committed… I assume my responsibility as a new man, I feel responsible with myself, with my wife, with my home and I act as a responsible person” (JFrancisco, AUC).

- “The only harm I have committed is to “arriar mulas”… I haven’t done anything” (Celestino, FARC).

- “I am doing a big effort to change, improve myself and provide my family with opportunities” (Marco, FARC).

- “Telling the truth” (Wilson, AUC).

- “Changing my attitude, facing what I used to be” (Wilson, AUC).
- “Umm, I am no longer what I used to be; I feel that I have changed, not incredibly, but I have changed a lot” (Osmar, AUC).

- “Understanding that there are rules and that I cannot commit crimes anymore and that one has to leave behind all those things, that’s like the responsibility one has” (Marco, FARC).

- “Participating in all the activities offered by the ACR, the studies...” (Marua, FARC).

- “The responsibility of my acts, what can I say? I do not regret anything I have done in my life, so trying maybe to repair doing good things like for example collaborating with my colleagues who have not demobilized, telling them ‘demobilize, everything is fine over here, the government is giving this and that’. But three colleagues have demobilized and they really regret having done so, now they are like my enemies, they blame me for it” (Jerónimo, FARC).

So ex-combatants do not associate accountability with prison sentences. On the one hand, some of them do not really see the use of prison sentences and consider that they may even be counterproductive. According to Celestino for example, prison sentences are discouraging many combatants from the FARC from demobilizing. In his words: “If they promise you freedom and therefore you demobilize and then they put you in jail, how would the others demobilize? That’s why there are many people who do not come, they see all that in the news” (Celestino, FARC). Additionally, Celestino thinks that prison sentences are too harsh and do not really offer what ex-combatants need, which is training: “That kind of person needs training... it would be too difficult to end up in prison when they have promised you freedom...” (Celestino, FARC). Camilo would even consider “unfair” sending an ex-combatant to jail, and this, independently of its hierarchical rank: “The government should give psychological assistance to a demobilized chief commander. Over there, things are done because you are obliged to, not because you mean to, so I think that it won’t be fair to put an ex-combatant in jail, no matter what his rank is. We are talking about a person who regrets and wants to be free; instead of sending him to prison he should receive therapeutic education. There are chiefs who have never been educated; some of them don’t even know how to sign” (Camilo, ELN).
Further, Marco argues that prison sentences are not really a solution to anything: “I think that 50 or 40 or 2 or 3 years is the same; they shouldn’t do it because they don’t solve anything. It would be difficult to go to jail for 40 years, but in any case one doesn’t repair what has been done” (Marco, FARC). Similarly, Kevin doesn’t see the use of a 5-8 year prison sentence since it won’t solve anything. He highlights, though, the existing unbalance between this short punishment for mass atrocities and the ones established for common crimes: “Well, I don’t know if it’s fair or not, but still, spending long time in prison won’t repair anything. But one cannot understand why 5 to 8 years; someone who kills one person may be inflicted 20 or 25 or 30 years of prison, and here we are talking about people who have committed massacres, you understand? How could the maximum punishment be 5-8 years? There is inequality” (Kevin, FARC)

Jerónimo’s case is very particular. In fact, he was highly placed within the FARC. Although he was not one of the high chief commanders he believes he could have been covered by the JPL, and therefore, he’s keeping to him some part of the truth. He thinks this punishment would be too hard for him and is happy not to be covered by the law: “Personally I wouldn’t like it because I would be plunging the knife into myself; I wouldn’t stand 5-8 years in prison” (Jerónimo, FARC).

On the other hand, Homero, who is actually in prison, considers that “despite the fact that is not a pleasant place, prison is one of the necessary instruments a society or a state should count with to establish order... It’s not a pleasant experience, but it has to be accepted because it consolidates a society, a state” (Homero, ELN-ERG). However, as we will further see, Homero considers that prisons could deeply change and offer spaces in which ex-combatants could develop a useful activity such as agricultural activities. Other ex-combatants believe this prison sentence is soft and therefore should motivate them to tell the truth. In the words of Jorge, the 5-8 year prison sentence “is a soft sanction, that’s why all participants have to tell the truth” (Wilson, AUC). From a different perspective, JFrancisco prefers not to judge and let the law decide: “I think differently, it has already been established like that by the law... I cannot say ‘put this person x time and this other one x time’; I cannot desire anything bad to happen to anyone or judge for others” (JFrancisco, AUC).
Interestingly, though, some low-level ex-combatants believe chief commanders should go to prison. In fact, as previously noted, after demobilization many foot soldiers realize that they have been ‘used’ by chief commanders. Accordingly, when I asked Jerónimo how chief combatants should be treated, he replied: “Well, they should be treated with full rigor of the law, jajaja, because they are the ones who gave orders, in a very relaxed way, drinking whiskey, while one risks one’s life. They are at the center of everything; if there are no commanders everything will be over…” (Jerónimo, FARC). Likewise, Jorge and Luis also consider chief commanders should go to prison because “they are the ones who order” (Jorge, FARC) and “because if we don’t do it (execute the order), we risk our lives, we have to do it for A or B reason. They are responsible” (Jorge, FARC). Moreover, according to Luis, they should go to prison to realize what they have done, otherwise they will continue with their luxurious lives with “farms with swimming pools, women and whiskey” (Luis, AUC). In fact, Luis considers that the 5-8 years prison sentence is too soft: “Yes, because they are the ones who command, they control all this, so I think is too soft, and besides, they are lying” (Luis, AUC). So I asked him about his opinion on the extradition of the chief commander of the AUC to the US, which he considered a right and correct decision “because prisons here are luxurious; apartments with all the luxuries” (Luis, AUC). According to him, they “should remain in the US because I’ve seen on TV that the communication is hard over there; here, they could keep on criminalizing from prison, working, so they were not telling the truth” (Luis, AUC).

Differently, Dario thinks “chief commanders and the secretariado”, should go to prison, but, “they shouldn’t be left alone; they need training or a psychologist… thank God it didn’t happen to me…” (Dario, FARC). From a different perspective, JFrancisco believes they should all equally go to prison and chief commanders cannot blame foot soldiers and vice-versa: “We have all committed errors; they have given orders and we have obeyed. He cannot say ‘I gave the order but he did it and I cannot say ‘he gave me the order’” (JFrancisco, AUC). Along the same lines, Osmar considers that they should all be equally judged “because they have all contributed with their bit; the superior gives orders and foot soldiers must execute them” (Osmar, AUC).

Summary
The path of ex-combatants to healing differs from the one that victims take. Spirituality and religion for example, do not hold the same importance, or at least not in an outspoken way. Many ex-combatants didn’t mention God, the church or religion when being asked about their healing factors. However, when treating the issue of forgiveness many of them admitted asking for God’s forgiveness.

The Family remains the main source of healing. The ex-combatants, who demobilize and have the possibility to come back to a loving family, have definitely more chances of healing their wounds. The presence of a loving and forgiving parent, wife, girlfriend or young children, give them the strength to restart life from zero. Many share the feeling that they have lost very precious years during the war, so they take great pleasure and value the small details of domestic life such as homework with the children, sharing meals, laughter, etc.

Another crucial mode of reintegrating society successfully and therefore healing is through an activity. A dignified job helps them to get back on their feet, to be able to keep busy helps them forget the horrors of their past life. When they take the decision of demobilizing, they not only want to get back to their families, to be forgiven, to have the chance to start again, they also want to cut with the strenuous physical and emotional life as foot soldiers and importantly the tyrannical orders of their chief commanders.

Regarding institutional assistance, most of them consider psychological therapy necessary. The state should be able to provide this assistance in an approachable and hospitable way. On the one hand, ex-combatants in general find it important to be able to share their experiences with professionals, but on the other hand, when it comes to sharing their stories with victims or other ex-combatants, their opinions vary; some are scared of the reactions or retaliations this might bring upon them or their families.

The same phenomenon is present in telling the truth; whereas some consider it vital to achieve inner peace and make progress in their healing path, others are afraid of the judgment and vindictiveness this acceptance can bring.
When it comes to the reparation of the victims many of the offenders that have demobilized have the feeling that just by doing so, they have helped the victims. The difficulty lies in the fact that they also see themselves as victims. Frequently, they share the wish to be able to directly help, but in most cases they don’t know how; they believe the government should facilitate their intentions to help by creating accessible programs where they are shown and told how to proceed.

Unlike many victims who associate accountability to punishment, amongst other factors, ex-combatants do not include punishment in their understanding of accountability. Offenders feel that by demobilizing, telling the truth and making a personal effort in being better persons, they have given back their dues to society. An interesting fact is that low-level offenders, although they don’t deem prison necessary in their case, they often approve of it when it comes to chief commanders.

4. How to deal with the conflict to avoid more suffering?

In order to avoid more victimization and suffering in Colombia, it is important to understand the underlying causes of the conflict as well as some of its possible solutions. Therefore, we will in first place mention relevant aspects, which, according to participants, have contributed to nurture this long lasting conflict, and secondly, we will focus on the solutions to the conflict.

4. 1. Identifying the causes of the Colombian long lasting conflict (to remove them)

The personal reasons for joining the remaining in the illegal armed organizations, the lack of state, the indifference of people, the business of drugs and other transformations of the conflict were some of the conflict’s causes raised by the victims and ex-combatants of the Colombian conflict.

4.1.1. Personal reasons to join and remain in the illegal armed groups

As we will see, it is very different to speak to high-level ex-combatants than to low-level ex-combatants; whereas the first ones insist on the ideological reasons (among other
explanations) the latters raise more pragmatic reasons for joining the conflict. However, once in the illegal armed group, the conflict becomes their *raison d'être*, a real modus vivendi, which somehow obliges them to continue fighting.

**Ideological reasons**

As to the ideological reasons raised by chief ex-combatants, on one side, Alexandre explains that he joined the AUC to fight against the guerrillas, which were very powerful and had great support from other countries. In his words: “The guerrilla was taking over—because guerrillas, those Marxist Leninist guerrillas, didn’t just operate within the 1,100,000 km² of the national territory, but with the support of many other important countries around the world, which were in decline but still had an ideological current, mostly European. And, after hearing this man read some texts and some things, one realizes that as a citizen if you can’t go to the police or to the army, you had to take up arms to fight against an enemy that today is still the main enemy of the Colombian people and that since forging an alliance with drug trafficking, that is the point where they became our main target” (Alexandre, AUC).

Under another light, Homero explains his ideological reasons to take up arms: “There were different reasons, such as: lack of functionality, lack of credibility, lack of adequate social policies for the community and for the farmer population, so we saw ourselves with the need of taking up arms against the state... It was a historically complex time, there was a power vacuum, lack of functioning policies like those of protection and welfare for the farming sector, and there haven’t been policies of government support that really bring about the right conditions for a dignified life for Colombian farmers. We are missing, for example, clear policies that give proper education for the farming sector, we are missing conditions of productive development for the rural areas, agrarian policies for this sector in Colombia... so we saw the need to arm ourselves as an option of self defense and not just defense but as part of the struggle to defeat a state that for us was illegitimate due to its lack of effectiveness and transparency on policies that benefit the people” (Homero, ERG).
Ignorance and lack of opportunities

Ignorance, lack of opportunity and family issues, are some of the common factors that pushed low-level ex-combatants to join the illegal armed groups. As Jerónimo notes: “Our deep state of poverty takes us to do ‘better’ things and we end up doing worse things, jajaja” (Jerónimo, FARC). According to Ramiro, the lack of job opportunities together with poverty pushes many Colombians to join the illegal armed groups as a solution: “The government has completely forgotten the working classes. We used to live in such state of poverty and misery; at 6pm my mum would be crying because we didn’t even have a cup of coffee during the whole day. I couldn’t find a job because I was too young; I even went to enroll myself in the Pichincha Battalion and they told me that I couldn’t even clean the soldier’s boots” (Ramiro, FARC).

Moreover, today ex-combatants look behind and feel completely betrayed by their former groups. As Abraham notes: “They took me under false pretexts because they told me they were going to pay me, but that’s a big lie, no one gets paid over there! You have to have power, belong to a higher rank to get in touch with drug trafficking” (Abraham, ELN). The same happened to Camilo who was promised things “that you will never see” (Camilo, ELN). In fact, once they are in the illegal armed group they get to know the truth behind these groups: “Then you realize that this is an unfair war, one doesn’t even know why are we fighting for; money is for chief commanders, one doesn’t get anything... they used to tell us that there was a social goal, that poor people needed to have as much as the rich; but we never saw that and we never will” (Camilo, ELN).

As a matter of fact, there are thousands of fighters who joined the various groups thinking that this would be the solution to all their problems. In Celestino’s words: “Here, the one who has (economic power) rules, the one who doesn’t is worth nothing! Many people go there because they lack of resources and think that they’ll find everything over there; that’s a lie, it’s very tough over there” (Celestino, FARC). As Osmar notes: “One doesn’t even know why we are fighting for” (Osmar, AUC). As a matter of fact, when they joined the group, they didn’t have the level of conscious to realize what they were doing: “Today, I have my family, my daughter, which makes me think in a different way. Before, when I got there, I was unconscious and didn’t have anyone to think of” (Osmar, AUC). According to Ricardo, the
members of illegal armed groups are somehow “asleep”: “I believe this is a blind conflict, lacking of political and military ideology; we are massacring a country where we are all brothers, same race, same customs; one person kills another one without even knowing why... the person who is right now in an armed group is asleep, doesn’t know what he/she is doing. This world offers plenty of opportunities; this country would be different if we didn’t have an ongoing conflict; there would be more job opportunities, more foreign firms; one could be working and everything would be better” (Ricardo, FARC).

As we have previously seen, various victims of the conflict also share this vision. According to Jorge Luis, for example, “the chief commanders kidnap you for money, and those who guard you they do it because they are ignorant, they are afraid, they have no opportunities; so, between having nothing and having a weapon, they get brainwashed by someone who offers them an opportunity” (Jorge Luis, V). Along the same lines, Cecilia argues that “most combatants are young persons with psychological problems and many other problems; they go there believing they will find solutions for everything...” (Cecilia, V).

Dysfunctional families

In addition to poverty and the total lack of opportunities, very often fighters have suffered from dysfunctional families and loneliness. Kevin saw in the FARC a solution to his loneliness and economical problems: “One gets into that because of lack of opportunities. I was orphaned; I used to live in Zabaleta when my mother died and I joined the group 9 months after her death. I was alone” (Kevin, FARC). Along the same lines, Wilson notes: “I never met my mother, she died when I was still a baby and that left a whole in my heart, I never felt her warmth or her love” (Wilson, AUC). Marcela also joined the FARC for family issues, in fact to run away from her “loneliness”: “My parents got divorced when I was 2 years old. I was alone with my grand mother, I didn’t know what to do, and going there was a way out” (Marcela, FARC). Moreover, many are those who didn’t even chose to join the illegal armed groups like those who get recruited by force, like Luca’s son, or those who are born in the battlefields like, Dario, who considers himself a victim of the conflict because he “got there in a very innocent way” (Dario, FARC). In fact, Dario was born in the FARC and therefore he followed his father’s and family’s example who had a very strong left-wing oriented ideology.
Chapter 2. Restoring the harm in Colombia: The voices of the victims and ex-combatants of the conflict

Satisfying the thirst of revenge

Anger and the willingness of taking revenge against other groups, or even against their own family members, is often a shared emotion among fighters. Surprisingly, I have mainly examples of AUC members willing to take revenge against the guerrillas. There is however Jorge’s case who joined the FARC because he had been “outraged” by the Paramilitaries (Jorge, FARC) and Ramiro’s whose “resentment against the government nourished his revolutionary conviction” (Ramiro, FARC).

Luis’ feelings of revenge against the FARC were very strong. In fact, the FARC had killed his father, his brother; and therefore, his family lost everything: “We were peasants and lived in a farm. We weren’t rich, but we lived comfortably until the day in which the Guerrillas arrived and killed a cow. My father didn’t like that and a word exchange took place. 15 days later the guerrillas killed my father” (Luis, AUC). As a result, Luis joined the AUC to take revenge against the FARC: “The guerrillas killed my father when I was very young... I joined the conflict as a form of revenge” (Luis, AUC). Along the same lines, JFrancisco joined the AUC as a consequence of an event that took place with the FARC: “I used to work in a very healthy way in a firm. I earned my own salary... until the day the guerrillas arrived at my place” (JFrancisco, AUC). Likewise, Wilson’s hatred feelings were the cause for joining the group. In his words: “The guerrillas arrived to my town and did very bad things. That filled me with hatred and I just wanted to fight against them” (Wilson AUC). Similarly, fighting the guerrillas was Francisco’s main motivation to join the AUC: “There are people who got into the conflict with no particular reason, others, like myself, joined it for the ideological reasons. I saw the outrages the guerrillas did against civilians, against the peasants and frequently the government was too flexible with them. The guerrillas became therefore very powerful” (Francisco, AUC).

The war as a sense of life

Although I gathered a rich amount of data concerning the daily lives of fighters during the conflict, I will only limit myself to some few quotes that reflect the fact that being in an illegal armed conflict is very similar to working in another institution or organism: there
are hierarchical orders, the goal is to ascend as much as possible, there are norms to be respected (ideological-military) and, for many, the war becomes their only goal and ambition in life.

Many are those who are born in the organization, particularly in the guerrillas whose origins can be traced to the 60’s. For Jerónimo, the FARC was his life and his only reality: “I was born there; my friends, parents, uncles belonged all to the group” (Jerónimo, FARC). Even if fighters are not born within the organization the conflict can become their unique raison d’être. While being in the conflict, Luis didn’t think of having a family or studying, neither he visited his family when he could. As he notes: “I am exaggerating if I say I went out 5 times” (Luis, AUC). He wanted in fact “to take revenge for what had been done to his family and the humiliation inflicted to his father” (Luis, AUC). Along the same lines, Dario lived for the organization: “In those days the sense of my life was the organization... only the combat” (Dario, FARC). Moreover, Alexandre didn’t feel like abandoning the men who were under his command. According to him: “It is not easy to stop being the chief commander of armed men who have a basic war formation, basic understanding of human rights... that becomes a modus vivendi” (Alexandre, AUC).

Military and ideological education

As a matter of fact, all illegal armed groups have their own strict rules and norms that needed to be respected by every member; otherwise the combatants risked their lives.

To start with, the paramilitaries had a particular training “based on a combination of the training manual of the Colombian armed forces, the Comando Sur of the United States and the one of the FARC” (Alexandre, AUC). Emphasis was mainly done on the military training. As Wilson notes: “The first thing you learn when you get in is how to arm and disarm a weapon and how to use it. Physical training is also taught to gain a good physical condition” (Wilson, AUC). Except for the family days, paramilitaries had very strict schedules. Accordingly, JFrancisco says: “Every day at 5am everyone had to be up and ready. The one who had to cook woke up earlier and prepared breakfast. There were typical days. They would allow you to take a leave of service in the villages for 5 days and if you wished to see your family you had to ask for permission” (JFrancisco, AUC). Moreover, they lived under
the obligation of executing orders from chief commanders even if they were morally against them. As Osmar notes, “I do regret that because I carried out illogical orders; they told us ‘tie up thingy and you know what to do with him’” (Osmar, AUC).

Like in most organizations, fighters started from the bottom and ascended with time and experience. Salaries were therefore proportional to the rank of the fighter. As Francisco notes: “Since I started like a ‘patrullero’ I gained 395.000 pesos, then I started to improve; I took a course on communication and therefore my salary got incremented” (Francisco, AUC). Ex-combatants’ wages varied according to their experience and rank; whereas Natalia, for example, gained 450.000, Osmar and Francisco gained 500.000. Others like Wilson gained much more: “We had a monthly wage of 750.000 pesos... we didn’t know where the money came from, we just knew that the money was sent by the boss” (Wilson, AUC). In addition to the monthly wage, paramilitaries could gain some money providing information. In the words of Luis, “we would receive a percentage for providing information about the guerrillas, for each rifle or kilo of coca gathered... when we fought against the guerrillas we picked up rifles and coca” (Luis, AUC).

On the other hand, in addition to the military training, guerrilla members, at least those with a slightly high position, seem to further insist on an ideological and political education provided by the organization. As Ramiro notes: “When I got in I was taught about political and military aspects. They talk about the economical and social situation of the country and about the war. They explained you the reasons behind the armed conflict, they showed you the movement’s rules” (Ramiro, FARC). However, as many have claimed, such ideology is far from being applied within the group. In Ricardo’s words: “Equality is what they teach you the most. But this is never applied. You see it in theory but never in practice” (Ricardo, FARC). Respecting the rules, at least in the FARC, seems like a very serious matter; it is actually very common to get killed for violating them. Accordingly, Jerónimo notes: “Over there is very strict... one has to try to do things right, otherwise you get executed” (Jerónimo, FARC). As we know, in the guerrillas there are the chiefs who give orders and administer the organization, and those who execute orders. When I asked Celestino about their relationship with the chief commanders he explained that it was limited to executing orders: “We just executed their orders. We do what they say and that’s it. The one who rules, rules... one is no one there” (Celestino, FARC).
Unlike paramilitaries, guerrilla members do not receive a salary. Marcela, for example, never received money: “Over there one didn’t even receive 50 pesos. You were only given food and the cleaning equipment” (Marcela, FARC). Ramiro also explains that he would only get paid for certain missions: “We didn’t get paid. We were told ‘you do not get paid in the revolution’; money was given only if a military intervention or something needed to be done in the cities. Food was provided. When I went to the cities I received one million or one million and a half to pay the hotel, the travel expenses, clothing...” (Ramiro, FARC). Similarly, Ricardo notes: “We received money once in a while when we were sent to get some civilians. They would tell you ‘let me offer you that much million pesos’...” (Ricardo, FARC). Unlike low-level combatants, chief commanders and those well connected were in a very comfortable economical situation. According to Jerónimo, “the chiefs, the drug dealers were in a very good economical situation through drugs and taxes. They would see you and give you something to buy a soft drink, or one million pesos” (Jerónimo, FARC). It seemed however that Jerónimo was well connected since he benefited from those who had financial resources. Economically speaking he was in a better position than today: “I used to have a good economical situation; now resources fall short (laughs)” (Jerónimo, FARC). Apart from those with a higher rank, the milicianos also received money from the organization to carry out terrorist attacks in the cities. In Kevin’s words: “The miliciano may be asked to execute a mission of 2, 3 millions. Money is rarely seen in up the jungle” (Kevin, FARC).

**Getting used to violence**

Combatants in Colombia have done so much harm that they have become used, and even addicted, to a violent way of living. Behind this addiction there is however a general way of thinking of the Colombian society which nourishes the use of violence and facilitates the use of terrorism and the infliction of panic. Needless to remind and explain the overwhelming degree of cruelty applied by both guerrillas and paramilitaries. Although there is more than enough data to illustrate such atrocities, I will only limit myself to some quotes designing the way in which combatants get addicted to violence.

Cruelty and violence have become somehow a common feature in Colombia; it’s a common way of ‘solving’ a conflict and has become part of Colombians’ daily lives. According to
Dinamo, the way of thinking has played a crucial role in the conflict. For him, the conflict *perse* is not the real problem but the mentality behind it. In his words: “The problem here is not reduced to an armed sector, it’s a social problem... I argue that people are not bad, but their way of thinking is” (Dinamo, V). According to Dinamo, the ‘hermanito menor’ has a violent mentality that has been transmitted from generation to generation without breaking the cycle of violence. For him, it will be very difficult to find a solution to the Colombian conflict since “killing each other has become something cultural; there is always a reason to kill There are those who make justice throwing bombs, that is justice! Sometimes you kill even more people ‘doing justice’” (Dinamo, V). According to Dinamo, those who kill for the first time and continue killing become “a killing machine; they are trained for that” (Dinamo, V). In fact, the Arhuaco considers that a person absorbs all the surrounding energy from the very gestational period: “what we do as adults is not a product of chance, everything is codified... The energies pass from generation to generation, it's like blood; if a father is a murderer, maybe the son won’t follow his path but the grand son or great grand son will, and the chain continues” (Dinamo, V). This cultural vision of violence is also shared by Homero, who argues that the origins of the Colombian conflict could be traced 500 years ago when the Spanish colonizers arrived in Latin-American: “The Colombian conflict is the result of a culture, of a culture of violence... Latin-Americans are the product of the Spanish war canyons; of the Europeans who arrived stealing and violently imposing a culture of disrespect, of war, of violence amongst Latin-American ancestors. Colombia’s conflict is the heritage sown by foreigner empires and nourished by the economic capital of drug trafficking; the biggest cartels are not in Colombia, they are in developed nations...” (Homero, ELN-ERG).

Moreover, combatants do get addicted to committing atrocities. As Jerónimo notes: “You get used to “el monte”, to carrying a weapon, even to kill. You get used to that life and then it becomes extremely hard to get someone out of that state of mind” (Jerónimo, FARC). Ex-combatants often describe the first battle as a difficult experience but as Marco and Dario note, with time “one gets used to it” (Marco, FARC), “you become so brave that you do not get nervous anymore” (Dario FARC). Luis even enjoyed fighting the enemy: “I felt very proud while combatting against the guerrillas because I felt I was doing justice with my own hands... I felt that rage!” (Luis, AUC). Somehow, Luis took his frustration out in the battlefields, he liked the feeling of shooting: “It was something nice” (Luis, AUC). Emotions
during combats seem to be extremely strong. Accordingly, Alexandre compares the feeling of winning the war with a sexual orgasm: “Hearing those screams, pulling the hair and biting, well, when you get to that orgasm in which the body feels like... there are no words to explain. The same happens in the battlefields; it feels amazing when you win a battle, it’s like having an orgasm, as I told you, there are no words to explain it” (Alexandre, AUC). In fact, as he argues, “one cannot relate the feeling of combating with anything else”. He explains in fact that there is a mixture of emotions during the war, from “horrible and tragic when having to pick up 20 or 30 dead or mutilated colleagues” to “the joy of winning a battle” (Alexandre, AUC). The addiction to the war lifestyle hampers combatants from demobilizing. Accordingly, Jerónimo notes: “More than one says they started there and they’ll end up there; it’s such a strong habit! It’s like being addicted to it. You don’t take away such an addiction that easily...” (Jerónimo, FARC).

**Being afraid to demobilize**

In addition to the previously mentioned addiction to a war lifestyle, many combatants do not demobilize because they fear their own group’s reprisals or getting caught by the Colombian authorities and getting killed or put into jail.

According to the statutes of the FARC, for example, demobilizing is forbidden. Once a person joins this organization “it is forever, you have to give yourself into it” (Dario, FARC). The ELN is no different. According to Camilo, “when you join them you are told to fight until death” (Camilo, ELN). Therefore, once demobilized, most guerrilleros cannot go back to their hometowns and must be placed in far away cities due to security reasons. Still today Jerónimo fears getting killed by the members of the FARC: “I have security problems. Three colleagues have already been killed...” (Jerónimo, FARC).

Besides fearing the reaction of their own institution and the possible reprisals they may take against their family members, combatants, as Homero argues, are often afraid of being obliged to go to prison forever: “Thinking that they’re going to rot in jail makes them hesitate and stops them from taking the decision we took (to demobilize)” (Homero, ELN-ERG). Celestino joins Homero’s opinion by stating: “They – FARC members – do not demobilize because they are afraid of getting killed... over there they all think that you get
caught, humiliated, that you have to speak out and then get killed... Imagine that you come here to be free and you end up in prison; one prefers to remain free en el monte; always running but at least having a space where to run” (Celestino, FARC). In fact, members of the FARC are told that demobilizing is extremely dangerous. According to Marcela, combatants do not demobilize “because they are afraid. Over there they get scarily and psychologically brainwashed; they are told that the government is lying, that they are sent to other countries and killed” (Marcela, FARC).

Similarly, Jerónimo explains his own fearful experience of demobilization: “I was so scared the day I demobilized, I said to myself ‘where would they take me? Would they lock me up, tie me up?’ I was locked up for two months, I was about to flee” (Jerónimo, FARC). According to Ricardo, the threat of punishment would stop combatants from demobilizing. In his words: “There should be opportunities for everyone. If I were asked in extradition, I would never demobilize. That person (asked in extradition) should be given an opportunity. Even if the person has to work to pay for his/her faults...” (Ricardo, FARC). Nevertheless, despite such fear, many members of the guerrilla groups are demobilizing individually. As Celestino notes: “The situation is changing because many people that you would have never expected to demobilize have already demobilized” (Celestino, FARC).

So, demobilizing from an illegal armed group was very difficult. Although today paramilitaries have collectively demobilized, and therefore, I didn't further treat this aspect with them, it seemed easier to demobilize from the paramilitaries than from the guerrillas. Correspondingly, Francisco explains that after each family visit they could choose between going back to the AUC or staying with their families: “You could go back or remain; No one was obliged to remain in the AUC; people were there on their own free will and conviction” (Francisco, AUC). JFrancisco, however, doesn't fully adhere to Francisco's vision. According to him, the AUC could also take reprisals against those who wanted to demobilize: “If they escaped they could get killed” (JFrancisco, AUC).

Moreover, the fear of loneliness and living the consequences of such an important change, strongly discourage combatants from demobilizing from the illegal armed groups. Accordingly, when I asked Jerónimo about the elements that would encourage the guerrilleros to demobilize, he answered: “It’s difficult because many colleagues are alone
without a family; they have lost most of their family members, so they wouldn’t like to come here because that would be a brutal change in their lives; they are already used to that lifestyle; It would be too hard to come here” (Jerónimo, FARC).

4.1.2. The lack of state and its active collaboration in the conflict

Although today some participants consider that the state has considerably improved its attention towards the victims and ex-combatants of the conflict through various established programs, there’s a widespread agreement upon the high level of responsibility the Colombian state had in the conflict. The institutional absence of the state, its inability to offer economic and social opportunities to the vulnerable and poor Colombian people, its direct collaboration with the paramilitaries and the unbearable level of corruption of politicians, are some of the reasons why victims and ex-combatants consider the Colombian state responsible for the ongoing conflict.

When being asked who was responsible for the conflict, Sergio said: “All the guilty ones. Not only the paramilitaries, but also the government for its institutional absence. All the responsible ones, the industrials who collaborated with the Autodefensas” (Sergio, V). According to Sergio, Colombia finds itself in such situation due to “the total lack of state, of institutions, which didn’t assume their real role; certain interests took priority over the citizens’ rights to security, private property; therefore, this had to happen, but now we have to avoid that it happens again. I hope the truth will be unveiled so that it won’t happen again” (Sergio, V).

According to Constantino, such institutional absence regards particularly the peasants of the country; although politicians always make reference to the poor people in their electoral speeches, at the end of the day nothing is really done, they are not even treated as real human beings. In his words: “This old policy needs a profound transformation to really include and respect diversity in Colombia, and I do not refer to the indigenous, but to the rich amount of peasants; one could think that peasants belong to another class of Colombians who have no father or mother... I believe the policies related to peasants are born dead. They look like policies designed to repair old vehicles; they do not think of them as human beings. That really pisses me off! I don’t like the way peasants are treated in Colombia and if we continue
like that, the conflict will go on…” (Constantino, V). Along the same lines, Amandino considers that the government has somehow abandoned the poor: “The roots of this conflict are found on economical power; there is division amongst the high, middle and low classes and no one wants to be in the lower class. So the government’s lack of interest towards the poor pushes them to do no matter what to survive” (Amandino, V).

As we have thoroughly insisted, poverty and the lack of opportunities pushed many fighters of the Colombian conflict to join an illegal armed group. According to JFrancisco, the state is responsible because “the level of unemployment is too high”. Similarly, Wilson considers the state responsible “for its actions. It should help the vulnerable people; poor people have no means to survive and move on. As a result they join the armed groups or cultivate coca. If the percentage of cocaine increases, the business of drugs becomes stronger and therefore there are means to finance the war” (Wilson, AUC). Marco goes even further to consider that the end of terrorist attacks doesn’t mean the end of the conflict: “I think the conflict won’t be over with the end of terrorist attacks; many people would be doing nothing; for example, what would the members of the army do if there is no conflict?” (Marco, FARC).

Besides from abandoning geographical areas and the vulnerable and poor people, the Colombian state has participated hand by hand with the paramilitaries. In the words of Alexandre: “For 46 years the politicians of this country haven’t been able to find a solution to a conflict that pushed me to take weapons and break the law and the constitution, and be here today assuming a responsibility that I must assume. But today, that institution that has been unable to find a solution to the problem, wants to prove to the world and the Colombian society that we are responsible for everything”. Ironically, Alexandre continues: “today, the police agents, the soldiers, the politicians are not aware for example that Alexandre was a member of the Autodefensas present in the north of Choco, in the Caribbean; the policemen didn’t see me, the soldiers didn’t see me, the politicians were not aware, the mayors didn’t realize, the “concejales” never met us. But I saw them all, I met them all, I spoke to all of them, I worked with all of them jointly to save this democracy…” (Alexandre, AUC).

In fact, according to Alexandre, there was full collaboration between the Colombian authorities and the paramilitaries in the battlefields: “We slept together, we shared weapons, supplies, everything! If the guerrillas attacked us, do you think those police officers would go
against us or join us to fight against the guerrillas? They would join us to fight against the guerrillas!” (Alexandre, AUC). Again, ironically, Alexandre explains the ‘unawareness’ of the state and its institutions: “The Presidents were never aware, neither the ministers, nor the major generals, never! Hum, we never realized, however, we organized the army’s road block and aviation, the police commandos and they didn’t see us... the international community is not aware of this and doesn’t want to be, and the institution wants to hide this, in which way? I agree that some of those who were extradited to the USA were drug dealers before joining the AUC, but there are others that were taken to shut up their mouths. So when they will come back after those 8 or 10 years they won’t even remember the name of their bodyguards. Neither the state nor the USA are interested in unveiling the truth” (Alexandre, AUC).

JFrancisco also admits their collaboration with the army and the police: “I even had to organize the army's radios...” (JFrancisco, AUC). According to Amandino, the state, which participated in the creation of the Paramilitaries, is responsible for being incapable of controlling their actions: “The Paramilitary groups were created by the state but obviously with a very different vision. They had a totally different vision but the state couldn’t control these groups created by itself; that was a fatal error” (Amandino, V).

However, the state was not alone in collaborating with the paramilitaries. As Sergio and Sócrates have previously mentioned, many industrials also did. According to Alexandre, Colombian industrials of the banana fields and other businessmen have also collaborated with the paramilitaries. He considers thus essential to acknowledge everyone’s participation in the conflict: “One day in Colombia we will all have to talk and say ‘man, here, we are all responsible in one way or another’” (Alexandre, AUC).

In addition to having collaborated with the illegal armed groups and being incapable of guaranteeing the basic needs to its citizens, the Colombian state has been severely penetrated by corruption; not only politicians have been involved in the scandalous phenomena of “Parapolítica” and “Farcpolítica”, but the country has been dehydrated by their unlimited corruption. According to Dinamo, the conflict goes way beyond the armed actors: “There are people who generate dissatisfaction... for example the corrupt; in my opinion, people who steal money do more harm than those who kill because they are the ones who generate resentment” (Dinamo, V). Likewise, Ilana argues: “People are so poor due to those (ruling) classes; by stealing money and being ambitious and selfish they have
prevented from establishing education. Illiteracy causes the creation of guerrilla cells as a unique option out. I think the lack of opportunities leads to the creation of these guerrilla groups...” (Ilana, V). Similarly, JFrancisco argues that as long as there is corruption the conflict will exist. When I asked him what could be the best solution to the conflict, he answered: “It’s difficult. One should pick up all the corrupted people. There are so many corrupted people. They encourage violence. One should start by picking up all those corrupted people, only afterwards reparation can take place” (JFrancisco, AUC)

Álvaro explains in fact how politicians and white collar thieves get away with murder whereas the poor end up paying in prison: “Here, so many people, not only the guerrillas and paramilitaries... white collar offenders and politicians commit atrocious acts against the population and they don’t pay for that, they don’t go to prison; they are sent to their homes! Whereas a starving and suffering street kid, steals something, a bicycle, and he gets caught and sent 4, 5 or 6 years to prison. Is that justice? That is not justice, right? Here the justice belongs to “los de ruana” (the rich)!” (Álvaro, V). Likewise, according to Matías, “the corrupted politicians who have power” are responsible for the Colombian conflict. In his words: “Taxes are used to distribute (richness) in democratic systems. The politicians who steal the public resources are stealing the breakfasts of Bienestar Familiar, they’re stealing the money destined to educate the poorest people of the city. That generates hatred, it’s not good and it should be punished. There is not such thing as a perfect system of governance, but the best one is a democratic one” (Matías, V). Politicians in Colombia are somehow assimilated to corruption. According to Jerónimo, “There is no good government. They’re all bad. They all want to reach the throne to steal...” (Jerónimo, FARC).

4.1.3. People’s indifference

In addition to the indifferent and even collaborative attitude of the state, many consider that the Colombian society has remained extremely passive during the conflict. Accordingly, Sergio considers “evident” that there has been indifference: “These people (combatants) have been there for so much time without any presence of the state, that’s being indifferent. So the state has been indifferent but also the society as an organization to demonstrate; one doesn’t realize until it’s your turn” (Sergio, V). For Constantino, the Colombian society has been “anesthetized”. In his words: “I think the Colombian society... I don’t know if we are a
society of naïve, stupid or useless people; we are like anesthetized! The political parties are such a joke!” According to him, things won’t get better “as long as the society remains static, almost dead, with some over there making laws; this is incomprehensible!” (Constantino, V). Ingrid also considers this passive attitude detrimental to the conflict. In her words: “I think we are all responsible for action or omission because our silence makes us accomplices” (Ingrid, V). Furthermore, Ilana notes: “At one period when the issue of kidnapping got to its peak, it happened so constantly that it became something normal, something natural. I used to hear people saying ‘Thingy got kidnapped in the farm; but, why does he go to the farm?’ So all these comments defend somehow the action, you get me? I had the opportunity to tell my story in other countries and it’s amazing how people cry and couldn’t believe it, they think is a horror movie, and they ask me ‘how come?’ seriously, they cannot believe something of that scale could happen. And here (in Colombia) the people instead of talking about it, they were calm, so the fact that it becomes normal authorizes it somehow, and in my opinion that’s not good” (Ilana, V).

Further, Gonzalo considers the Colombian society, and the North Americans, accomplices in the conflict. In his words: “This is no longer a political problem; this is about getting coca to gain money and power. So, the society as a whole is an accomplice. You see these young men owing 5 millions dollars each, having just taken their showers at 3.00pm in those unaffordable cars... the society is an accomplice for considering this as a symbol of progress. But, these young men are not told that their life expectancy is between 25 and 26 years and that they always die in disgraceful ways. The society is an accomplice because if you turn a national TV chain at 8.00 pm you only see people trafficking with drugs and killing, and this is shown as a prosperity symbol! Our North American friends are also accomplices because they are consumers, and despite being drug consumers, they believe the problem resides in the jungle” (Gonzalo, V). Moreover, as Adolfo insisted all along the interview, he’s amazed by the indifference of the international community towards the Colombian conflict. According to him, “the International society has been more indifferent than the Colombian” (Adolfo, V).

Nonetheless, according to some victims, fear is one of the main reasons why the victims and Colombians in general have remained indifferent. In the words of Álvaro: “Yes, people are indifferent. There is silence. People don’t want to commit themselves to anything. Fear
makes people indifferent. They can see someone being killed and they don’t say anything because they are afraid” (Álvaro, V). Similarly, Ingrid notes: “Everyone knows but no one wants to speak because they are afraid” (Ingrid, V). In fact, Colombians have found themselves in the tough situation of having to somehow accept atrocities. Accordingly, Amandino notes: “One is the pawn of these catastrophes because you have to be submissive to the illegal armed groups; if you rebel against them, you die and if you become submissive you accept what they do, and this is exactly what the Colombian society is doing” (Amandino, V).

4.1.4. The difficulties imposed by the metamorphose of the conflict (The issue of drug trafficking)

Today, it is crystal clear to victims and ex-combatants that the Colombian conflict has no longer ideological motivations; it has become in fact an economic conflict based on the lucrative business of drugs, which is mainly financed by those who consume it: the citizens of developed countries. As a result, Colombians don’t consider the conflict anymore as a purely national matter, but a very complex reality involving the international community. In addition to this drastic metamorphosis, the conflict is consequently moving from the countryside to the villages and cities.

From the ideology to the traffic of drugs

Homero clearly explains how the guerrilla groups passed from having an ideological motivation to an economic one. In his words: “The political and social sense was replaced by the economical benefit and the unlawful actions... the principles are lost, and this is the reality that we are living nowadays” (Homero, ELN-ERG). According to him, all guerrilla groups completely lost their ideology: “I am sure about this because I lived it personally; the public interest, the social transformation, the will to build up a better society are no longer the cause. Today the interest behind all armed groups is economical” (Homero, ELN-ERG). Along the same lines, Cecilia argues: “They used to fight for equality and the peoples’ rights; today, they are psychopaths and they are only interested in themselves and the business of drugs” (Cecilia, V). Camilo, while explaining that today his combat zone “is 100% weakened”, argues that the organization has no longer principles; in fact, since there are no fighters,
anyone can become a chief commander: “Over there anyone can rule; it has become a criminal group because they only steal, kidnap, ask for taxes” (Camilo, ELN). Dario goes even further to consider drug trafficking the reason why guerrillas have reduced the number of kidnaps. According to him, “if there were no drugs they would continue kidnapping; they do it for the money and that’s it! To financially support the organization” (Dario, FARC).

Matías describes his own impressions from abduction. According to him, “they do not have the political ideology anymore, they are drug lords”. In fact, he used to ask the guerrilleros questions related to social issues: “Do you have social insurance? many of them didn’t even know what social insurance means!”. In fact, according to him, “they also ate badly. 15 days eating spaghetti without salt because the commander in charge left with the money. He escaped and left us starving for a long time” (Matías, V). As we have deeply explained, according to many foot soldiers such lucrative business just benefited some, the high commanders, and not everyone. As Jerónimo notes: the FARC “are loosing the ideology. Everything is business and it only benefits the commanders” (Jerónimo, FARC).

So, there is no doubt that the business of drugs is the real motor of the conflict. Some of them have referred to it as “the chess king!” of the conflict (JFrancisco, AUC), “what harms the most” (Dario, FARC), “the main financial source of the FARC and the ELN” (Homero ELN-ERG), or the “conflict’s main base because it serves to buy weapons and finances the war” (Wilson, AUC). In addition to the human atrocities caused by the conflict, the production of cocaine devastates the environment. As Adolfo notes: “It’s unbelievable how guerrillas and drug traffickers, which is almost the same, get so much support abroad. There is no shame in drug consumption, besides, the money they are paying is used in buying weapons and causing terrible ecological harms; where there is drugs there is deforestation. These are wild zones; they are destroying the environment” (Adolfo, V). He cannot understand in fact how, in spite of the damages caused by guerrillas, they are still considered like modern “Robin Hoods” in European countries. Participants consider therefore many actors responsible for the Colombian conflict. According to Adolfo, “the drug consumers, mainly the social ones, the NGOs defending these groups (guerrillas), the weapon producers who gain so much money and cause so much prejudice, are equally active responsible; they are active actors that consciously cause harm because they want to cause it, and there are passive guilty ones, like the local authorities that allow this to happen, and corruption. Corrupted authorities are
guilty for omission; the other ones are guilty for action. I am amazed by the tolerance towards the consumption of drugs, it’s amazing, amazing, you see it everywhere, it’s amazing, and each person that consumes drugs is killing someone; is killing someone physically!” (Adolfo, V).

The international dimension of the conflict frustrates Colombians. Not only they consider developed countries guilty for the damages occurred in the Colombian territory, but this international dimension makes Colombians very pessimistic about an eventual solution to the conflict. According to Paulo, for example, “the conflict of drugs goes beyond Colombia; it has been brought by other countries, they are the ones with the financial resources and the negotiators; they are the main source of the problem. They should accept that they are guilty of our country’s harm” (Paulo, V). Along the same lines, Jerónimo and Siena also consider European countries and the US responsible for the Colombian conflict. According to Jerónimo, “of course, the guilty ones are them –European countries-, the drug consumers; if they didn’t consume nobody would buy drugs and there would be no profit” (Jerónimo, FARC). In the words of Siena: “The USA finance the drug business in Colombia, they are the ones who consume it” (Siena, V). Similarly, Dinamo argues, “the bottom issue is drug trafficking; I believe that we are not even responsible for this problem whose origins are found in other latitudes” (Dinamo, V).

Dinamo remains very pessimistic about the end of the Colombian conflict. According to him, “the conflict has become necessary for the US to intervene; if there is no conflict, there are no reasons to intervene. Drug trafficking is the mother of all problems, of corruption because it corrupts many people... the conflict won’t be over by dismantling the paramilitaries. The paramilitaries were just a justification, the business was another one that regards the political and economical power. This is tough! When drug dealers and paramilitaries go to the Plaza de Narino, jajaja! And when people with shady pasts get awarded...!” (Dinamo, V). Likewise, when I asked Beatriz about her thoughts on the solution of the conflict, she affirmed that there was no real interest in ending the war: “The conflict is: traffic of weapons, drugs and the search for power. It’s very difficult to end it. This has an international level; foreign countries send weapons to the guerrillas to continue their fight. They are interested in continuing the war” (Beatriz, V).
From political crimes to common crimes

Not only the conflict has lost its ideology, but also it is currently moving from the countryside to the cities and villages. Accordingly, Alexandre argues: “We have to mix the social and the military aspects because in fact the conflict is going from the countryside to the cities; so if we buy a rifle, but if we do not buy the equipment to for a woman’s surgery, if we do not train the doctor who will carry out the surgery, we will lose” (Alexandre, AUC). When I asked Jerónimo about the actual situation of the FARC, he answered: “This thing is business; whereas milicias in the villages and cities are incrementing, troops in the countryside are decreasing” (Jerónimo, FARC). In fact, the difficulties in reintegrating into civil society has pushed some fighters to retake weapons but in the cities, to the expenses of the countryside. JFrancisco, in his pessimistic tone, considers that “the Colombian conflict doesn’t seem to have any solution. It’s like a sickness. We find a solution for a family, but then appears another family, with another problem, and it goes on and on. There’s no solution... people get paid to participate in the program but after a while many say that there is not enough money” (JFrancisco, AUC).

In fact, many of those who cannot reintegrate into civil society have joined the well-known Emerging Criminal Bands, which actually pose the biggest threat to citizen security in Colombia. In fact, joining criminal life is still a possible solution to many demobilized fighters. Accordingly, when I asked Kevin if he would live again a criminal experience, he answered: “I don’t know. Everyday is a challenge [...] we have to be tolerant, there are problems every day, but one must try to avoid starting up again” (Kevin, FARC). According to Sócrates, the “urban conflict” should also be dealt with otherwise Colombia will still have an ongoing conflict for a long time. In his words: “We must also take into account the urban conflict in the cities; this is extremely delicate; drug trafficking has triggered a market of “sicarios” resulting in 3,4, daily violent deaths in a city like Cali. These guys also have very different concepts of life; they only think in short terms and have a life expectancy of maximum 6 months. So, we must find solutions to this grave urban conflict. We need a new social contract aiming at fighting poverty, drug trafficking, and applying justice. Otherwise we will continue like this for more than 50 years” (Sócrates, V).
Summary

So there are various causes behind the Colombian conflict. Interestingly, unlike low-level offenders, chief commanders insist on the ideological causes for creating and joining the conflict. The illegal armed groups in Colombia started to form in the 1960’s. Many of the founders and leaders of these groups in Colombia were young idealists and activists who wanted to bring a radical socialism as the answer to the political corruption and social inequality they observed. In the case of paramilitary groups the reasons are different: paramilitary groups in Colombia were formed in the 1980’s as a result of the conflict. They started as privately paid mercenaries to protect a designated area by rich landowners and became afterwards real organizations of their own. Driven at times by their thirst of revenge, they fought guerrilla groups using the same war rules. Paramilitary members were in many cases victims of guerrilla attacks who at one point decided to take “justice” into their own hands.

Although paramilitaries collectively demobilized and gave up weapons, guerrilla groups are still fighting. With time, both, right wing and left wing groups changed their ideology and drive. Although some of them still claim a political aim as the reason of their existence, many other factors have changed the scenario. Some members of these groups join them less for ideological reasons; many have joined these groups to run away from dysfunctional families or to find an economical solution to the lack of opportunities. Others, mainly guerrilla members are even born in the camps and have never been to the ‘exterior’ world. Once they are there, they are trapped in the way of life of war, with tyrannical chief commanders and appalling conditions, where for many deserting is not an option.

Many victims and ex-combatants consider the Colombian state responsible for the conflict. The institutional absence of the state, its inability to offer economic and social opportunities to all, its direct collaboration with particularly the paramilitaries, the corrupted politicians, are some of the reasons raised to blame the state for the conflict.
In addition to this regrettable attitude of the state, many blame the Colombian society for remaining passive and therefore, somehow allow mass atrocities.

The changing dynamic has complicated everything. All of these groups need economical means to finance their subsistence. Drug trafficking, mainly cocaine is their means to finance their organizations and pay their soldiers. As the war on drugs worldwide becomes more violent and the demand doesn't cease to increase, these illegal groups have in drugs an enduring source of revenue, to the point of depreciating kidnapping, their other source of economical support.

Drug trafficking makes the Colombian conflict very difficult to stop because this issue goes beyond Colombia and touches other countries, particularly the developed countries, meaning the consumers. The money this illegal activity generates is quite substantial and therefore almost unattainable to dissuade the illegal armed forces to halt and demobilize. The conflict has evolved from a violent war of ideologies to a violent economic war on drugs. In addition to this drastic metamorphosis, the conflict is also moving from the countryside to the cities with the creation of criminal bands composed by ex-combatants and others.

4.2. Finding solutions to the conflict

In addition to trying to heal the harm of victims and combatants, participants mentioned various aspects that should be helpful in finding solutions to the conflict, such as achieving agreements through respectful dialogue, improving the role of media, the international community and the armed forces, changing thought processes, legalizing drugs or finding alternative solutions to the conflict, among others.

4.2.1. Achieving agreements through respectful dialogue

Although dialogue is considered an essential tool in solving the conflict, many remain pessimistic as to the effect it can have in a conflict having such important economical interest.
According to many, dialogue, meaning, “the source of understanding” (Enrique, V), “the weapon against the war” (Constantino, V) and “the best path” (Amandino, V), has an essential role in bringing together the various actors of the conflict. Accordingly, Alexandre considers that “we need to find a solution to the conflict based on words instead of bombs and shots” (Alexandre, AUC). Along the same lines, in the words of Homero: “If there is no dialogue, there’s no possibility; dialogue is the means to express the various points of view and get closer to what is different. There cannot be peace without dialogue. Peace starts with dialogue, with agreement and commitment” (Homero, ELN-ERG). Similarly, Paulo argues: “Without dialogue we cannot understand each other. Dialogue is essential” (Paulo, V). Moreover, Siena thinks “it would be convenient to offer a space for victims, combatants and state agents. That hasn’t occurred yet in Colombia” (Siena, V).

Dialogue would be the way of calming down spirits. According to Dinamo, through dialogue, “people wouldn’t need to take over roads. People are becoming violent, throwing stones in universities…” (Dinamo, V). However, there are different types of dialogue, and according to him, respectful dialogue is what Colombians needs. In his words: “Dialogue is important. Let’s construct, be sincere and avoid confrontations. But there are oppressed sectors that use an unpleasant dialogue, a dialogue that doesn’t help. So, I believe people have to change their dialogue and establish a respectful dialogue… it has to be real and everyone should participate. But here (in Colombia) there are sectors in which the elite wants to control everything, and they are corrupted! But dialogue can help a lot…” (Dinamo, V). In addition, Beatriz argues dialogue should be sincere. According to her, dialogue “is very important. It leads to agreements. But it has to be sincere and not just spoken words or on paper” (Beatriz, V). Similarly, Gonzalo considers dialogue an adequate tool as long as they act in good faith, otherwise it becomes “superfluous and a waste of money, saliva and state resources” (Gonzalo, V). Moreover, according to Ingrid, dialogue could be the solution to the conflict “but without giving up the actual government’s position; they have to be surrounded, pressured. Either they dialogue or they get caught” (Ingrid, V). In other words, dialogue might be useful but only if it counts with certain characteristics and as long as it is accompanied with military pressure.

From another perspective, Jerónimo considers dialogue an important, but insufficient, tool. In his words: “Dialogue is important in every aspect because if you do not talk, if you do not
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speak with the other person you will not reach a conclusion. One has to discuss every aspect in life; talking is how people get to understand others” (Jerónimo, V). Having said this, Jerónimo remains very pessimistic with regards to the end of the conflict: “I think we will never see peace. It’s very tough, there are many things, business; they will not abandon their business through dialogue. This is a very complex thing!” (Jerónimo, FARC). Similarly, when I asked Camilo if the leaders of the ELN would be ready to negotiate with the government, he answered in an unenthusiastic way: “Maybe now that they are weakened they could reach an agreement. But it would be very difficult because there is no trust between the group and the government” (Camilo, ELN). Furthermore, Adolfo doesn’t even believe on the importance of dialogue “because there has never been interest; it’s like Bill Gate’s story, it’s like talking to Bill Gates to make him quit his business” (Adolfo, V).

4.2.2. The role of the armed forces

According to many, the illegal armed groups need to be strongly pressured by the army in order to enter into a peace process. In the words of Sócrates, for example: “They (the guerrillas) won’t quit the war business if there is not enough pressure. Like what happened in the Caguán; they didn’t need a political solution so they didn’t do it. They laughed at the international community, at the government, at the Colombian society. They need to be extremely pressured militarily to see the need of achieving a peace agreement” (Sócrates, V). Further, according to Jerónimo, an ex FARC, the army is necessary to stop the guerrillas from gaining power. He argues, thus, “military pressure is useful because otherwise the guerrillas would gain too much power; they would have owned the villages everywhere. Today they are under a strong military pressure that has weakened them” (Jerónimo, FARC).

In fact, according to Dario, the guerrillas “were mainly looking to seize power in Colombia to freely move in the urban and rural zones and establish their ideology without being bothered by the army. They were somehow achieving this goal; if the current government hadn’t arrived they would have achieved it. Now, their people are demobilizing” (Dario, FARC). Along the same lines, Riana considers that without the pressure from the army Colombia would have been in a worse situation. In her words: “It is convenient; how would we be without their intervention?” (Riana, V). Likewise, Alejandro considers that without the military intervention “we would have them (the guerrillas) around drinking coffee with us” (Alejandro, V).
Moreover, others consider the lack of will of guerrillas to enter into a serious peace negotiation process a justification to apply force. According to Álvaro, the military pressure exerted over guerrillas over the last 8 years has been necessary because “before they used to make fun of the government and of everyone and the common people ended up paying the damages caused” (Álvaro, V). Along the same lines, Gonzalo argues that the military intervention is “very important because there are people who can only understand through brutality. The problem, though, is that these narco-terrorists organizations are becoming stronger thanks to the drug business; kidnapping is no longer a financial source” (Gonzalo, V). Matías also believes weapons are needed to fight against guerrillas. According to him, “as I recently told you ... you cannot talk to someone who has a rifle with only a legal code in your hand; we have to be on equal terms” (Matías, V). Similarly, Beatriz argues: “I believe it is the only way to stop these people; they are armed and the population is defenseless. Without the military protection they would continue causing harm” (Beatriz, V).

However, despite considering the military pressure a necessity, Sócrates argues that the money invested in the war could have been better employed. In his words: “All the money that has been thrown to the war sewers. 13.8 billion pesos were wasted on the war this year. If we add to this what has been spent over the last 50 years we would have perfectly ended up poverty” (Sócrates, V). Along the same lines, Jorge Luis notes: “It becomes like necessary, but that money could be spent in other things. They also steal a lot of money, but at least it’s the institution and not an illegal group like the guerrillas. I would say that it is like a necessary evil” (Jorge Luis, V). Enrique also considers the armed forces “a necessary evil”. In fact, the Arhuacos are against the use of armed forces but consider it as a cultural need of Western countries. In the words of Dinamo: “A killing machine is not good. That doesn’t solve anything; that generates more violence. But apparently a country needs this machine, that’s like cultural, what can we do with that? Jajaja” (Dinamo, V).

Besides from being a “necessary evil”, according to many, the armed forces remain insufficient to fight the war. In Homero’s words: “A society intending to establish order and end up the conflict needs both the coercive element and agreements. The solution to the conflict cannot be exclusively military; I’m afraid to say that the Colombian army has never been and will never be able to defeat 100% the phenomenon of illegal groups. The conflict
will never be solved militarily; it can be solved if the parties are willing and disposed. If there is no will it won’t be possible. The Colombian conflict can only be solved through dialogue, agreement and commitment of all the parties” (Homero, ELN-ERG). Jorge, from the FARC, also argues that the government may weaken insurgency “but it won’t end it, it’s difficult” (Jorge, FARC).

In addition, the armed forces needs to be restored; according to Dario, soldiers would need “to be accompanied; they cannot be left alone otherwise happens what just happened, regarding the “falsos positivos”” (Dario, FARC). Similarly, JFrancisco considers the military intervention important but a “healthy one not dirty as it is right now” (JFrancisco, AUC).

From another perspective, Kevin highlights the harm inflicted to soldiers through war and their lack of opportunities after coming to civil life. He notes, thus: “It hurts me to see how the soldiers get killed in the combats between the army and the guerrilla. The municipality sends them, but truly, they don’t know anything, they’re like blind folded pawns. We have to thank God for those to whom nothing happened; many lost their legs, their arms. Many go to the army for the “libreta militar” and they don’t know what to do afterwards. So, in my opinion, soldiers should have other opportunities... when they come out of the army to be a normal citizen they have no opportunities, so you start doing bad things; in those moments the devil shows you the bad things and everything is simple. Then you realize all the harm you have caused. So it’s all about opportunities” (Kevin, FARC). Further, Ricardo considers the military intervention inappropriate because it generates more violence: “That causes more deaths. The civilian population suffers the most; people, animals, little horses, kids die when a combat takes place in a village” (Ricardo, FARC). Similarly, according to Camilo, “in some situations the pressure frees kidnapped hostages, but in some cases the presence of the army makes them kill the hostages” (Camilo, ELN).

4.2.3. The role of the international community

The international community’s intervention remains a controversial issue for Colombians. Whereas some argue against it, others consider it convenient. Gonzalo for example believes “the international community is useless because they always have an illegitimate interest in our conflict” (Gonzalo). Constantino also considers that this dodgy interest prevents from
analyzing the real social problem in Colombia. In his words: “When they intervene is to do political elitism and make it public, or they try to please a governmental interest. I believe they don’t have the eye to understand the country’s real social problem. People from European countries or even Barack Obama in person could come, but if they do not have the magnifying glass to look at the social problem? I am not convinced!” (Constantino, V).

Further, Dinamo is totally against the intervention of the international community since there’s no real role model to be followed. According to him, “they should solve their problems over there, not here. Here we solve our problems. I don’t see any ‘model’ country that could help us” (Dinamo, V).

From another perspective, some participants would consider convenient the intervention of the international community and/or the mediation of other countries but only under some conditions and circumstances. When I asked Amandino about his opinion on the mediation of other countries in the Colombian conflict, he replied: “It all depends because if the country supports the war, better not” (Amandino, V). Along the same lines, Sergio considers that “the country shouldn’t have any particular interest apart from being a mediator in the conflict” (Sergio, V). Further, Enrique argues: “The international mediation becomes relevant if there is an understanding among the various actors of the internal conflict” (Enrique, V). Other participants consider the international mediation or intervention important in order to inform the international community of the reality behind the conflict. In fact, as previously noted, they believe there is a wrong understanding of the Colombian conflict at the international level. Accordingly, in the words of Matías: “It is important to show to the world who –the guerrillas- they really are. They are not Robin Hood as many believe. The mediation is important in this sense” (Matías, V).

Similarly, Jorge Luis believes that “France and all those liberal countries that give so much support to the guerrillas should participate to see all the harm they cause” (Jorge Luis, V). According to Ingrid the international community should also intervene but “to show to the world how much we have suffered and give support to the communities in need” (Ingrid, V).

Others believe the international community has an important role to play in Colombia. In the words of Sergio, for example: “The international community should be present because, as I told you, one has the impression that the justice system serves many interests. The
international community should act as a guarantor; if justice is not done, then someone else should do it” (Sergio, V). Along the same lines, Homero believes the international community “could play an important role in guaranteeing a serious and credible process of dialogue and negotiation. The international community may bring about fulfillment and trust among the parties...” (Homero, ELN-ERG). Similarly, Cecilia defends the intervention of the international community “because there can be an exchange of ideas and they have more knowledge about laws” (Cecilia, V). Moreover, Wilson argues that other countries may have a positive influence on guerrilla groups. In his words: “Other countries’ mediation is important because the remaining illegal armed groups do not seem to have the intention to dialogue and reach an agreement to start with the demobilization process... I believe other countries having a different perspective, like France, Mexico and Spain, could intervene and influence the guerrillas” (Wilson, AUC). From a different perspective, according to Ilana, the international community should advice Colombia and share their experiences. In her words, European countries “have gone through many tough conflicts... they have the experience and today they have the capacity of getting together... it would be important that those people bring their experience to Colombia” (Ilana, V).

The NGO’s

Regarding the role of NGO’s in Colombia, with the exception of the International Red Cross, participants often criticized their frequent lack of objectivity. When I asked Gonzalo if he considered important the intervention of the NGOs, he replied: “No, not much! They have only been useful in guaranteeing one or two hostage releases; otherwise, they have caused a huge harm due to their lack of objectivity. They’re always driven by an economic or power aspiration...” (Gonzalo, V). Similarly, Jorge Luis argues: “Human rights organizations only protect them –the guerrillas-. I’m not an expert in that topic but it’s the feeling I have; human rights exist to protect the guerrillas and not the victims” (Jorge Luis, V). Matías is less radical and considers the NGO’s intervention important but only “as long as they are impartial, as long as they are impartial” (Matías, V). Further, Dinamo is not sure about the intervention of NGO’s. He argues in fact that Colombians should be the ones involved to the expenses of foreign experts. In his words: “it’s nice to give your opinion, many people give their opinion, but the idea is to get involved, to act. Here, we have to act ourselves. The other ones could come and observe, give recommendations, but they won’t stay” (Dinamo, V).
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The tribunals

Participants had also different opinions about international judges and tribunals. Whereas some believe national authorities should judge the ex-combatants, others consider appropriate the intervention of international or foreign experts and tribunals.

On the one hand, when I asked Gonzalo if international tribunals should judge the ex-combatants, he immediately replied: “No, no, they should let us solve our problems. Our judges have graduated from the faculties of law, we have to believe in them and send the Europeans far away; they should let us do our job, no one will do it for us. Those international drinkers are nothing but toads! Here we are capable and we count with well-prepared, honest and straight judges; I work with them every day” (Gonzalo, V). Dario is also against the idea of involving international tribunals to judge Colombian ex-combatants. In his words: “It’s better if it’s national. It’s like being at home and having an unknown person telling you what to do” (Dario, V). According to him, “whereas the problematic and the causes are known at the national sphere”, the person coming from abroad would be judging without a deep understanding of the conflict. Along the same lines Homero considers that “the international community and particularly the international justice system shouldn’t just focus on judicial matters but examine the history and socio-political issues of Colombian. The conflict is due to the state’s negligence, to its lack of responsibility. The roots of this conflict go beyond the judicial issues... the international community should allow and facilitate the Colombian justice and Colombian institutions do their job; it should promote national reconciliation. The international community must understand that the Colombian reality differs from the European one. This is a very different reality. We must understand that those who have fired rifles or who are still firing them are not the unique responsible for this conflict. The real question is why those rifles begun to get fired one day? The responsible ones are not only those who fire the rifles, but those who made this happen” (Homero, ELN-ERG).

In fact, many are those against the idea of extraditing ex-combatants to the US. According to Wilson, “they say extradition forces them to talk and tell the truth; I say many things remain untold through extradition” (Wilson, AUC). Along the same lines, Dario notes: “We should be
judged where we commit the errors. We shouldn’t be sent to the USA to say what we have done but remain and be judged in Colombia. A country which is unable to judge a person is a country without state…” (Ricardo, FARC). Similarly, Marcela believes “they should pay here where they have committed all those bad things, where they have caused so much harm to Colombia. They should be judged and remain here” (Marcela, FARC).

On the other hand, some participants believe international judges and tribunals should judge ex-combatants “because there is too much impunity here in Colombia” (Jorge, FARC), “because here justice is very partial; it’s adaptable” (Antonio, V), or even “because maybe in this way they could be punished more severely” (Tatiana, V). From another perspective, Sócrates considers appropriate the intervention of the ICC: “When there is no justice. Well, its mission is to practice a complementary form of justice in case of absence of prosecution of these cases. But I believe we can avoid the intervention of the ICC if the coming processes are based on a social agreement with clear rules” (Sócrates, V).

4.2.4. Improving the role of media

According to participants the media in Colombia should be contributing to find solutions to the conflict. But this is not the case. In Sócrates’s words: “The media insists rarely on solutions. During the last years, it has served to polarize. Such polarization acts as an obstacle to dialogue and to listening the various proposals, which aim at finding solutions. Instead of focusing on dialogue and solutions they are polarizing and moving away from the solution” (Sócrates, V). From another perspective, Gonzalo considers that “in most cases it hasn’t played a good role… one journalist even put in danger the liberation of some poor hostages, who were rotting in the jungle, just to satisfy his/her personal vanities and desire to be the center of attention” (Gonzalo, V). Jorge Luis also thinks the media hasn’t played a good role in the resolution of the Colombian conflict since “it is very sensationalist, it is a business. I don’t think they always tell the truth” (Jorge Luis, V). Similarly, Beatriz thinks “they shouldn’t be as sensationalist. They are just interested on the headlines and they forget about suffering” (Beatriz, V). Moreover, Sergio argues that the good administration of media is essential to the process of reconciliation, however, according to him, “instead of protecting the means towards reconciliation, the media shows violence, bad things. There are no
educative means. What really matters to them is to generate shows of violence and hostility instead of promoting reconciliation” (Sergio, V).

In addition, some believe the media lacks of objectivity. According to Constantino, “the media manipulates information. I’m not speculating, they do it with us; they say everything the other way around. Today, the most Important channels, RCN and Caracol, transmit what the government wants” (Constantino, V). Along the same lines, Amandino believes the media causes more prejudice since “all what they do is transmit some news which are not always sincere” (Amandino, V). In fact, Dinamo argues that this lack of objectivity is due to the defense of particular interests. In his words: “We cannot mistrust everyone, but the media has also interests so it’s not very impartial. This is very clear. Here, the only good one is Semana magazine; it has unveiled and investigated facts. There is investigation behind the news. There are news that you don’t see in Caracol, RCN, el Tiempo and other means that are always trying to show a positive image of the government” (Dinamo, V).

However, despite the various criticisms on the role of media and the fact that it “deals with its own economical interests”, Adolfo believes the media does its due job. According to him, “in Colombia there is freedom of press, there are left-wing and right-wing oriented journalists... they do their job and they are much better than those of neighbor countries, which are fully partial” (Adolfo, V).

The media should therefore improve its job and participate in the solution of the conflict. In Enrique’s words: “They should be part of the solution of the problem and not just a source of information. They shouldn’t take advantage of the situation to generate jobs but help in achieving common interests” (Enrique, V). Moreover, according to Gonzalo, the media should insist in “showing to the narco-terrorists how well simple people like us live; we don’t owe anything to anyone. We can stop at a traffic light without looking everywhere and being sure that nothing will happen. This is priceless and this is what they don’t have” (Gonzalo, V).

Further, Cecilia believes “the government should create special radio programs on psychological therapies designed for young ex-combatants. Most of them have gone there due to poverty issues” (Cecilia, V). Wilson agrees with the idea of creating a radio station and to “offer a space for demobilized ex-combatants to talk to society about his past and ask for
forgiveness. *This would promote respect towards the demobilized; they could be better welcome by society and no longer be seen as trivial people*” (Wilson, AUC).

### 4.2.5. Fomenting demobilization and non-repetition of crimes

Obviously, encouraging demobilization becomes essential in ending the Colombian conflict. As Dario notes, guerrillas have been considerably affected by the phenomenon of demobilization: “*Maybe it was the hardest blow to them, demobilization, because they were losing people from their ranks who knew what the movements were and of how many from each camp, where the drugs money troves were stored or hidden. That was the biggest blow and they were not expecting it*” (Dario, FARC). After analyzing some of the reasons why ex-combatants took the decision to demobilize and the advantages of being reintegrated into society, we will discuss the importance of changing mind-sets to avoid relapsing.

#### The reasons for demobilization

Unlike most members of the guerrillas who have individually demobilized, the paramilitaries did it collectively. According to Alexandre, the AUC saw the political way out of the conflict when president Álvaro Uribe seized power. In his words: “*The first thing to happen was the arrival of a character dressed in ponchos, little hats and talking softly, aspiring to the Presidency, who started to say things that we always heard from Carlos Castaño... and Carlos immediately said, ‘man, I think this organization is being infiltrated by dangerous characters that come from drug trafficking and there is a government that is offering us to sit down at the table to negotiate with the state and a government that is promising us that it will occupy and make better uses of the spaces we have been using while fighting the enemy of the Colombian society—which was the guerrilla at that time—and they are going to give us a way out through political negotiation’*” (Alexandre, AUC).

From a different perspective, according to Homero, the ERG collectively demobilized mainly because of the rejection of the Colombian society. In his words: “*first, we consider that the armed struggle has a legitimacy as long as Colombian society approves it and supports it. Second element, an armed struggled is valid on the basis that its purposes are clear and that they continue to adjust themselves as a formula towards solving a problem...*
But what happened? With the degradation of the armed movement, with the wrongful acts committed, the Colombian society took a different attitude and began to reject and disapprove; therefore, there was no reason to continue the armed struggle that the Colombian nation was rejecting” (Homero, ELN-ERG).

Since the members of the paramilitaries collectively demobilized on the basis of a peace accord, I will only present the personal reasons behind the individual demobilization of the members of the FARC and ELN. As we will see, foot soldiers mainly demobilized to join their loved ones and end up a life of suffering and abuse. In addition to being militarily pressured, Dario, fell in love and wanted to raise a family: “I suddenly felt like having children, not with a woman like they say, from the same organization, but with another one. When I started going out with her, it was different; there was love” (Dario, FARC). Similarly, Ricardo’s sentimental life pushed him to demobilize: “The truth is I fell in love with a young girl, a civilian, 16 years old, very pretty, a cousin of mine. The romance began and she became pregnant and my mentality changed completely thereafter with the love between father and son. I loved that girl, so the day came when I said to her, ‘honey, let’s go somewhere else’…” (Ricardo, FARC).

Besides being tired of the war, Camilo wanted to offer a better future to his relatives: “One gets tired of the lying about one having to fight and not knowing exactly why, and on the legal front there was not future, for myself or for my family, and I didn’t know where I stood. If I wanted a better future for myself or my family I had to demobilize because over there I could have died and would be buried in any whole in the ground, like an animal” (Camilo, ELN).

Kevin also demobilized for his loved ones, “since I was there I’d be calling my grandmother, my uncles, asking how the situation was at home and they’d say that they were struggling to make ends meet. So I thought it made no sense for me to be far away from them, risking my family in that way. That’s when I said, ‘why not?’” (Kevin, FARC). Along the same lines, Abraham wanted to end-up with his lonely life and join his family. According to him, he demobilized “because I was feeling lonely and bored and I decided to demobilize, and my mother went all the way there to get me” (Abraham, ELN).
In addition to personal reasons, the military pressure and the abominable life conditions in “el monte”, have encouraged many to demobilize. Accordingly, Wilson argues: “Yes, first, the military pressure has made many people run away from groups, and second, the abuse that they endure. I guess in the guerrilla they must go through periods of hunger and they don’t have where to set up camp in the night, plus the rainstorms, they get sick, the discomfort, the limited medicines for treating illnesses... So the way they live, it is easy to look at us, the ones who demobilized or fled. And we are also encouraging them to desert these groups. What they’re doing is good for them” (Wilson, AUC). Kevin got also tired of his lifestyle in “el monte”, of being deprived of freedom. In his words: “The main reasons (of demobilizing), I think was because I spent most of my youth there and although I came to visit my family, I was really tied to something, I demobilized mainly because I was tired; everything in life tires. As you can imagine, I didn’t even have freedom... In a certain way you keep maturing and I thank God that nothing happened to me because God gave me the opportunity to be talking to you right now” (Kevin, FARC). Moreover, Jorge decided to demobilize since he felt personally threatened. According to him, “I had been so long in it, that the authorities already knew about me, I couldn’t even go into town. I got a girlfriend and she advised me [to get out]... if I had stayed in the mountains I would be in jail or dead [by now]” (Jorge, FARC).

**The consequences of demobilizing**

Besides from gaining freedom, foot soldiers strongly praise the various opportunities provided by the reintegration program. As Wilson notes: “You make enough to support your household, get education, health, everything, so that is another form of sedition; that they see that you can achieve something through demobilization. And behind that there is humanitarian aid that the government gives you, so there is something else that adds to your life because having free education and therefore a career, is a great incentive for you. And I don’t know but maybe for those who are still there, things have gotten rougher and they don’t want to demobilize or leave but demobilization is really the best way forward” (Wilson, AUC). Along the same lines, Ricardo argues: “Well the truth is that demobilization is a very good program if one knows how to deal with it. It’s good, its positive, the aid is clear and the educational opportunities are clear, as are the opportunities for work, provided you leave behind what you lived through because if you arrive to the city or anywhere still your old self,
bossing around, well, here in the city things work differently” (Ricardo, FARC). In fact, when being asked what could motivate others to demobilize, Osmar replied: “Well, I think that the plan that the government has set up now is very good because it gives an opportunity to people and that is great” (Osmar, AUC). Likewise, Camilo notes: “The best life is not there, it is here! For you and for your family and for anyone” (Camilo, ELN).

The importance of achieving a shift in consciousness

As we will further see, for a successful reconciliation process to take place, victims constantly insist on the importance for ex-combatants to be aware of the mistakes committed and achieve a shift in consciousness. Sócrates explains in fact that behind the illegal organizations there is a real issue of values and mind-set. In his words: “They’re wrong, because they think that—they can kidnap in the name of freedom, murder in the name of life, and that because there is social injustice that they can persecute noble ends through these means and they think that is legitimate, which is a mistake. Umm, they’re human beings that are completely mistaken, they lost their north a long time ago. All the complexity of the armed conflict in Colombia has made them live the world upside down...their values are obviously reversed. For example the concept they have of family, the concept they have of life, the concept they have of death, the concept they have of children, the concept they have of happiness, the concept they have of, um, a rifle, the concept they have of the value of life. All of that is different to the values and the concept that we have. We are facing human beings that have a different and inverted hard disk, and it’s much harder to relate to them because of it” (Sócrates, V).

Furthermore, Amandino would be willing to dialogue with ex-combatants and share with them the indigenous knowledge and values to make them realize that they were truly wrong. According to him, “the best solution isn’t anything other than being conscientious... (Achieving) greater awareness, both by illegal groups as well as the Colombian state, of what is right and what is wrong” (Amandino, V). Amandino considers thus convenient to organize an encounter between leaders of the indigenous communities and high-level ex-combatants. In his words: “In the case of illegal groups it would be like setting the ground for holding a dialogue between their leaders and our authorities, so that there is a rapprochement between their vision and our historical position” and look for ways “to get
ideas that might be wrong, then to make them see where is or where was their error in judgment or mistakes in order to solve or make up for what they did” (Amandino, V).

Due to the importance given to the fighter’s shift of mentality, I wanted to further investigate the way in which they had or not changed. Have their values evolved? Do they regret what they have done? Why? Would they be willing to do it again? Although I could not be certain if ex-combatants were telling the truth or not, it seemed relevant to describe the way in which they see today their past actions. In fact, whereas some appear to have changed their “wicked mind-sets” and do regret their actions, others do not appear to be fully convinced that they were wrong.

Although Homero recognizes having committed many mistakes and considers “the theatre of war a chapter that is finished forever”, he hasn’t abandoned the idea of fighting for his dreams and ideologies, but in a peaceful way. In his words: “I think that one of the unassailable rights of every human being, of anyone, is to be unrelenting in the struggle for a purpose and to that I haven’t renounced... I have made, as I said at the beginning, not one but many mistakes. In war you make mistakes and so that is war from any perspective, you have to admit war is inhumane, war is inhumane and that is why today I am in this other place, because I consider that the way out of a nation’s ingrained problems, and those of a society’s must to be civically resolved” (Homero, ELN-ERG).

Dario wouldn’t either go back to war under any circumstances: “No, right now I’m doing well, so let me be...” (Dario, FARC). Similarly, JFrancisco notes, “I made a promise that I wouldn’t work any more with guns or groups or that sort of thing, I don’t want any more of that!” (JFrancisco, AUC). Jerónimo explains in fact that he has deeply changed and therefore, wouldn’t neither go back to the conflict: “Well no, I don’t think so (joining the conflict) because I think that what I was, I was then and won’t be again. If one dies and isn’t born again, one changes so much in the way you think and act and everything... many things would have to happen in a very extreme way for me to be that person again. If I didn’t have to raise a family or if I were in a situation where I didn’t have my children... but to go back to be what I was, for now I don’t think that could happen” (Jerónimo, FARC). Along the same lines, Camilo wouldn’t like to go back to what he used to be and be treated like an “animal”: “Oh, I think I never would and I ask God for that every day—night and day—that he never
punishes me more because I got punished enough already and I ask Him to make me feel like a person; there I felt like an animal. I ask God never to make me take a step back, I already took a step forward and I want to keep on going as much as I can” (Camilo, ELN). Further, Ricardo would “prefer to be out on the street without any hope, going to ask for alms or something, seeking help, anything” than joining an armed group again. In fact, according to him, “violence is not for me anymore; it doesn’t go with me, violence” (Ricardo, FARC).

In fact, ex-combatants feel they are going through a period of deep transformation and evolution. In Kevin’s words, for example: “I am making a shift in my heart and, well, I thank God for getting this opportunity, which I have to take advantage of” (Kevin, FARC). Similarly, When I asked Jerónimo if his values had changed, he replied: “Yes! I think a lot. Every 15 days we have psychosocial therapy. It’s made me change a lot. It changes the way you think with respect to before, before I was very aggressive, very much, right now I’m not. Right now I’ve become a very tolerant person, uhhh, too much. If today I compare to what I was before, that person is not there, none of it is me” (Jerónimo, FARC). As it has been previously explained, ex-combatants are currently participating in an intensive program of reintegration in which they have periodically meetings with psychologists. Such psychological assistance has been key in transforming their values and personalities. According to Dario, thus, “for me it (the transformation) happened through people of the ACR/HCR, with the psychologists and trusted people that like to listen and sometimes share with you. That’s when you say, ‘wow, I think what I really did was very wrong’” (Dario, FARC). Likewise, Wilson explains the way in which he is currently changing: “I think now I’m seeing the things in life with more clarity. Like, I see life is worth a lot and each person’s life is invaluable and therefore that life must be cherished. Why take it just for the sake of taking it?” (Wilson, AUC).

In addition of going through a conscious and moral shifting process, some ex-combatants regret their actions and seem to have developed feelings of compassion or empathy towards the victims. Accordingly, Ricardo notes: “Of course I regret it all the time, I regret what I’ve done, every moment of it I repent” (Ricardo, FARC). Along the same lines, Kevin, Marcela and JFrancisco respectively regret having been part of an illegal armed group, “because of what I’m saying, because of the pain I caused many people, when I did it and when others made me an active part of it. That is something clear to me, that I regret it”
Kevin FARC), “because they (the victims) have families, we all feel it, and I’ve always been a softy, as I like to call it” (Marcela FARC) and “because I had a very wicked mind-set” (JFrancisco, AUC).

Probably, since ex-combatants have somehow been displaced from their homes and towns by the conflict, they feel empathy towards the victims. After having reconsidered his actions, Ricardo notes: “The drama that displaced families live in is very sad. Many times one says it because of what one has lived first hand. To arrive to a city with your father, mother, brothers, small children, to look for a place to rent or whatever...or a lot of times...if you are going to send [her] to the store you have to be careful that nothing will happen to her, because people that grow up in the country are ignorant, and if they are going to run an errand you have to take them yourself, they don’t know how to handle the city. It’s very hard in every sense, economically...in every way it’s very hard” (Ricardo, FARC). Kevin also considers victims go through “big pain; the way it hurts when someone close to you is killed. And you can bury and mourn the person, but imagine not being able to say anything... How should I put it? It’s the Law of the, that one in which even if you knew who did it you couldn’t say anything to him” (Kevin, FARC). He even considers unfair the fact that ex-combatants have received support from the government while many victims haven’t: “Well, in reality, imagine us, we’ve caused harm and the government is supporting us and...and then there’s people that didn’t have an opportunity for anything” (Kevin, FARC).

Other ex-combatants do not necessarily regret being part of an illegal armed group. Regarding Alexandre, for example, although he recognizes having caused harm, he justifies his actions. When I asked him if he felt guilty, he answered: “I don’t regret having belonged to an organization because I fought for my country...I think that I wasn’t destroying my country, on the contrary, I was saving it from a worse fate and in doing so, we acted wrongly” (Alexandre, AUC). In response to my question regarding if he felt regret, he proceeded: “Let’s say yes, and it weighs on my heart because, because it’s not easy hiding even from your own children, in other words explaining to your children those issues so that they won’t be told in school ‘your father is this and that’, because the media has turned evil a situation like this and shown you as being the worst, like when Bolívar killed thousands and he was a hero; when Uribe killed thousands and he was a hero; the army generals order everyone to get bombarded and killed countrymen even if they’re dressed in whichever uniform and the
innocent who fall become collateral damage and they are heroes; but since they’re within the institutional system... so let’s say that on that account, the answer would be yes” (Alexandre, AUC).

In fact, Alexandre constantly justified his actions. Correspondingly, when being asked if he admitted having caused harm, he answered: “Yes, we caused harm, we caused harm, but that harm could have been avoided if our upper classes would have prevented that a long time ago. There have been guerrilla fighters for 46 years and since they haven’t been given a little piece of the pie and they keep fighting for the pie and the ones who do eat that pie are saturated of it...if only they ate a little less everyone would be happier and we would have spared people being affected by this situation” (Alexandre, AUC).

Further, some ex-combatants do not regret at all having belonged to an illegal armed group. In Abraham’s words: “Well I don’t regret it because I didn’t do anything wrong that I should regret over”. Moreover, when I asked him if he would live a similar experience again, he replied: “Um, sometimes I think I could, when I’m feeling bored... going and not returning ever, because well sometimes I get bothered by things that took me there, family problems that I had to live through” (Abraham, ELN). In fact, he caused so much pain to his family while being in the group, that today his reintegration with his family weighs heavily on him. Neither Marco has fully renounced going back to the FARC. In his words: “I wouldn’t like to but you never know” (Marco, FARC). Moreover, Jorge feels proud of having belonged to the FARC, “because I liked the ideology and everything else” (Jorge, FARC).

4.2.6. Creating Colombia’s own legislation (bottom-up approach)

After describing the way in which participants understand the concept of justice, I will highlight some participants’ opinions according to which Colombia should create its own transitional justice system to really succeed in putting an end to the conflict.

The meaning of justice

As we will see, participants have different visions of justice; whereas some assimilate it with punishment, others assimilate it with restoration. In addition, some participants
understand justice in a broader way and perceive it as equity or social justice. Furthermore, justice was also described as the action of giving each person his or her due, and finally, participants noted various ways through which one could see the concept of justice, such as the legal, philosophical, earthy and spiritual ways.

So participants defined the concept of justice as follows:

- “The traditional concepts of justice of giving to each their own in administrative terms, in philosophical terms, uhm, equity... it has to be looked at from the legal, judicial, philosophical and other perspectives. I don’t know in which sense [you’re asking]” (Sócrates, V).

- “Well, for me justice is to give each person what he/she deserves according to his/her actions... if people act in a correct way it would be fair to reward them, on the contrary, if one person acts in a wrong way, harming others, it would be fair to make him/her pay restoring the harm committed. So for me, everyone looks for their own justice through their acts” (Ilana, V).

- “Um, justice is giving each person their due, and I’m convinced that earthly justice is carried out more by destiny and by life than by judicial mechanisms, in my country. I live in a country where the percentage of impunity—I’m not exactly sure—but I estimate exceeds 90%, and everyone does as they please. But life and destiny will take care of making things right without making you vindictive” (Gonzaló, V).

- “Giving each what they rightfully deserve” (Sergio, V).

- “Justice for me means seeing the guilty pay with jail time” (Ingrid, V).

- “Something one owes for acting wrongly” (Cecilia, V).

- “Well, punishment, as the saying goes, is that what did, you pay for. And it would be fair to have acknowledgement for this and not rejection” (Tatiana, V).

- “Only, how should I put it... God is the only one who can judge” (Iva, V).
- “Justice is wanting to redress the harm that someone did to another” (Antonio, V).

- “For me justice, is equilibrium, not like on a scale because that is very...I’m talking about the equilibrium, that would be justice: equilibrium within a society. There are countries where it exists; in developed countries there is justice. That would be justice for me” (Siena, V).

- “Justice is giving to God what is God’s and to Cesar what is Cesar’s. It isn’t about condemning people who didn’t commit a crime, because there are a lot of people in jail who have not committed a crime and shouldn’t be there. They are innocent, there is no justice in that” (Paulo, V).

- “Justice for me is the peace between people. Tranquility” (Beatriz, V).

- “The word justice means the order of the obligations that man has towards nature and towards his territory. You would have to see if and how it’s working—if there is chaos or not in the process of continuous order of the obligations and commitments that man has towards his territory” (Constantino, V).

- “Justice is equality and it has many connotations” (Adolfo, V).

- “Um, justice is, uh, dealt through law” (Osmar, AUC).

- “I think of justice as something that is a problem or a situation with considerable depth and breadth. Justice isn’t for me simply developing an investigation, filing charges and getting a sentence; justice can be interpreted from many angles. For example, justice is done when the people who’s role it is to steer a country, lead society and deal out policies that benefit an entire society, not just for a few but for everyone within the society” (Homero, ELN-ERG).

- “Justice, as the word says, is when each person gets what he or she deserves and that should be fair. But in reality justice, well... Why does it happen that someone dies and he or she was very good, and the person that goes around causing harm is alright, so I really don’t know [if there’s justice]...” (Kevin, FARC).
- “Justice is when something doesn’t go unpunished, so that if someone commits a crime, they pay for it” (Jorge, FARC).

- “Justice means paying for what you’ve done. They (the chief commanders) have to pay for everything they’ve taken away from so many poor farmers” (Luis, AUC).

- “Justice is finding a solution to an internal issue that is troubling you” (Dario, FARC).

- “Justice for me, means condemning a person for what they did, doing justice for something that a person did or a law they violated” (Wilson, AUC).

**Towards a “bottom-up” approach**

According to some participants, Colombia should create a legal framework that would better correspond to its own reality. In the words of Homero, for example, “I believe that despite globalization, states shouldn’t lose their autonomy, their self-determination, their sovereignty, and that of their institutions. What do I mean by this? I believe that instead of becoming dependent on international justice, the national justice system should be strengthened; it should become efficient and operational in the fight against impunity... since the roots of the Colombian conflict are found here, Colombians should develop their own conflict resolution formula” (Homero, ELN-ERG).

Moreover, Dinamo believes Colombia should cut off with the European or American legal traditions that have been somehow imposed in the Colombian territory, and instead, create conflict resolution techniques based on the knowledge and savoir-faire of indigenous communities, like the Arhuacos. In his words: “Laws are changed, many times, perhaps because none of them work or sometimes they used to work well and still they get modified anyway. So, in order to create a lasting law, a law that allows a broader view of things, collective participation is needed because if we are Colombians and we have that nationalistic sentiment, what happens in any corner of the country affects us all. The resolution of this conflict requires a large consensus and especially, the participation of people like us who have knowledge. Additionally, the Colombian people—they’re genealogy
and their blood—are mixed, they are a new race, and sometimes they don’t understand your logic and way of seeing things, they don’t understand it because it was imposed, it was alien, and many prefer not to accept that, or because their nature doesn’t allow them to accept new laws or models from Europe or the United States. I think here we must have our own model of thinking, our own framework for conflict resolution, founded on the basis and knowledge of cultures that are still strong” (Dinamo, V).

Likewise, Constantino considers convenient to modify and strengthen the existing transitional justice normative framework. He also believes the Mamu (spiritual leaders) could play an important role in this regard. In his words: “I would think those norms that have been implemented would need an exhaustive evaluation and see what amendments would need to be introduced, or maybe that the courts or other norms or laws or I don’t know what, because up to my knowledge it seems to me, that the effect of those norms is rather media oriented so it turns out that the process of 30,000 or so demobilized troops is left in the middle...norms would have to be strengthened that would give a political dimension, handled at the highest levels and with strictness. The Mamu can contribute to these things but the state would have to have solid and profound policies, keeping in mind not only the peace dialogue but also the social and cultural dimension in a varied country that would aim towards an educational and mental shift in the population. So the state would need to assume the responsibility of greater social investment for the downtrodden...” (Constantino, V).

**Improving the existing transitional justice accountability process**

Although it’s too early to draw conclusions on the penitentiary system established by the JPL, I would like to mention some of its limits, as well as conceivable solutions, that have been raised by those who were interviewed in the Itagüí prison, mainly Homero and Alexandre. In fact, according to them, improving jail conditions and accountability mechanisms would better contribute to the reintegration process of ex-combatants and, most probably, encourage remaining guerrillas to enter into a peace process. Accordingly, Homero argues: “It is imperative for a dialogue and negotiation process and one that overcomes the armed conflict, whether speaking of the FARC or ELN, to begin with a different judicial framework than the one through which some of the demobilization processes have taken place. So, another framework... Because of what one knows from up
close from having lived many years closely with the ELN and the FARC, I can say with confidence that under the current framework of handing yourself in to carry out a sentence in a penitentiary, I think it would be difficult that former combatants would agree to a peace process and armed conflict resolution like that. What I have perceived is that they would be willing to go through a peace process and to demobilize under the basis of a status, something like a pardon or an amnesty. But after coming from the scene of war to fall in jail and on top of that without a clear judicial framework—which could easily mean spending the rest of their lives in jail—they would not sign up for that... And I’m not sure they would agree exclusively to a pardon or amnesty, maybe there would be a mechanism whereby they could pay their sentence but it would have to be under different conditions than those of the Colombian penitentiary system” (Homero, ELN-ERG).

According to both chief commanders, the inhumane conditions of Colombian prisons may have the counterproductive effect of embittering ex-combatants even more. Accordingly, on the one hand, Homero argues: “This is an inhumane reality, here one is dead in life and one can’t even see the light of day entirely. This is inhuman. There needs to be a different way of being under physical detainment such as this one, which is according to my judgment, entirely inhumane and that resembles having frozen temporarily into a statue, in a situation that is purely repressive and coercive, and where no other possibilities can develop like the ones we are talking about now... Never mind the talk of rehabilitating and reintegrating into civilian life, here you don’t have a regular communion not even with the light of day, much less with society or your family...” (Homero, ELN-ERG). On the other hand, Alexandre notes: “Here on this patio, on this side, there are quarters for 80 people and there are 140, and no library... so people come out more embittered and vengeful. Here in the past year I joined the committee in favour of human rights in the jail of Itagüí and I was kicked out soon after” (Alexandre, AUC).

They advocate, thus, for another kind of jail; one in which they could be listened to and hold a dialogue with the victims, “to be able to ask for forgiveness, to reencounter victims of the conflict so that you can tell your stories and listen to what they have to tell you, and to get psychosocial help and talk to experts on this issue. I think those things contribute to stopping the propagation of the conflict. Maybe the days they go to that place they can get training in workshops, in areas that can be of use for the daily normal life of a citizen and
maybe to be able to go there with their families” (Alexandre, AUC). In fact, when being asked his opinion about being seen through a camera during the Justice and Peace “free-version” hearings, he answered: “It’s like, it feels like you’re being observed, pointed at, but you can’t see the eyes or ask what’s going on... For instance, I have watched those processes in South Africa and I think that’s very interesting, to say ‘come, let’s sit here, this and that happened because I believed in such and such’ and, like, the victim and the perpetrator in that moment can see each other” (Alexandre, AUC).

For Alexandre jail is necessary, but it should intend at rehabilitating ex-combatants through productive and constructive activities. In his words: “It’s necessary for society to see that, so that children can come and be shown what it is about, so that anyone in society, from school kids to teenagers to young adults, academics and professors, know that anyone who infringes the law will be taken to jail. But the jail needs to be one that is transformative and rehabilitating, not these kinds of jails... I’ve already told some of my mates that the day I get out or that we get out we should build a jail and make a contract with the state where they give us sentenced men and we hold them in normal cells, no TVs, with the Word of God if they want it and books and a library to their disposal, and by 6pm they would have to be in their cells and lights wouldn’t get turned off until 10pm. At 5 in the morning there would be sports for everyone and at 7, breakfast, then work and then workshops for people so that they would produce an economic incentive because we live in a world of money” (Alexandre, AUC).

Moreover, Homero believes the land-laboring origins of the demobilized men must be taken into account and try to integrate them into a program where they can work the fields, be in touch with nature instead of incorporating them into urban life, away from their customs and from all they know how to do. In his words: “It so happens that that a large number of the demobilized persons who today are in the HCR/ACR program are descendants of farmers... How can we believe that we can carry out re-socializing and reintegrating into civilian life and into society within a setting that isn’t natural to them? We would be placing them in a different and harder background. What I mean is that within the policies of rehabilitating and reintegrating, each one should find their place in their natural setting where they can be reincorporated in the most natural way, within a more progressive and dynamic process. Why not create an agricultural commune with rehabilitation centers for those who have that background? We must create centers where you can carry out your
sentence and that also foster development—like getting basic access to education and means of production, and allowing a connection with families, with victims, and with society. We have an idea that a key instrument to strengthen the peace process in Colombia is to have a formula for carrying out your sentence in an extramural context, headed by the state and the government. It wouldn’t mean unbridled and out of control, but in a setting such as an agricultural community, overseen/supervised by an institution of the state” (Homero, ELN-ERG).

4.2.7. Legalizing drugs or finding alternative solutions to the business

As thoroughly explained, there is no doubt drugs are the financial source of the Colombian conflict. Therefore, when being asked about the possible solutions to the conflict, some participants didn’t hesitate to propose the legalization of drugs. According to Gonzalo, for example, the best solution to end the conflict would be to “legalize drugs to end the combustible over which we Colombians kill each other. However, other consuming countries would never allow that because they would lose an entire generation” (Gonzalo, V). Likewise, Adolfo argues: “The business needs to end...This is a business that in order to thrive needs this kind of conflict, and business are only attacked with other business. There is no other measure, let’s not pretend to hear songs of mermaids, and this is a business: it’s the business of drugs, accompanied by the business of kidnapping and weapons... Once guerrillas and paramilitaries stop receiving external aid they can be defeated. As long as they have international support this will be an asymmetric war because they have more resources than the regular military forces” (Adolfo, V). In fact, according to him since it seems impossible to stop the consumption of drugs, legalization should take place: “If there is no way to prevent consumption, it has to be legalized, because the enjoyment and recreation—let’s call it that way—of drugs, runs at the expense of lives and the myriad of problems that we live here. So if they can’t abstain from sending people to their deaths, which is more or less the context, well it has to be legalized so they can enjoy it without having to kill people” (Adolfo, V).

However, Colombians are indeed aware of the difficulties of legalizing drugs, which obviously needs the participation and support of the international community. Accordingly, Sócrates notes: “Well, theoretically it sounds good (legalizing drugs) but any
measure taken against drug trafficking has to be taken by all countries and by the international community because if not it fails. We already tried persecuting the production side and it hasn’t worked, persecuting trafficking and it hasn’t worked either, persecuting consumption (the President has tried measures aimed at this) and that hasn’t worked either. I repeat, the issue is that the community of nations has to come to an agreement to deal with trafficking. Colombia is more a victim than a criminal of the international community in terms of drug trafficking. Here we have suffered the greatest amount of deaths... If the Americans really watched their frontier, cocaine wouldn’t get into the United States and the same for the European Union—if it really guarded its borders, cocaine wouldn’t come in, so it’s an issue of international responsibility” (Sócrates, V).

Moreover, Alexandre insists on finding alternative solutions to the numerous peasant farmers in Colombia who cultivate the coca plant. In his words: “We have the support of the United States in fumigating the coca fields. But the farmer goes to work because he needs to keep on bringing bread to his table, waling past distant mountains and when he gets there he is killed... We are doing terrible damage to this country and to the world. So, I think we have to find a way out of drug trafficking, for the end of the farmer, not the dealer because that guy can’t even recognize coca plants. The farmer needs to be encouraged not to plant coca but to plant cocoa instead and to be given market access for his products” (Alexandre, AUC).

4.2.8. Changing thought processes and strengthening values

Many participants believe on the importance of changing the violent mentality that governs Colombians. Encouraging values such as respect and humility and taking into account the indigenous communities’ conflict resolutions techniques and philosophy would contribute to achieving a shift of consciousness.

Dinamo says that man has centered himself on his own importance to such a degree that he has forgotten everything else. He has forgotten “the tree, the water, the animals, things.” According to him, man would have to change his “mental scheme” and begin to respect other living beings because “if there isn’t respect for other living creatures, there will be no respect towards humans”. He also insists that in order to achieve this respect you have to
“change the mentality not only of those who kill but of the whole cultural system”, since he considers that “this is cultural; it is the effect of a society that can be called, I don’t know, the world of the di-civilized, jajaja” (Dinamo, V). Furthermore, Homero believes humility is a requirement for solving the conflict. After defining a humble person as someone “who doesn’t want to be or doesn’t consider him or herself better or superior to the rest, doesn’t forget values, and has high human qualities”, Homero argues that humility is “among the human values that must be remembered, precisely because the loss of humility is one of the many elements that have fuelled the culture of violence in Colombia; a lack of humility” (Homero, ELN-ERG)

Furthermore, since respect has always played a key role in restorative justice’s rhetoric, I asked some victims to define it. It was not surprising to see that respect is exactly what they are claiming for.

Respect was defined as follows:

- “There is a Christian and democratic commandment that says not to do others, what you don’t want done unto you. I think this is the essence of respect: understanding that someone else’s right begins where mine ends” (Sócrates, V).

- “Respect, means somehow to respect other people’s spaces, by doing so you respect the space of your freedom, of your acts, of your way of thinking and you cannot invade it to change it. That’s why I think they disrespect because they violate your freedom, your spaces...” (Ilana, V).

- “It means loving yourself and others” (Enrique, V).

- “What we are claiming is respect; respect as any other principle, or respect as the principle of all types of coexistence. Without respect, there is nothing... Respect is doing what corresponds to you, what you ought to do. I don’t have to try and make things a different way. In the same way that we respect a tree, respect the course of the river, we have to recognize our role, which is respecting others; we have to respect other’s roles, like that of the bird, the
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air, everything. The little brother doesn’t respect nature, doesn’t respect others. That’s the problem that creates all the rest of the problems, not respecting, and power can run over everything that way. It arises from I don’t know what impulse and leads to all the violence.” (Dinamo, V).

- “Always being aware that my rights have a limit that ends where your rights begin. If someone is going to fight me over ideas with a book, I respect that. I may not share it but I respect it. If they’re going to fight me with a rifle, that is something else; I don’t feel any respect for them” (Matías, V).

- “It’s having the mind-set of not causing harm to your surroundings in any way” (Amandino, V).

- “Values, especially there, where they have been entirely forgotten” (Beatriz, V).

- “Yes, we’ve even complained frequently about that here, during the oral hearings of the Justice and Peace process. We are listening to their account of what happened, but when these people are getting access to benefits and still they’re avoiding or not telling the whole story because of differing interests, such as mentioning or accusing someone, that is a lack of respect for the victims. We’ve denounced it formally because these people should get benefits only for telling everything they know and not manipulate the mechanism of justice and peace for their own interests” (Sergio, V).

**Integrating the unifying values of indigenous communities**

Moreover, some participants raised the need of integrating the knowledge of the indigenous people of Colombia into the conflict resolution strategies. Emphasis was done on their vision of interconnectedness of all living creatures, respect towards nature and peaceful mind-set. Accordingly, Jorge Luis notes: “involving the indigenous communities, who have never been included. You see that here we have Koguis, Arhuacos, and many groups who have their own culture, and then there’s us, with our western upbringing. This process will be very difficult to achieve if we don’t involve those who were here before us in these lands and who are the real guardians of the land. We have to integrate them. Look at
Guatemala and El Salvador, [peace] was achieved with their participation, that of the indigenous peoples who are equally victims of the guerrillas and the drug dealers…” (Jorge Luis, V).

To Dinamo, in fact, it would be convenient that the Bonachi would integrate within its culture the principles and values of the Arahuaco community or those of the communities of the Sierra Nevada, which resemble it. Today, that could be easily achieved because there isn’t any longer the linguistic barrier. Dinamo, by explaining the philosophy of his people, proceeds in the following way: “The way we think here can be shared. I think it is important that we are reaching a level where we generate a way of thinking that is responsible with the whole world, because our priority is the world itself, the planet. We understand that it is our prime responsibility that the world continues its natural order because our religious system is based on the knowledge of the behavior of the laws of nature; respect for those laws is what makes us responsible. But it is not just about having the knowledge and the beliefs, it’s not simply that I think it so, it’s that I understand how it works and I apply it. That is how I understand my mission: our responsibility is to the world, not to us. Our nature has rules and we must maintain those rules and then see where our place is within those rules, just like the hummingbird plays its role, likewise we have to play ours, like a tree plays its role, as do the air, and the oxygen, and so the sun is playing its role, and this never changes. We have to learn that the laws never change, they have a narrative thread of our behavior, our perception, and the world, and that narrative thread is respect, a sense of the mission, and that is what fills life with meaning… That is why it would be good to hold a meeting between the mamu, the scientific community, the economic community, to sit down and think through what we are doing well and what is wrong, and to state that the most important things aren’t human beings. Our welfare depends on the welfare of the planet and not the other way around” (Dinamo, V).

In fact, for the Arhuaco, everything is interrelated. Consequently, Dinamo notes: “When we commit an act we affect the universe and the whole world” (Dinamo, V). Likewise, Constantino, while referring to the Mamu’s job, says: “The treatment of the Mamu is never for the Sierra alone, it’s never done by the Indian alone, our work is correlated sometimes even with the sun, with the moon, with the trees of our planet, and with our whole universe.
And justice is based on the way man behaves towards the universe and his surroundings…” (Constantino, V).

Moreover, the indigenous philosophy of the Sierra Nevada is based on the principle of non-violence. Accordingly, Enrique notes: “You must never give in to violence. In our experience we don’t regard violence as a mechanism of establishing a good relationship among individuals” (Enrique, V). In fact, the Arhuaco has always remained peaceful despite the aggressions committed against their people. According to Dinamo, the Arhuacos have won all the battles “without shooting a single bullet... the Mamu teaches us not to be vindictive, not to be resentful, so that has been good and that is why our language isn’t one of rejection towards the “hermanito menor”. Culturally, he has hurt us by putting us in a position of disadvantage to us and advantage for them, that is true, but we have passed that and we don’t respond with aggression. We don’t have an aggressive or resentful language and that helps us a lot, because we are different. Many indigenous groups are reactionary. We are not” (Dinamo, V). Likewise, Constantino adds: “In the Sierra Nevada it has been recognized that action is based on harmony, on respectful dialogue, not with hot-blooded attitudes or behavior of the sort, not with confrontation when there is conflict. When the problem becomes externalized, that doesn’t represent a gain for us” (Constantino, V). The Arhuacos in fact remain neutral; they do not participate in the political scene, they don’t take sides. Correspondingly, Dinamo notes: “We don’t participate in any, in other words, we haven’t let any alien political ideology—not liberal or conservative—permeate us. We don’t participate in elections or voting and that has been very important. For us, it’s an enormous advantage not even having an opinion about the political situation” (Dinamo, V).

4.2.9. Reconciling the Colombian people and generating trust

Forgiveness, stopping violence, the absence of desire of revenge, repenting and making up, are some of the ways in which participants understand the word reconciliation. More precisely, according to the victims and offenders of the Colombian conflict, reconciliation means:

- “In this context, it would be a peace process under decent conditions, where each side would have to sacrifice something so that one day life has its value once again” (Gonzalo, V).
- “To make peace” (Alejandro, V).

- “Reconciliation is like going back to how it used to be, whether regarding land or on a personal level with those who surround you” (Amandino, V).

- “Convincing oneself of personal convictions and saying ‘no more’ to violence, ‘yes’ to a struggle for truth and justice” (Enrique, V).

- “Reconciliation is forgiving grievances against you” (Amalia, V).

- “Reconciliation means forgiving what you did and forgiving yourself” (Paulo).

- “In a semantic meaning, ha, well, reconciliation is when two people or two groups that have fought each other or distanced themselves become friends once again, if one day they were, because in order for reconciliation to take place supposedly there had to be a friendship, a link. Reconciliation with the guerrilla makes no sense because we were never friends with them” (Adolfo, V).

- “Forgiveness” (Beatriz, V).

- “In this conflict and in every conflict there is responsibility from each side, none of the two of are little white angels... reconciliation is a hug, I believe it involves erasing the past, a new blank slate in order to be able to start again...” (Matias, V).

- “Reconciliation, basically, is being able to see my enemy again and not feel thirst for vengeance or anything” (Sergio, V).

- “Reconciliation, it’s reconciling with the enemy, forgiving” (Riana, V).

- “Forgiving” (Ingrid, V).
“Reaching agreements and forgiveness” (Cecilia, C).

“To stop the war against so many innocent people” (Tatiana, V).

“For giving the other” (Antonio, V).

“Knowing how things really happened and getting peace from that” (Ariana, V).

“It means having, like I do with you... being friends; one has to treat people with dignity” (Siena, V).

“It means repenting and making up” (Olivo, V).

“I think reconciliation means leaving out rancor and hate, opening ourselves up to forgiveness and coexistence” (Homero, ELN-ERG).

“Reconciliation? Its like, like making peace again with a person or with some group or something like that” (Jerónimo, FARC).

“Well for me reconciliation means that if I am far and I see people again, that is reconciliation; if I was fighting or angry, to go back, if they were enemies, to become friends” (Jorge, FARC).

“Well, maybe, one is enemy with other people, so reconciliation would mean becoming friends with that person” (Celestino, FARC).

“Me telling the truth and feeling, in other words, clean” (Dario, FARC).

“Reconciliation is when all those groups make peace and render irrelevant whether one is left-leaning or right-leaning since all are reconciled, and building one big family where everyone forgives and nobody goes around with trouble or armed weapons” (J Francisco, AUC).
"That society accepts me and that I accept other people in turn" (Marco, FARC).

"Reconciliation means one having, how should I say, being inside society, making peace with the world, making amends with victims, reconciling with the Colombian nation" (Wilson, AUC).

"Well, reconciliation, that is something where you reconcile with your group mates or mostly with the army and the police. There are guys who have fallen to landmines; reconciling is one talking to them and having a dialogue where one explains that things didn’t happen because one wanted them to but because of the pressure of duty" (Camilo, ELN).

"Well, it’s reconciling with all the people that I made suffer, or harmed" (Osmar, AUC).

"Reconciliation is I become accepted, without being stigmatized" (Kevin, FARC).

"Reconciliation for me means that if you were ever at odds with some person or if you were mistaken regarding something, or acting wrong, it would mean taking the right path and admitting you did something bad and wanted to criticize yourself...that is reconciliation to me” (Ricardo, FARC).

**Bringing together ex-combatants of various groups?**

As mentioned in the methods, I interviewed Alexandre at the Guevarista’s prison sedóm. In fact, both seem to have built a respectful and cordial friendship. Alexandre even came into the sedóm, offering sweets and chocolates to the Guevaristas and to myself. Moreover, he’s looking for money to contribute to the surgery of a young ex-combatant from the ERG who lost his leg in a landmine accident. This example of reconciliation and cordial coexistence is well explained in Homero’s words: “In this case (of the AUC) well, it’s been a place and an experience of coexistence, of sharing, of understanding; the past is in the past and now we are living a reality based on understanding, on respect, on camaraderie, because now we are living under the same judicial and penitential conditions, etc.... Independently of the fact that we were on opposite sides from the ideological, political and military perspective, in this case,
with the AUC, until yesterday. Today is another reality. What is that reality today? Well, we are already sharing; we have things in common, what I was telling you now. It helps that we have the same reality of the judicial framework. It helps that we have the same reality of sharing a penitentiary. It helps that we have a reality of a very good coexistence based on respect and understanding and, why not, camaraderie. And furthermore, I’m sure that within our convictions, and within the sense that each of us is thinking and wanting something in common, which is to solve the armed conflict in Colombia, and that every day peace is stronger. Therefore, from that point of view I think we are on the same direction towards a common goal” (Homero, ELN-ERG). Likewise, Alexandre sees the Guevaristas as his equal: “Equally countrymen, equally farmers, fighting for dreams, uhm, unarmed, without weapons... I see them and I feel like hugging them” (Alexandre AUC).

Although foot soldiers have developed feelings of rage towards chief commanders, some of them have built cordial relationships with ex-combatants belonging to different groups. When being asked under what conditions would he reconcile with members of other groups, Celestino replied: “No, well, there isn’t anything anymore because we’ve all gotten together. We are all under one group” (Celestino, FARC). In fact, after demobilizing, foot soldiers consider those belonging to other groups as their equals. Accordingly, JFrancisco notes: “Because they were armed groups and they were [making] the same mistake I was. We are fighting for saying this town belongs to us, and they are fighting for saying it’s theirs. I don’t blame them because they are following an order as well. We were told to go take the guerrillas out and they were told to go get those paramilitaries out” (JFrancisco, AUC).

Moreover, while Wilson considers that they should now socialize like “brothers”, he highlights the issues in dealing with those who have not changed their conflicting attitude. According to him, “we are all humans and we make mistakes and sometimes we take different paths but always because of things in life... and then what must be done is to socialize all together like brothers, because we are in this process, without rancor, and tell all the people who are still in there that they shouldn’t be. And there are ones that are going back because they know how it works and they couldn’t understand civil life and it’s really because they leave with a twisted mentality from there” (Wilson, AUC). In fact, as Jerónimo explains, those who are still behaving in the cities as if they were in the battlefields may hamper the reconciliation process amongst ex-combatants. In his words: “Well, as I say,
that thing about reconciling with people of the same group—since they are people that come out of it with a foul and wicked mind—is very hard. There would have to be a very thorough study done to pick the people that really want to make peace with the rest” (Jerónimo, FARC). Therefore JFrancisco would be willing to reconcile with other ex-combatants “as long as they’re all under the program (at the ACR) and they promise and take a solemn oath that they won’t go around with guns or groups or anything of the kind” (JFrancisco, AUC).

**Bringing together victims and ex-combatants?**

What about the reconciliation process between victims and ex-combatants? Are victims willing to reconcile with ex-combatants? Under which circumstances? Would they forgive them? Would ex-combatants ask for their forgiveness?

According to those victims keen to reconcile, ex-combatants should act with honesty and demonstrate that he/she is truly willing to demobilize and collaborate with the truth seeking process. When being asked under which circumstances he would reconcile with ex-combatants, Sergio answered: “Under the circumstance that he is honest, that he tells the truth” (Sergio, V). In fact, according to Sergio for the relationship between victims and ex-combatants to improve “it would have to be through work, as I say, with the media. It would improve by showing the ex-combatant’s reality, his/her history: Where does he come from? What made him end up there? That could make improve things. Everyone has a story” (Sergio, V). Likewise, Álvaro would like to hear about the fighter’s past, he “would need him to be honest and to tell me what were the problems for me to forgive. He would need to be sincere and say what were the motivations behind his acts because that is what has troubled me... I ask why did this happen to me, why did it happen to my son, why did it happen to my brother, my neighbor, if they were good people, but that’s how they’ve done it. They may have gotten it wrong, they may have some reasoning behind their acts” (Álvaro, V). Furthermore, Ariana, Ingrid and Olivo would be willing to respectively reconcile “if he would tell me what I already know, what I don’t know yet, what I want to know... because the uncertainty of not knowing why has been killing me for many years” (Ariana, V), “after a confession and if his regret is real” (Ingrid, V) and “being honest. If he is called for a reconciliation it should be a truthful one and not just one in presence only” (Olivo, V).
Moreover, some attach real importance to the ex-combatant’s process of repentance. Accordingly, Dinamo considers he would improve his relationship with ex-combatants as long as there is “real dissection, a clarification of how it worked—so this is how it’s assembled... That way you can rest easy that the guy regrets what he did. If not he can say half-truths and hide things...” (Dynamo, V). Along the same lines, according to Siena, the ex-combatant would need to show “that he’s really repentant of what he’s done, and really living [his regret]” (Siena, V). According to Enrique though, ex-combatants would need to go further in their process of reintegration, and “do well unto others, on top of doing well for his own, personal benefit” (Enrique, V).

Nevertheless, some victims don’t see how to improve the relationship victim/ex-combatant. In Ingrid’s words: “It’s very hard because even if you say that you forgive, in the heart there are always recriminations. Maybe with psychological help” (Ingrid, V). Along the same lines, according to Antonio and Ariana respectively, “no, there is no way” (Antonio, V), “No, no, improving the relationship? No, I don’t see any” (Ariana, V). Likewise, Alejandro doesn’t see how to reconcile with the chief commanders of the FARC. In his words: “No, with the FARC? With the big “capos”? Zero...never, never because I think they are some “HP’s” (HP’s stands for hijos de puta – sons of bitches) ...” (Alejandro, FARC).

Although Gonzalo accepted having forgiven the ex-combatant, he wouldn’t dare living or working with them: “No, I couldn’t work with a person who doesn’t feel any kind of fear or shame in having taken a human live. No, I couldn’t, and if one of those beasts would move to my neighborhood knowing [I lived there]—because one never knows who lives around—I would probably look for a way to leave in order to avoid him harming me. But I would never harm him, ever” (Gonzalo, V). From a different perspective, Adolfo would be willing to offer job opportunities to foot soldiers but sees no need in doing so with chief commanders: “For a while there was talk of giving them work, and let’s say that it’s been tried. I am in a few organizations where that is done; looking for opportunities for them, but that can only be done with the lower ranks. The ones that are higher up have so many privileges, so much money, that there is no way within a normal society of giving them [what they want or need]. It’s as if one day you tell Bill Gates that you’re going to give him a little house in the countryside with four cows, we can assume he would laugh because that would be little for
him. These people are as rich as Bill Gates and have as many luxurious as Bill Gates. It’s incredible!” (Adolfo, V).

**The issue of forgiveness**

The issue of forgiveness has gained great attention in both the field of transitional justice and the field of restorative justice. I wanted therefore to study the opinions and perceptions of victims and ex-combatants about this topic.

On the one hand, I asked to the victims of the Colombian conflict if they would forgive their repentant aggressors. In fact, whereas some victims would be willing to forgive, others would do so under particular conditions or not at all. With regards to those who feel ready to forgive, religion has played a main role. When being asked if he would forgive the ex-combatant who had harmed him, Álvaro replied: “Well what can you do? Forgive. Frankly, if Jesus Christ forgave his aggressors on the cross why can’t we do it? To be able to get the light of peace and understanding, because those people really are... and if they have remorse well then one can also be forgiving” (Álvaro, V). Cecilia would “certainly” forgive “because in the word of God it says very clearly that one has to forgive in order to be forgiven by God... Well if I got the opportunity to speak to him, I would forgive him and I would talk to him about the word of God, who is the only One who changes hearts” (Cecilia, V). Further, according to Paulo, he has already “forgiven him” and he asks God “to forgive them and to make them change their behavior” (Paulo, V). Moreover, Ilana believes forgiving ex-combatants would make her feel better: “Yes, I would forgive him because I feel he regrets due to that sign of affection that he showed to me. I would forgive him for him, but even more for myself; I wouldn’t like to have in my heart or in my mind hatred feelings against him... I would forgive him because I think he was mistaken due to the lack of opportunities, lack of education...” (Ilana, V).

Moreover, some victims believe God is the One who forgives others. Accordingly, Sergio notes: “Yeah, I mean, what I think is that God is the one that has to forgive him, since it is He who forgives us for everything. Why should I not forgive him if that is what we were sent here for?” (Sergio, V). Likewise, according to Carmen, “the only one who would forgive, as I like to say... It would be hard because the only One who forgives is God. I think one can also forgive
because all the things that have happened have also happened to my God; He had to do the same... But what good is it now?” (Carmen, V). Further, Olivo, Iva and Tatiana respectively note, “I would forgive him because He who forgives is Jesus Christ” (Olivo, V), “I am not God to be able to forgive, I am not God to forgive or to judge.” (Iva, V) and “I am not the right person to judge him, there is God for that” (Tatiana, V). Moreover, Riana believes forgiving is necessary to end the war. However she makes the distinction between forgiving and forgetting. In her words: “If I have to forgive, but not forget, because one never forgets what has happened. Well I’ve been trying until now to forget and to remember that I have a new family…” (Riana, V).

From a different perspective, various victims would forgive but only under some circumstances. According to Matías, for example, he would forgive them “if I get the guarantee that it would never happen to me again, not to me or to my neighbor” (Matías, V). Dinamo would be willing to forgive but under even more conditions: “If he really shows it, [regret]. But should he get to keep all his wealth and arrogance, and his land? He should return everything he stole, everything he took, and show repentance. And there should be a dismantling of the whole scheme. Then one could say fine, the possibility of saying no lies on the promising that it won’t be repeated. But at the same time, one understands that it was something symbolic—the demobilization—and I know the whole scheme is still in place. I don’t agree with that, I think that is a joke!” (Dinamo, V). Likewise, Constantino argues: “before I pardon him, if he recognizes his mistake, he has to visualize and manifest that behavior socially and individually. His redemption shouldn’t be necessarily because I forgave him; the forgiving process has to be a universal process coming from the individual, from inside, and he has to visualize that transformation, he cannot be hiding away for this” (Constantino, V). Similarly, when I asked Siena if she would like her aggressor to ask for her forgiveness, she answered: “Not for forgiveness but that he recognizes his mistake. There are things that become trendy; if I have a problem with you, I ask for your forgiveness although it is possible that I’m not being sincere. For me forgiveness is something that is becoming all too common” (Siena, V). From a different perspective, although Jorge Luis believes “forgiving is the most important thing, being able to forgive”, he works “on that every day, on forgiving under any circumstance” (Jorge Luis, V).
Moreover, some victims do not really believe ex-combatants could feel remorse. When being asked if he would forgive them, Sócrates notes: “Yes, certainly, but...but...because the problem is that they won’t...they only do this because maybe strategically it’s convenient to get reduced jail time but not because they have a honest desire to ask for forgiveness. They are convinced that they did the right thing, for them killing is fine, it’s right” (Sócrates, V). Along the same lines, Gonzalo doubts about their capacity of being repentant. Although according to him he has already forgiven them, he’s not “sure that he (the ex-combatant) regrets it because he’s a miserable beast, because he’s condemned to live in the jungle with one eye open and the other closed, wondering at what time one of his subordinates will betray him” (Gonzalo, V). Likewise, when asked if he would forgive his ex-combatant if he were to ask for his pardon, Antonio answered: “they will never show remorse” (Antonio, V). Furthermore, Beatriz would not forgive the ex-combatants: “It’s difficult for me, for me it’s very hard. I am, like, very tough, and to me what hurts me I put to the side. But there is no forgiveness” (Beatriz, V).

With regards to ex-combatants I asked them if they would ask for forgiveness to the victims. With the exception of Abraham, who wouldn’t do so since he hasn’t “done any harm, practically none” (Abraham, ELN), if they were given the opportunity to ask for forgiveness, ex-combatants would like to do so. Since there hasn’t been yet a public space designed for forgiveness, some ex-combatants address themselves to God to spiritually ask to be forgiven. According to Marco, “I ask for forgiveness every day spiritually, I mean, these are the things of God. I ask for his forgiveness for the things I’ve done wrong consciously or unconsciously…” (Marco, FARC). Likewise, Kevin and Ricardo respectively note, “yes, Umm, I wake up every day, and I tell, and ask forgiveness from God: I know I’ve caused harm” (Kevin, FARC), “No, I haven’t asked anyone for forgiveness. I’ve asked God, and if I had the opportunity to ask forgiveness of someone for what I did, then sure” (Ricardo, FARC).

However, ex-combatants like Wilson fear the victims would truly believe their forgiveness. In his words: “Well, the thing about forgiveness...that goes inside every person, in their own personal feelings. There are people who don’t believe in forgiving because I’ve had to listen to many people in different places who were talking of demobilization and they say that it is blabber, that it is a hoax that...that there is no forgiveness, that how can they forgive these
murderers—the people who committed massacres without any feeling or pain. So, I think that there are people who really forgive but there are others who don’t” (Wilson, AUC).

4.2.10. Supporting and informing youth on the deception of war

Participants give great importance to prevention and explain how ex-combatants could participate in advising the youth not to join the conflict and the criminal world. In fact, when being asked how could aggressors stop committing crimes, doubtfully, Constantino replied: “I think that is very hard. For example, let’s imagine me—if I have or if you have children and since they’re little you raise them to do whatever they want, 10, 15 and 20 years on, they weren’t supervised at all and never knew authority, didn’t get advice or anything, they did as they pleased, stealing, killing. Then after so many years you say, hey, come here. Do you think they would straighten out then?” (Constantino, V). In other words, according to him, it’s very difficult to reintegrate a person who has grown in the criminal world. It would be, thus, better to prevent them from joining such world. Accordingly, Dinamo notes: “Well the underlying problem is drug trafficking, I insist on that, so that we ourselves are not even responsible for the problems that we have, which originate in other parts of the world. And people keep on killing each other. So the best way to prevent this is doing a comparison: the Ministry of the Environment comes out saying publicly that this year there is a reforestation project of 70,000 hectares—but how many hectares did it stop controlling that were taken down? What do you get by planting if others are felling? It’s the same relationship between trying to repair things when other things still happen; how do we stop this so it doesn’t keep on repeating? It’s better to prevent this [in the first place]” (Dinamo, V).

Further, Iva argues that criminality could be prevented through the support of the youth who are somehow abandoned by society. In her words: “Well, looking how to support the youth, mainly, because practically the largest share of the violence during that time was done by young people. So we need to see how to support the youth because either through one thing or another, youth is getting lost, and they could use some help” (Iva, V). Moreover, some participants believe ex-combatants could actively participate in preventing criminality by warning others about the inconveniences of the conflict. Accordingly, Siena notes: “Well, how should I say it, I would like to meet him (the combatant) to talk with him and tell him that he should advise others not to do it. To get out of it. He should sow peace”
Further, ex-combatants themselves would also like to tell others that the conflict is a waste of time that doesn’t benefit anyone. In other words, they would be willing to pass from being participants of war to being participants of peace. Along these lines, JFrancisco notes: “Yes, because I am going to tell you something that everyone knows, no one is fooled by it. It’s good for people to know what is happening to someone that is...or at least to follow the example and not fall into the trap (of joining the conflict) again because it is meaningless. If it were the case that it would benefit you in some way...but it’s not, it’s what they call empty fame” (JFrancisco, AUC). Likewise, Ricardo argues: “There isn’t any type of reason for you to justify...what I mean is, I already did this and caused so much harm to people that I would like to be the acting leader of a community to be able to warn people not to do that...” (Ricardo, FARC).

4.2.11. Ending poverty and generating work

As it has been thoroughly explained, one of the main reasons why ex-combatants joined the conflict is poverty and the lack of opportunities. As a result, when being asked about the solutions to the Colombian conflict, emphasis was done on offering education, job opportunities, a dignified life and building equality. Education is in fact considered key in preventing from getting the wrong path. As Alexandre notes: “The way it happens is that when you go to day school, to a higher learning school, to university, someone suggests to you ‘hey let’s go steal that car, we’ll get five million for it.’ That young man who is going to school is going to think about it twice. But the one who isn’t, is going to jump at the offer” (Alexandre, AUC). Along the same lines, Jerónimo argues: “There should be many sources of employment, many jobs, because there are many unemployed...lots of opportunities so people can study and build up skills and get good jobs, because since there isn’t employment or anything to do people go into things they shouldn’t. If they have good opportunities for studying, a room for kids and the family and facilities, people will stay or go where it is better for them” (Jerónimo, FARC). According to Jorge, in fact, Colombia would achieve reconciliation, “with a government that attacks unemployment and poverty because while there is poverty there will always be criminal groups working outside the law” (Jorge, FARC). In addition, JFrancisco believes people should be “busy working, like a job, something to do, where the person wakes up early and has a schedule and work hours. That makes people stay
busy. People that are unemployed and spend time doing nothing start thinking of bad things” (JFrancisco, AUC).

Furthermore, participants insisted on the importance of training people to learn how to carry out sustainable activities from which they could live. According to Marco, for example, the situation in Colombia would improve “if there was follow-up and people started to work or get money by their own means, like teaching them something they can live from, because many people don’t really know how to do anything and that is why they end up doing these things” (Marco, FARC). Along the same lines, Siena considers that “trying to make a person succeed is very important. The key is not giving out fish, but teaching how to fish” (Siena, V).

Moreover, participants propose structural changes in order to fight against poverty and corruption. Accordingly, Adolfo notes: “What is needed is to create infrastructure and end the corruption that is rampant in all these areas, and which makes money fall short for the people who need opportunities for work, for education” (Adolfo, V). Furthermore, Sócrates believes an agrarian reform involving the lands of narcos and the paramilitaries should take place. In his words: “An agrarian reform has always been on the table every time there’s been peace talks around here. For example, we can get back the land taken from drug traffickers or from illegally armed groups in exchange, for example, for [an agreement of] no extradition. And with that land we can carry out agrarian reform. There are 14 million hectares in the hands of the narcos and the paramilitaries and illegal groups that could perfectly be of use to carry out agrarian reform. We’ll have to take the bull by the horns and carry out mainly those two reforms” (Sócrates, V). In addition, Enrique believes the best solution to the conflict would be “not to feed the war, to enact laws that favor most people and to have a redistribution of wealth because if we don’t have that, there won’t be opportunities for the people, there won’t be employment and people are going to struggle to look for sustenance through their means, which aren’t the easiest” (Enrique, V).

Furthermore, on the one hand, some participants consider important to create jobs through the promotion of small and medium enterprises. Accordingly, Cecilia notes: “The Colombian government should allocate resources towards...for people who are unprotected there should be education programs for them, help for the creation of small and medium enterprises and all that so they can create jobs. [Becoming part of the conflict] is the
consequence when you are helpless and the aid and welfare the government gives out is very limited” (Cecilia, V). On the other hand, some believe the promotion of foreign and local investment would be key in creating job opportunities. In the words of Matías: “I think the current government is moving in the right direction. And how to end the conflict? Hmm, if...they create the necessary conditions by building foreign investment like for 500 people and it arrived every two months, that’s how they would solve the conflict. If people have what they need for basic living conditions. What happens is that if there are going to be kidnappings, if there is going to be extortion, people won’t come [to the country]... it’s going to be ridiculous and they won’t show up, you understand what I’m saying... so first you have to solve that, there has to be that, those conditions, to set the ground so we have foreign or local investment. But it’s very hard having macroeconomic plans with a terrible political situation” (Matías, V).

Summary

Besides healing the pain of the victims and ex-combatants of the Colombian conflict, other aspects should be taken into account to try to find solutions to the conflict. For instance, the peace agreement with the remaining illegal armed groups, the ELN and the FARC, remains a big challenge. This subject still divides public opinion, although everyone agrees that dialogue is vital, many feel that it is not enough. The challenge remains in convincing the members and leaders of these organizations to demobilize and therefore give up the lucrative business of drug trafficking.

As a result, according to many, the illegal armed groups need to be strongly pressured by the national army in order to enter into a peace process, but this one needs to be restructured and dignified. During the conflict many war atrocities were committed and the army didn’t escape this war pattern; tragedies like the falsos positivos must be eradicated completely. For a long period of time the army was programmed to fight a vicious war, so it is important to restore their role as a social partner in everyday life.

Moreover, many feel that the International Community’s role must be monitored. In fact, whereas some argue against the intervention of international organizations and other countries, others agree to their intervention, but generally under the condition that they
remain truly neutral and objective. Another important fact is that they should have a thorough knowledge of the Colombian conflict.

Regarding the role of media, many argue that an effort should be done to elevate their standards to a more serious journalism. Through out the years of the conflict and still today, the media has developed a preference for sensationalism that influences in a negative way society. The emphasis on the real problem is lost, and the spotlight is given many times to the gore details that impact and morbidly fascinate people. Many Colombians have gotten used to extreme violence, they see it on TV, read it on the newspapers, listen to it on the radio and thanks to this overexposure they end up becoming indifferent and violence somehow becomes normality.

According to some, Colombia should be able to apply it’s own legislation. The urge to please international legal standards has resulted in difficult laws and procedures. The country has to be able to maintain its self-government when it comes to finding the best adaptable laws that respect and include native and colloquial customs, such as those used by the indigenous communities. The Colombian conflict remains very particular and therefore unique, hence the need to create special suitable laws.

Furthermore, participants gave their visions on key concepts such as justice, reconciliation and forgiveness. With regards to justice, for example, some have a more retributive vision of justice and some a more restorative one. Others view the concept of justice in a broader way, as social or earthly justice. The victim’s willingness to forgive also varies: some would easily forgive repentant offenders, some would condition their forgiveness and others wouldn’t forgive. As to offenders, generally, they would like to ask for forgiveness if they were provided with this opportunity.

Furthermore, solutions to the business of drugs should be found. For Colombians, there is no doubt that drugs remain the financial source of the Colombian conflict, and therefore, many see its legalization as the only radical solution to end the conflict and the war on drugs in general.
Finally, many want a fresh start; they believe that the Colombian society needs to elevate itself, starting with the family values and education. Colombians must learn to overcome in their minds and hearts their violent past and give peace a chance. The indigenous communities believe that the White Man needs to make peace with earth and that if they are capable of cruelty towards nature and animals it’s only natural that this should carry on with humans. Colombians need to restore their trust in their neighbors and government, come together as a nation ready to end extreme poverty and promote education and non-violent messages to the future generations.

5. Lessons imparted and lessons learned from the conflict

At the end of each interview I asked each one of the participants if they wished to add any comment or reflection or explain the way in which they had learned from this difficult experience. These were some of their answers:

- “Loads, to be patient, more spiritual, to value life, I learned many things, it’s not like I’m going to go ahead and recommend the experience (chuckles) but what I can do with my experience is try to see the positive side of it, I personally learned a lot, what was hard was the suffering of my family that had to go through such a cruel experience. From hard times such as this, you can learn something from it or not. I chose to learn... What is important is that one shouldn’t wait to be deprived of freedom to start valuing it, that freedom is priceless, taking this freedom away from anyone is not justified under any circumstances, is very hard to repair something that is above us humans, this is more God’s or the universe’s right, value life daily, all the good things it gives us day by day” (Jorge Luis, V).

- “That it is possible to encounter someone who has done a lot of harm, but if you see in our case that he is answering for what he did and has sincere remorse, not to feel hate or any of that. Personally I can say that H.H was the commander of the block Calima, the highest commander, but when one sees that this is a person who is committed to telling the truth and all that, instead of getting stigmatized, one can say that this is a man who is collaborating, this man is the only one, so I can’t feel hatred even though he was the leader. So if one sees a very sincere effort to reveal the truth, one can say that instead of stigmatizing it one is
positioning him as a referent with respect to others that one sees are not making an effort” (Sergio, V).

- “No, any lesson? I just saw and realized that those people have a very low level (of education), that’s the only thing I learnt. The rest are practical matters, like the fact that one could live during six months eating beans and things like that...” (Alejandro, V).

- “I learnt that we are equal, even if we look different we are equal, the people are always looking for company, food, health. They (the guerrilleros) found it over there. I guess I will never have to look for this in that way because thanks God I already have it. Obviously, I could have been born in another place and ended up over there... (this experience) allowed me to value the persons around me, the opportunities I have. I took a deeper look over the suffering people of this country, understand the reasons behind their suffering, and it incited me to study what I’m studying right now and try to achieve something for them in the future. Even if they have harmed me in a thousand ways I would like to work for them because I believe I got to understand their suffering. I would like to do something for them... It is important to feel that one belongs to his/her country, territory, people, cultures, in order to defend it, love it, work for it. I believe this is important and it’s something that little by little has been achieved, but it needs to be strong so that we all become Colombians and turn it into a better place... It (Colombia) is much safer now, the young people have done a good job with the indigenous communities, now people travel and want to visit them because they see them as part of us... I think it’s important for the Colombian to get closer to its roots, to feel truly Colombian and proud of being” (Ilana, V).

- “To coexist with others, learn people skills, to be strong...one goes through some very hard times” (Riana, V).

- “We have to keep on fighting for peace in this country, we have to leave behind our hate, our thirst for revenge and unify, the government has to make an effort to be more understanding with the people and give them better guarantees... It’s time to unify under the same flag, to stop this blood shed that has traumatized our country, it’s time to come together and make it a better place” (Álvaro, V).
- “For me it’s like thinking and understanding that they were wrong, and that instead of destroying, you must begin to build a new country. As a Colombian you have to learn to love Colombia because it is a very rich country and man is destroying it... We should all put our hand to our chest and contribute our grain of sand” (Siena, V).

- “I've learnt that no matter what social background we come from, we have rights and our voices can be heard, we were able to tell our story, and that today someone is doing something, so that the lost lives of our love ones don’t remain consigned to oblivion” (Ingrid, V).

- “Only that, we put all our trust in God, he is the One, the one to rely on, the one that gives you strength to cope and to endure all we've been through” (Iva, V).

- “That is hate, revenge and resentment that pushes us into an armed conflict” (Cecilia, V).

- “I became stronger, I had to, I had to become independent, to fight my own battles” (Ariana, V).

- “Only that one learns to forgive” (Paulo, V).

- “To learn to live in a world full of difficulties, fears and to overcome them, to learn how to deal with them, because is very hard to live with the feeling that is your turn next...” (Beatriz, V).

- “I value things differently today, what’s important is not my new client or the things I did or not, what’s really important is that this afternoon my small daughter wanted to ride her bicycle and I didn’t go because I was too tired... I take my time now, I used to be a workaholic, now rain or snow, at 4.30 pm, I tell everyone I have a very important meeting, and I go horse back riding, from 5 to 7, and I’m going to keep on doing it until I can, until health allows me to, I don’t want to wait until I’m 80 years old to start doing the things I love” (Matías, V).
- “It’s not a social problem (the conflict), the problem in Colombia is the illicit enrichment, because honestly, there’s poverty all around the world, and the truth is that with time and social projects and investments you can start to diminish it. Colombia also has had bad governments and a history of corruption but, that’s not either the key problem here, our real problem is drugs” (Adolfo, V).

- “I don’t believe that we Colombians are violent people, I don’t believe we’re fundamentally bad people, I believe we’re these string puppets, slaved by a substance that could very well be legalized, and from which one could teach our own children to stay away from, so that it becomes like the whiskey drink in a party, teach them to choose, because the price to pay elsewise is to high, we’ve been paying it with the blood of our countrymen, our soldiers, our police force, and the only way to end this conflict once and for all is to legalize the drugs, because to be honest in Colombia we’re not fighting for principles, it’s not like in other parts of the world were they’re still absurdly fighting over religion, we’re not fighting for a piece of land or a border, we’re fighting for Coca and dollars, and the solution is right in front of us, take the fuel away... this is my opinion, and I know only my grandchildren will live to see this, I know in my lifetime, I won’t live long enough to see drugs legalized but the day they manage to, the machine guns will be definitely silenced and we would stop killing each other. I would also like to add, that I had the opportunity to leave this country like my sister did, my father put her on a plane the day after his release, I don’t believe she will choose to grow old here, she hardly comes back and when she does, only stays for a couple of days, despite the fact I had that same option, my conscious dictated me to stay; life had given me the opportunity to study and I knew I had to give back, work for this country... a friend once told me «you belong where your loved ones are buried at » since I don’t know anyone buried outside Colombia, I choose to stay. I believe that if you’ve had the chance to study abroad, and your essence is good, I believe you have to slowly make your back to your country, because you’re needed. Today the people that are in charge have no real interest in the community, they have personal agendas instead, so that’s why I believe that the people that had the opportunity to be abroad and acquire experience and knowledge, should come back to share it and help rebuild our country” (Gonzalo, V).
- “I used to be in favor of a political solution, now I realize that is not on a cold desk in an office that we will come up with the terms to end up this war, we have to become more actively involved, closer to the source of the problem” (Sócrates, V).

- “What teachings? More like many experiences, in the midst of the conflict I learnt to sense more clearly our historical reality, in our past we find explanations for our present situation, having done this exercise I tried reading our present, our reality, one realizes that with so many possibilities, such incredible natural resources in this country, all the necessary and—why not say it? —Vital things all Colombians need... it’s unexplainable that from such richness this country has to offer, we find such poverty, such uneven distribution of wealth; then the war scene you live in becomes like a university where you’re taught to understand the reality in Colombia, war also teaches that all extremes are wrong, one has to remain open to change and evolve with it, there are no magic formulas and you can’t sick to a static doctrine forever, you have to develop and adapt it to the present situation you find yourself in, and the proof of this is that today we’re no longer in the scene of a conflict, we’re rooting for peace instead, life during war has schooled me in many things, like some sort of University... Another great thing I learned, is that no matter the adversity the human being has something special, an inner strength when his mind is set on something that helps you take that enormous step, that no matter the 20 years you’ve been on the scene of the war, one day you give up your gun, you voluntarily walk away from the war, having to submit yourself to the hands of the law, to pay for your acts in prison and to ask the victims for forgiveness, things you were not used to do before... being able to fight all type of situations feels you with pride, it brings about satisfaction to realize that a human being when he has his mind set he is unstoppable” (Homero, ELN-ERG).

- “One has learnt to distinguish between good and evil” (Celestino, FARC).

- “This whole experience has been beautiful, to realize that my life back there is so different from the one I have now, which I cherish and I’m proud of, back then I used to leave in a prison in my mind, hiding my dreams to survive” (Dario, FARC).

- “I’ve learnt to value others; that we all have the right to be respected and deserve to live” (JFrancisco, AUC).
- “I wish we could all get together as one big family, where we all could share our experiences, our achievements, to help this process succeed, and in the same way one does one’s bit, society gives us back their bit as well, so we’re all compromised with each other, and we can feel we make part of this society again” (Wilson, AUC).

- “I have learnt a lot and for that I feel happy and pleased, I feel in some sort of way free, like a breath of fresh air, I realized that before I was choking, today I can go out dancing, to take a stroll, nobody orders me around anymore, I’m a free man and that is priceless” (Camiló, ELN).

- “Five years in that world brought me nothing positive, they were mainly five lost years in my life” (Kevin, FARC).

- “My greatest wish is for peace in Colombia” (Jorge, FARC).

- “War leaves nothing but destruction” (Marcela, FARC).

- “I realized that back in our military camp all our commanders were thirsty for power, they didn’t care how much harm they inflicted upon the people, no matter if they were left wing or right wing, all they wanted was power and personal satisfaction. It was all mind games and politics, I don’t like politics, but sometimes you have to play the game... I learnt that life is beautiful, in a way I feel was born again, I have learnt that in this life, one has to offer all we can to the ones we love, I want them to learn from my mistakes, to never join the conflict in arms, I want to be able to tell my children to become and do everything they want, but never what I did...[laughs] because if they join one side or the other in this war, at the end they are caught in the middle of the cross fire, it’s better to be neutral, stay outside, not here not there, always on the side of the law” (Jerónimo, FARC).

This long chapter intended in first place to deeply explain the way in which some victims of kidnapping, displacement, murder and collective prosecution suffered from the ongoing conflict. As we have seen, being dead alive, loosing everything and starting from scratch, being unable to know the truth and being physically and mentally brutalized for more
than 500 years by the western mentality, were some of the mentioned factors that affected these groups of victims respectively. Moreover, ex-combatants also explained how they suffered from the conflict. In fact, according to some of them, they suffered from having lived an empty and violent life with neither love nor freedom, from feeling betrayed by chief commanders, from having inflicted suffering to innocent victims and their own family members, etc. In addition to these factors, today ex-combatants need to start from scratch while hiding their past lives and real identities.

Secondly, this chapter aimed at illustrating the various factors that have been useful of that could be useful to overcome the traumatic experience of the conflict. Although every human being is different and experiences suffering in their own particular way, participants often praised sharing with their loved ones, practicing a spiritual activity, receiving psychological professional assistance, etc.

Thirdly, this chapter intended at identifying the causes and solutions of the conflict in order to avoid further victimization and suffering. According to ex-combatants, they joined the conflict for the following reasons: ideological reasons, ignorance and lack of opportunities, belonging to dysfunctional families, the need to satisfy the thirst of revenge. In addition, ex-combatants explained that once in the illegal armed group the conflict became their sense of life. Apart from these personal reasons to join the conflict, participants believe the lack of state, the indifference of the people, and above all, the business of drugs have been key in creating and fomenting violence in Colombia. Finally, in order to stop violence in the country, Colombia should fight against the lucrative business of drugs, achieve agreements through respectful dialogue, prevent the youth about the terrible consequences of the conflict, generate job opportunities, change thought processes and strengthen values, create Colombia's own legislation, amongst others.
Part IV: Applying restorative justice in Colombia

After this long journey of literature study and empirical work, we strongly reaffirm our adherence to restorative justice, as an approach of justice susceptible to deal with the issues of transitional justice. Although respondents were not asked concrete questions on the theory of restorative justice, their answers related to the elements of this theory of justice, constitute fertile soil for restorative justice to firmly grow in the field of transitional justice; aside from guiding us on the way in which restorative justice would deal in a more pragmatic way with the issues of transitional justice, their responses offered concrete examples on how restorative justice could be applied in such context.

As constantly insisted, restorative justice advocates believe that because crime hurts, justice should heal (Braithwaite, 2012). In fact, one of the main reasons to focus on restoring the harm of victims and offenders of the Colombian conflict is because mass atrocities produce mass trauma; 50 years of conflict have triggered millions of traumatized Colombians. Despite Colombia’s efforts in implementing transitional justice mechanisms in the midst of a conflict, and under the pressure and shadow of the ICC, we argue that further restoration of the individual and social harm should take place to stop the cycle of violence, through more restorative transitional justice mechanisms. According to some participants, Colombia should be able to create its own legal framework based on the needs of Colombians, and not on the need to please international legal standards, which until now has resulted in complex transitional justice mechanisms unable to rightly deal with the issues of transitional justice. The country has to be able to maintain its self-government when it comes to finding the best adaptable laws that respect and include native restorative customs and practices, such as those used by the indigenous communities. The Colombian conflict remains unique, hence the need to create special suitable laws capable of meeting the needs of the country. In our opinion, unlike the conventional justice system, the flexibility behind the restorative justice approach may help in dealing with the issues of restorative justice in a more pragmatic way.
Given the overwhelming war figures in Colombia, restoration should take place massively. As previously mentioned, a highly restorative justice program would intend to restore the harm of stakeholders, establish an active accountability process aimed at restoring the harm caused and reintegrating offenders, promote a flexible and participatory process, provide safeguards based on legal standards in order to respect rights and freedoms, apply coercive measures without the intention of inflicting more pain to the ex-combatant, and be conducted in a respectful way (see model). Colombia would need therefore to intensify the restoration process of victims, and replace the passive, and sometimes retributive-oriented form of accountability for an active, constructive and non-retributive oriented one.

After explaining the importance of implementing restorative preventive measures as means to fight against violence, some examples will illustrate why and how restorative justice could be applied to the victims, the ex-combatants and other responsible political, military and economical leaders of the Colombian conflict.
Chapter 1. Taking restorative preventive measures and promoting a non-violent mentality

To succeed its transitional justice process and finally achieve peace, Colombia would need to take preventive measures and fight against some of the causes of the conflict: corruption, absence of state, lack of opportunities and drugs. Moreover, after all these decades of conflict Colombians have developed a violent mentality, which makes any road to constructive dialogue and peace very difficult. In addition to finding pragmatic solutions to some problems, like the legalization of drugs for example, Colombia should massively promote the restorative justice practices and values, notably those behind the concept of common self-interest, meaning respect, solidarity and active responsibility. In our opinion, these values should be promoted across the country, in schools, communities, enterprises, political institutions, etc., to fight against selfishness and individualism, and therefore, prevent violence.

1. Rebuilding the social contract and fighting against corruption

Restorative justice is a value-based vision of justice. As thoroughly explained, besides from aiming to restore the victim’s harm, with the offender’s active participation, restorative justice also aims at restoring the offender’s harm, not only because from a penological point of view it seems more pragmatic and constructive than intentionally sanctioning offenders, but also because from a moral point of view it considers ‘just’ to restore the offender’s harm. So, in addition to finding a pragmatic solution to the blind infliction of punishment, which has proven to fail in reducing crime and reintegrating offenders effectively, restorative justice considers ‘just’ to treat offenders with respect and hold them accountable in an active and constructive way.

This belief is based on the fact that restorative justice goes beyond the crime and takes into account the background of offenders, which very frequently, lacks of light, beauty and happiness. Commonly, offenders consider themselves victims, and very often, they act wrongly in response of their experience of victimization. As Zehr rightly notes, such
suffering cannot be an excuse to offend, but it cannot be ignored (Zehr, 2002). If we take a look at the ex-combatants’ responses on the reasons for joining the conflict we can clearly see that they come from extremely difficult realities, marked by poverty and lack of values, which obviously had an influence in encouraging them to join the conflict. Some ex-combatants were recruited by force, some were born in the battlefields, and others joined the conflict as a way out to their problems related to their families or lack of opportunities. In total ignorance, they went to the battlefields as a door to hope and a better life. Well, in any case, they didn’t have much to lose. But once in the illegal armed group they are trapped in the circle of violence.

Clearly, the families and communities were they belong to lack of restorative justice values. How could we expect from them to act as law-abiding citizens and respectful people if they haven’t received any lessons on these values? How could we expect from someone something that he or she simply doesn’t have? This is like asking for money from the poor or food from the hungry. So, implementing restorative justice mechanisms in contexts involving mass victimization is not enough; one should also look at finding solutions to the social problems that causes violence. One should aim at creating Walgrave’s just society based on an equally spread balance of rights and obligations, benefits and burdens (Walgrave, 2008b). One should aim to include the poor into the social contract and offer them a dignified life, ensuring their rights and freedoms. Building this type of society is obviously an utopic goal, but according to participants, if we do not include everyone into the social contract, Colombia could not become a better society, and therefore, many people may turn into offenders one day.

In fact, very often, both victims and ex-combatants, blame the Colombian state for “the absence of state”, corruption and incapacity of providing every citizen with opportunities. The greediness and selfishness of many politicians have caused the Colombian state to fail in its obligations and exclude many from the social contract, who sooner or later, join criminality. Ex-combatants have obvious reasons to blame the state for their fates, but victims also blame the state. According to Dinamo for instance, the corrupted politicians are even guiltier for what is going on in Colombia, than the members of illegal armed groups, since their lack of transparency and unwillingness to do their social job, constitute the causes of the conflict. So if Colombia wants to become a
better society it must start by taking away corruption from its institutions and by providing everyone with opportunities in terms of health, education and labor. Massive corruption is probably one of the worse forms of disrespect and lack of solidarity. As it will be further developed, this social issue could be dealt with or at least decreased, through the promotion of the values and practices of restorative justice, however this remains insufficient and a serious control should be used to monitor the political corrupt behavior.

2. Finding alternative solutions to the business of drugs

But even if the state ended corruption and included everyone into the social contract, Colombia would need to win the war against the number one fuel of the conflict in the country: the traffic of drugs, which goes hand in hand with violence. Colombians have no doubt that drug trafficking is the main fuel of the conflict, and for many this should be dealt with as an economic and commercial issue: bringing prices down through legalization. Given the topographical conditions of Colombia, its eternal green and deep jungles and gigantic mountains, eliminating the coca crops and dissuading peasants to cultivate them has proven to be futile. The same rules apply for the illegal groups who manage the trafficking; the profit this illegal activity gives is so important that dissuade them to give up this trade and demobilize remains almost impossible. The conflict has mutated from an ideological war to an economical war and this issue makes the Colombian conflict very difficult to stop because it goes beyond national boundaries and concerns as well the developed countries that consume the drugs.

Fighting corruption and offering better job opportunities can prevent drug trafficking proliferation, but nevertheless remains an insufficient method to fully stop the problem. The profit it generates is too attractive, and where there is drug trafficking, mafia and criminality will follow. Although the legalization of drugs does not really constitute a typical restorative measure, it's well worth to be mentioned since it remains the first factor of violence in Colombia.
3. Changing the Colombian violent mentality and indifference

In order to change the violent mentality and indifference of Colombians, deliberative conflict resolution practices as well as the values behind the concept of common self-interest should be strongly promoted. Colombians would need to receive education on these practices and values in order to integrate them on their daily rapport with others and start implementing respectful ways of dealing with conflictive situations.

3.1. Seeking consensus through deliberative conflict resolution practices

Colombia faces a cultural problem that should be dealt with. So many decades, centuries of confrontation, have established a very strong culture of violence in the country. Ever since colonization, terror and violence have been used as instruments to gain power and dominate people and regions. As the members of the indigenous communities argue, the conflict in Colombia goes beyond the illegal armed groups; its origins can be traced in the Western man’s mentality, which is very egocentric and lacks of community spirit and respect towards nature and others. In the past decades, the illegal armed groups, the powerful drug cartels and the innumerable street gangs have made of violence their working tool, their main way of “doing justice”, like in times of vendetta. In fact, the lack of presence of the state has allowed these groups to govern the abandoned zones and impose their rules.

Violence has deeply marked the idiosyncrasy of Colombians. As participants have raised it, the Colombian society is used to killing, kidnapping, displacing, etc. Despite the cruelty of such atrocities, they have become normal to the eyes of Colombians. The Colombian population has become accustomed to living with the disasters of the war and the clashes between groups. In fact, violence has taken a very important place in Colombian society in general, to a point that winning means that your opponent looses; win-win situations are hardly seen as the good option to resolve from political to everyday life situations. This mentality, which accepts violence as a normal way of dealing with problems, has lead Colombians to total indifference, as if we were insensitive to violence; the fear of possible reprisals and the acceptance of violence, have paralyzed
the Colombian society, which somehow accepts atrocities through indifference and omission. Ilana’s case is a good example of this collective indifference: Ilana, who was kidnapped at the age of 11, in the school bus on her way back home, explains how her ordeal touches foreigners, who cannot believe her words, whereas Colombians remain somehow insensitive, as if kidnapping an 11 years old girl for over 6 months was something normal.

According to many participants, the media has not been helpful in changing this devastating rapport to violence and confrontation. In their willingness to sell news and acquire new clients, the media, TV, radio, journal, etc., have focused on shocking news and confrontation instead of denouncing the abuses and showing reconciling paths. For some respondents, although there is free expression in Colombia, the media manipulates the information to satisfy either their political orientations or their business needs. Violence is not denounced; it is somehow encouraged and promoted. So, if Colombia aimed at changing this mentality, the media has to make an effort and raise their standards to a more objective and responsible form of journalism and communication.

Promoting deliberative restorative practices in schools and other institutions might help in changing Colombians’ mindsets. Such practices could be applied in solving a minor offence, serious violations of human rights, or any disagreement. It searches at unifying human beings through respectful dialogue. In a disagreement with my husband I have two ways of dealing with the situation: we could insult each other, turn our backs and walk away, or we could sit down and dialogue in a respectful way to find a solution to our problem. The boys who bully in schools could be yield at, suspended and even get expelled out of school, or they could be invited into a constructive dialogue that would make them realize the consequences of their acts and right up the wrong. The second response in both case scenarios constitutes the restorative response.

This restorative way of solving disagreements should penetrate schools, neighborhoods, enterprises, political institutions, etc., to start implanting a more peaceful and constructive way of dealing with problematic situations, to show to the youth different paths from violence and that there can be win-win situations in Colombia. We should follow the example of our own peaceful indigenous communities who manage to
promote a non-violent approach to all of their conflicts. These methods should be inspirational to the state, the different communities and various institutions.

According to participants, respectful dialogue constitutes the best means to fight against violence. Although some participants believe the illegal armed groups need military pressure to give up weapons, they agree on the importance of dialogue as the unique real path to express the different points of view and achieve a consensus in the Colombian conflict. In our opinion, thus, Colombia should promote within the various institutions methods of inclusion and participation based on respectful dialogue to fight against the vindictive practices used to “solve” problems.

3.2 Promoting common self-interest through respect, solidarity and active responsibility

In addition to implementing these restorative practices, the principles and values of restorative justice should be promoted in Colombia. In long-lasting conflicts people get divided and respect and tolerance become rare values. The step towards peace is extremely difficult because it implies us to become unfaithful towards the concepts of good or bad, friend or enemy that we have so strongly and deeply built during times of war, and that very frequently, have passed from generation to generation. As Braithwaite argues, human beings are not born democratic; we learn to become democratic (Braithwaite, 2012). Along the same lines, Walgrave argues that the concept of common self-interest does not come as a natural reflex to us; it is an ethical standard that can be taught and shared (Walgrave, 2008b)

According to Walgrave's concept of common self-interest, we should all be able to shape our lives as we wish, but without affecting negatively others, otherwise the human web gets weakened and therefore ourselves. This principle of interconnectedness is also shared by the interviewed members of the Colombian indigenous communities who believe that all living creatures are linked together and that every action or omission affects the web of relationships. Hence their sense of responsibility towards nature and all living creatures. It is precisely for this reason that when a member of one of the indigenous communities of the Sierra Nevada of Santa Marta commits an offense, they aim at restoring the harm caused by the offense, including the unbalanced condition of
the person who caused the harm. In fact, for them, the whole community and the universe benefits from restoring the harm caused by the offense.

So we should see each other as allies of a common project, as members of the same community like the indigenous communities, and not as competitors. It is in this way that we could integrate our self-interest into what Walgrave calls common self-interest; a concept based on the values of active responsibility in view of embracing respect and solidarity. In Colombia is crucial that we start planting the seed of these values in people's minds, and therefore grow together while respecting everyone's space. If we live in harmony with the values of respect, solidarity and active responsibility, we would reach utopia, a society with no need of implementing justice mechanisms. In the meantime, Colombians should learn about the unknown restorative justice practices, which further encourages the virtues and ethical attitudes of these values than the punitive approach of justice. Therefore, the restorative approach may better contribute to social life and relations (Walgrave, 2008b).

Finally, if we look at the lessons imparted, everyone wants peace in Colombia; we're killing each other in this absurd fratricide war. It is capital to change the perception of violence in people's minds and eliminate the causes that generate such violence. Preventive measures should be implemented to promote the philosophy of restorative justice and stop people from becoming offenders. Otherwise, Colombia will continue its never-ending cycle of violence. What an idealistic and ambitious goal for a country like Colombia.
Chapter 2. Restorative justice and the victims and offenders of the Colombian conflict

Under this chapter we will attempt at describing why and how the victims and the offenders of the Colombian conflict could benefit from restorative justice.

1. Restorative justice and the victims of the Colombian conflict

As thoroughly explained, the victims of serious violations of human rights experienced one or many tragic events that marked their lives forever. In many cases the word harm falls short compared to what they really went through. Many victims have been traumatized, and despite the various years gone by since victimization, they still live in total despair, experiencing anxiety and symptoms of depression.

If we analyze the victims’ responses regarding revengeful and hatred feelings towards offenders, although many agree having gone through the natural path of feeling vindictive after being brutally victimized, they also agree that these emotions do not bring any peace to their hearts and that it is necessary to put these feelings aside in order to move on.

Moreover, some victims believe punishment infliction upon offenders would make them feel better or would deter offenders from committing offenses. Other victims, notably the members of the indigenous communities, question the real added value of painful prisons and insist on the importance of educating offenders. With the exception of the members of the indigenous communities, the conventional justice system based on intentional punishment infliction might be the only way of doing justice that participants know of. Definitely, the restorative approach is not a well-known justice system. It is interesting to observe, though, how many participants join the principles and values of restorative justice without even knowing that they belong to a justice approach. Many of them are even willing to reconcile with ex-combatants if they act honestly and if they collaborate with the truth-telling process. So, in our opinion, Colombia constitutes fertile soil to sow the seeds of restorative justice.
In order to better meet the needs of victims, flexible mechanisms of justice should be implemented. Accordingly, the existing victim support initiatives and administrative reparative measures should be well executed, and ideally the existing judicial reparation process established by the JPL be replaced by a non-judicial restorative mechanism.

1.1. The necessary flexibility of the restorative approach

Victims obviously differ from one another and perceive victimization, as well as the issues of transitional justice, in their own particular way. However, one could find common factors among the victims having gone through the same form of victimization. For example, displaced victims share opinions, which differ from those of victims of kidnapping: whereas the first ones find themselves in a situation of extreme poverty, and therefore, demand to be recognized as victims and not as “beggars” and to be granted the financial means to have a dignified life, the victims of economical kidnapping desire, above all, the acknowledgement of their painful experience, particularly by the international community, including NGOs. Very often, the victims of kidnapping strongly disapprove the attitudes of various NGOs and European countries, which according to them, continue to believe guerrillas are some kind of “Robing Hood” and ignore their active drug trafficking business.

In fact, as illustrated by data, often, the victims’ views on truth, accountability, reparation and reconciliation were linked to their form of victimization. For example, with regards to truth, whereas victims whose loved ones had been murdered or disappeared attach great importance to the truth about the facts and wish to know the reasons why and how the atrocity took place to move on, victims of kidnapping attach more importance to unveiling worldwide the truth behind the illegal armed organizations. From a very different perspective, members of indigenous communities believe that telling the truth about the facts is not worth it; for them, what has been done is already done and unveiling the details of the facts would not help in the healing process.

So victims experience suffering in different ways, and therefore, deeply vary in their visions and perceptions of the issues of transitional justice, which may be affected by various variables. For instance, religion and/or spirituality play a key role in the healing process of participants and in the way in which they understand the issues of transitional
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Chapter 2. Restorative justice and the victims and offenders of the Colombian conflict

justice, particularly accountability; in Colombian indigenous communities, for example, nature has a sacred quality that governs their visions and perceptions of the conflict. At the heart of this Cosmo vision there is the perception that all living and non-living things are intrinsically linked. Given that the justice system of indigenous communities is embedded in their Cosmo vision, healing the harm when an offense has been committed and searching for the cause behind the criminal behavior becomes imperative to rightly reintegrate the offender and repair the global balance that has been broken by an offense. In this sense, the philosophy and conflict resolution techniques of the interviewed members of indigenous communities strongly join those of restorative justice. Similarly, Christianity has great influence on the victims’ opinions about the way in which offenders should be held accountable, and notably on their willingness and capacity to forgive those who have harmed them.

Although some victims having experienced the same form of victimization may share similar opinions, they remain obviously different human beings, with different needs and interests. One of the characteristics of restorative justice is to be flexible to respond to the parties’ needs and interests. Therefore, we believe mechanisms of transitional justice should be adaptable and flexible. In our opinion, thus, the existing Colombian mechanisms, notably the JPL tribunals, the administrative form of reparation and the Victim’s law, should further tackle the victims needs and offer clearer and easier ways for them to obtain their rights, and above all, to restore their harms.

1.2. Creating community victim support programs

Although the state has done great efforts in creating reparative measures during the ongoing conflict, which makes it even more difficult, very often the victims seem completely lost in the process and even lack of financial means to reach the institutions.

In addition to the financial reparation and land restitution offered by these mechanisms, Colombia should offer to those in need an intensive and periodical healing local/community program, a victim support program like the one established in Aguablanca, in which they could freely talk, share their experiences with other victims if they wish to do so, and receive enriched information from professionals. Such programs would make them feel esteemed, respected and appreciated. The Unity for Reparation,
established by the Victim’s Law, is currently implementing programs intended at repairing the victim’s harm. Hopefully, these programs will be massively implemented across the country and offer real assistance to victims.

1.2.1. Involving family and community members

Restorative justice encourages the participation of the victims’ families and friends and their circles of care. According to victims, the love, support and assistance of family members and friends play a key role in their healing process; overcoming trauma alone, with no support or someone to take care of, becomes almost impossible. In most cases, these forms of victimization affect not only one person but also entire families whose members would need different forms of assistance. In our opinion, if the victim agrees, the circles of care should be included in these healing programs. There are millions of victims, though, like the displaced participants, who have been obliged to leave behind everything they had gained over the course of their lives, including their bonds with family, friends and culture. Needless to say how much the displaced victims who participated in the Aguablanca program praised building-up new friendships with the members of the community. Healing programs should aim at connecting people, at least those who feel alone; victims need to rebuild-up their network, to gain trust on human beings, to be able to freely express themselves, to have the feeling that they belong and that they didn’t deserve what arrived to them.

1.2.2. Fighting against retributive desires

Moreover, in such restorative programs, attention and treatment should be given to their negative and retributive feelings like anger, bitterness and the desire to seek revenge. In fact, these feelings seem a common path after victimization, but as many victims have confessed, they do not bring about anything positive to their lives. Riana’s case illustrates the possibility of overcoming hatred feelings against perpetrators through psychological assistance, like the one provided by the program in Aguablanca. In our opinion, transitional justice mechanisms should therefore try to tackle the heavy burden of feeling revengeful, which is nothing but a source of suffering. Moreover, trying to restore revengeful feelings would contribute in decreasing violence. According to some ex-combatants, notably the paramilitaries, hatred feelings caused by previous victimizations
encouraged them to join the illegal group and fight the enemy. In this way, many passed from being victims to fighters.

1.3. The creation of a permanent truth commission in Colombia

In our opinion, Colombia should create a permanent truth commission to establish, on the one hand, a democratic and restorative space were Colombians could speak out their voices, and on the other hand, to implement non-judicial restorative justice processes between victims and offenders.

1.3.1. The Colombian truth commission: A general overview of a democratic and restorative mechanism of justice

Although satisfying each human being's expectations of justice would be very difficult since we all have different visions and understandings of it, satisfying the victim’s dignity through public acknowledgement shouldn’t be that difficult. Victims in Colombia desire to be part of the transitional justice system, to be seriously taken into account. Further, they need their suffering to be acknowledged. Again, although Colombia has done great efforts in creating mechanisms designed to restore the harm, it definitely lacks of a macro-level institution where real acknowledgement could take place, where victims could tell their stories, share their visions and perceptions of the conflict and of those having an influential role like some Colombian political, military and business leaders, other countries, the ICC, NGO’s, among others. As shown by the empirical data, there are many victims who wish to speak out their viewpoints and even contribute in finding solutions to the conflict.

Such space could consist of a truth commission. These institutions known, as “second best”, which for us constitute simply the “best”, have been praised for their humane character, flexibility, inclusive and speedy methods, etc. As we have explained in our theoretical framework, although TC’s have been assimilated to restorative justice, they are not inherently restorative. They would need to embrace the restorative justice elements to become really restorative; they would need to aim at restoring the harm of victims, offenders and the social harm that has been caused by mass atrocities, without the intention of inflicting punishment. If a TC embraces the restorative justice elements it
would be coherent to name it “truth and restoration commission” or “restorative commission”.

In fact, although these institutions are frequently called truth and reconciliation commissions, in our opinion, from a restorative perspective, the concept of reconciliation should be replaced by the concept of restoration. Whereas restoration is the main goal of restorative justice, reconciliation and forgiveness constitute a secondary, but very important, goal. There is a big difference between offering a non-vengeful way of doing justice that aims at restoration, like restorative justice, and a justice system aiming for forgiveness and reconciliation. As Braithwaite argues, forgiveness and apologies are gifts that cannot be demanded. However, if spaces for forgiveness are created and forgiveness actually takes place, the benefits are incredible (Braithwaite, 2012). We believe therefore, such spaces should be offered.

In our opinion, this institution should be independent from the government and could be integrated by spiritual indigenous leaders, scholars, victims and other charismatic and moral figures. As we know, truth commissions can be national, international or hybrid. Although some Colombians agree with a possible intervention of international organizations and other countries in the process of transitional justice, others would prefer to keep these issues to Colombians. In our opinion, an eventual Colombian TC could compromise foreign members as long as they acquire good knowledge of the Colombian context and as long as they remain respectful, truly neutral and objective.

So this restorative commission should be a future oriented institution, based on constructive and respectful dialogue and not on stigmatization. It should search above all to illuminate the painful past of the conflict, take binding measures and recommendations aiming at restoring the harm, and ideally, at building trust among Colombians and reconciling the various parties of the conflict. This institution should provide a democratic space for the victims and ex-combatants to respectfully and constructively express their experiences, thoughts and emotions.

With regards to the collection of the victims’ testimonies, an eventual Colombian TC could create a Human Rights Violations Committee like the one established by the South African TRC. This committee could provide Colombian victims with a space to tell their stories.
Once this done the committee could refer them either to the equivalent of the South African Reparation and Rehabilitation Committee, which was empowered to formulate policy recommendations and suggestions on the healing process of the victims.

An eventual TC should offer a democratic space where the indigenous communities could explain how much they have suffered from the western mentality and how they could be restored, where the victims of kidnapping could explain to the NGO’s why they believe they have defended the guerrilla groups, why they have suffered from this and how things should change, where Colombians express to the international community how much they have suffered from the business of cocaine and the urgent need to find a solution to this business, where low-level ex-combatants explain to Colombians in which way they were also victims of the conflict, where low-level ex-combatants express to high-level ex-combatants how much they suffered from their orders and power, where Colombian citizens express their irritation against corrupted politicians, where the state and those who participated in the conflict through complicity and support, notably businessmen and industrials, acknowledge and assume their responsibility in the conflict constructively, etc. Braithwaite argues that TC could be permanent (Braithwaite, 2012). In our opinion, the Colombian TC should be permanent, not only because the conflict is still ongoing, but also because dealing with the issues of mass atrocities and finding solutions to the causes of the conflict it’s a never-ending task. This permanent commission could eventually and constantly report on the advances achieved in these terms.

1.3.2. Implementing non-judicial processes between victims and offenders

In our opinion the eventual Colombian TC could establish direct or indirect mediations between the victims and the ex-commanders of the illegal armed groups and other responsible leaders of the conflict. These mechanisms could draw upon the Colombian existing indigenous practices. Often known as “bottom-up”, local-level or traditional justice mechanism, these culturally based practices have been greatly praised for their simplicity, comprehensible and economic characteristics; they have been praised for representing a potential for promoting justice, reconciliation and a culture of democracy (Helgesen, 2008). Although these practices have gained attention in many countries, notably in Africa, as mechanisms susceptible of dealing with the issues of transitional justice, in Colombia they have been completely ignored. Our empirical data demonstrates
though that there are in Colombia indigenous communities whose conflict resolution techniques are very much based on the values and practices of restorative justice. We believe thus, Colombia should take a look at these practices susceptible of inspiring the actual transitional justice process.

1.3.2.1. The restorative processes between the victims and the leaders of the Colombian conflict

According to Walgrave’s pyramid of law enforcement in relation to common crimes, priority should be given to voluntary deliberative processes (Walgrave, 2008a). These processes have proven to be great means to attain restoration. According to most restorative justice advocates, the restorative decision taken through an encounter between the direct stakeholders and their respective communities of care, with the assistance of a facilitator, remains the path par excellence to achieve a restorative goal.

Nonetheless, the good implementation of voluntary deliberative processes to deal with mass atrocities in Colombia would not be an easy task. Due to the ongoing conflict and the seriousness of the crimes we are dealing with, many victims and offenders of the Colombian conflict fear the eventual consequences encounters may have. For instance, some victims would not like to meet the ex-combatants because they are afraid of possible reprisals or of reliving trauma. However, some would like to meet them to understand the reasons behind their actions, to let them know how much they suffered, to simply talk to them. Interestingly, some victims would like to meet the ex-combatants in general, but not those who victimized them directly.

Another complexity of establishing deliberative voluntary programs is the fact that in transitional justice contexts, offenders are responsible for mass abuses. One single offender may be responsible for crimes concerning hundreds of victims, even thousands. So we believe it would take too long and it would be almost impossible to agree upon the restorative obligations with each one of the victims, and execute them. In fact, in cases of mass abuses, the offender may not be able to please the victims like in cases of common crimes, where normally offenders face one or few victims.

Moreover, according to Walgrave, if voluntary deliberative processes related to common crimes cannot occur due to the seriousness of the crime or because the stakeholders are
unwilling or unable to participate in an encounter, then the judicial intervention, aiming at restoration, should take place (Walgrave, 2008a). In cases of mass atrocities, though, if we give priority to deliberative processes, and if for any reason the participants do not wish to participate in the encounter or could not agree upon the restorative obligations, considering the judicial way for that crime, while having pending deliberative processes with other victims, would be unfeasible.

Nevertheless, the difficulties in establishing encounters shouldn’t hamper the creation of a truth commission that could put in place non-judicial processes designed to impose restorative obligations to offenders. For this matter, one could think of creating a “restorative accountability committee” within the eventual Colombian TC. This committee could draw upon the South African “Amnesty Committee” but replacing the conditional amnesty for a restorative accountability process. It would be interesting to create a panel composed by commissionaires and other members like representatives of victims or leaders of indigenous communities, competent for deciding on the restorative obligations inflicted upon offenders. Such decisions may include actions of compensation, reparation, acknowledgement, forgiveness, and apologies, among others. The victims could obviously participate, directly or indirectly, to express themselves and ask from offenders the truth about the facts. In sum, this committee would somehow constitute a mixture of the strategies implemented by the South African TRC and East Timor’s CRP’s.

Finally, in our opinion, to ensure dominion, meaning the set of rights and freedoms, the state should back-up such processes (Walgrave, 2008b). The Colombian state should therefore guarantee the rights and freedoms of participants and ensure that there is no abuse of power. In addition, the state could implement strategies to protect the identity of participants, at least that of the victims. For instance, in the actual process of justice and peace the victims can see the offender through a video camera but the offender cannot see the victims. Moreover, the victims’ testimonies could take place behind closed doors like it happened in Argentina, Bolivia and El Salvador.
1.3.2.2. The restorative processes between the victims and low-level ex-combatants

Additionally, in our opinion, the victims who are participating in the victim support programs could take part in another restorative oriented practice involving encounters with offenders. It could be interesting to organize restorative processes like peacemaking circles or CRP’s with ex-combatants who are participating in the DDR process at the ACR, who were submitted to the orders of chief commanders. As we know, over the 50,000 ex-combatants that have demobilized, less than 5000 (those responsible for serious violations of human rights) are participating in the judicial process established by the JPL, and the rest are participating in a DDR process. At the ACR they receive psychological assistance and other benefits in terms of education, health and job opportunities.

Although some DDR ex-combatants have done community service, they have done very little to restore the harm caused to the victims. Nonetheless, in general, they expressed their willingness to participate in activities designed to restore the harm caused to victims and society. As mentioned, restorative justice encourages processes involving encounters between victims and offenders since their participative and empathic nature has proven to be very restorative. One could think therefore of implementing processes involving victims and low-level ex-combatants.

The peacemaking circles or the CRP’s should obviously involve only those victims who are willing to participate and guarantee the participant’s safety. Given the difficulties in putting together victims and their direct offenders in a mass victimization context, chances are that these restorative processes would involve random groups of victims and offenders. As we know, some of the participants of the Aguablanca program met with some ex-combatants who were imprisoned in Cali. According to them, meeting the ex-combatants, dialoguing with them, was a very rich and empathic experience, and in our opinion, it could be a convenient way for victims and offenders to see and try to understand the other side of the conflict. As previously noted, such programs could draw upon East Timor’s CRP’s, which found inspiration in indigenous practices and offered spaces involving victims, members of the community and offenders of less serious offenses. In East Timor’s CRP’s, local leaders formed panels chaired by a regional
commissioner who decided upon the restorative measures inflicted to offenders. A similar procedure could be implemented in Colombia in order to decide on the restorative measures inflicted to offenders. These restorative measures may include various actions like compensation, restitution, apologies, etc.

The CRP was in fact one of the programs administered by East Timor’s CAVR. Although Colombia hasn’t established a TC, we deeply and strongly encourage its creation. The TC could monitor these processes involving victims and those responsible for having participated in the conflict without real decisional power. But if Colombia never implements a TC, these processes could still take place and be monitored by the already existing entities (eg. The Reparations Unit and the ACR or the CNRR). Like East Timor’s CRP’s, these processes could also be inspired by the restorative practices of indigenous people in Colombia.

So, Transitional justice mechanisms should first and foremost identify the harms of victims and try to restore them. If the mechanisms of transitional justice aim at reintegrating ex-combatants, which is obviously a restorative goal that we defend, they should start by addressing the victims’ harms. Many Colombian victims reproach the assistance and various opportunities given to ex-combatants whereas they haven’t received much. If Colombia intended to introduce a higher degree of restorativeness, it could start by creating flexible mechanisms susceptible of further meeting the needs and interests of victims. Colombia could therefore establish intensive and periodical healing local/community programs for those in need and a macro level institution such as a TRC or a restorative commission.

2. Holding accountable Colombian offenders in a restorative way

How would restorative accountability take place in Colombia? Why and how could ex-combatants contribute in the restoration of the harm? Would it be worth to restore their harm? In fact, as previously deeply explained, restorative justice demands a real change on the way in which ex-combatants should be held accountable for their acts. According to this vision of justice, offenders should be offered the opportunity to restore the harm they have caused to themselves and reintegrate into society. In exchange, they would
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need to actively contribute, directly or indirectly, to the restoration of the harm they caused to victims and society. In fact, restorative justice replaces the intentional punishment infliction by restorative obligations. Until now, empirical data has failed to prove that prosecutions have a deterrent effect upon individuals who have taken the decision of committing mass atrocities. On the contrary, the example of the Former Yugoslavia demonstrates that prosecutions didn’t deter many of the cruelest crimes that took place after the creation of the ICTY (Aukerman, 2002). The case of Uganda and our empirical data further demonstrate that the fear of being locked in prison prevents actual combatants from demobilizing and constructively participate in the truth telling process.

As we know, restorative justice invites the circles of care to participate in the restorative processes. Such participation would be ideal to rightly implement Braithwaite’s theory of reintegrative shaming, according to which the offender’s shame feeling caused by the offence he or she committed, plays a key role in his or her reintegration process. In fact, as explained in our theoretical framework, the shame of admitting guilt in front of the loved ones may deter offenders from offending. According to this respectful theory, which judges the offence and not the person, public disapproval of those we care for may have a great impact in our behavior. However, it seems difficult to rightly implement this theory during the Colombian conflict; many ex-combatants are placed in far away places from their hometowns to avoid possible reprisals from the existing illegal armed groups and many ex-combatants fear involving their loved ones in the reintegration processes. Guerrilla members, for instance, are not allowed to quit the groups, and if they do and the guerrilla groups find out, they could risk their lives. As a result, many offenders go through a process of reintegration alone, far from their loved ones.

However, even if for security reasons the loved ones are not involved in the processes, the shameful and guilt feelings ex-combatants often go through could be used in the restorative processes we propose to precisely achieve the shift of consciousness, which is necessary to rejoin civil life. Although not all ex-combatants feel remorse for having participated in an illegal armed group, many of them already feel the heavy burden of having caused so much suffering to innocent people and to their family members; they feel ashamed of becoming someone they didn’t want to be. By being treated with respect, by listening and being listened to, by having the feeling that they belong, by censuring the wrongs committed and not the ex-combatants, the restorative justice processes that we
will propose may constructively use these emotions to free them from past memories, to achieve a change of mentality and peacefully reintegrate into society.

The current Colombian transitional justice legal framework distinguishes ex-combatants who committed serious violations of human rights from those who didn't; whereas the first ones go through a more or less conventional judicial system established by the JPL, the latter participate in a reintegration process at the ACR. However, this distinctive criterion seems awkward; maybe not all ex-combatants committed directly serious violations of human rights, but all of them participated in illegal armed groups, which committed atrocities on the daily basis. In our opinion thus, the transitional justice mechanisms should distinguish the chief ex-combatants and other political, economical and military leaders from the ex-combatants who executed orders.

So, why and how could restorative accountability be applied during the particular Colombian transitional justice process? In order to gain some clarity we will firstly study the various responsible actors behind the Colombian conflict, secondly we will analyze the way in which ex-combatants who executed orders could be held accountable in a restorative way, and thirdly, we will explain how those who had decisional power could be held accountable restoratively.

2.1. The issue of collective responsibility: The ex-combatants and other influential actors of the Colombian conflict

Needless to remind the complexity of the Colombian conflict, which involves various different actors. As participants noted, massive atrocities in Colombia wouldn’t have taken place without the collaboration and support of countless people working directly or indirectly, and for diverse reasons, towards the development of the conflict. The AUC, for example, would have never become so powerful without the collaboration of state agents, members of the army and police, industrials and businessmen. Similarly, guerrilla groups also received considerable support from NGOs, foreign countries and politicians that have actively participated in extending the illegal groups’ activities. In addition, Colombians have a very strong opinion against the corrupted Colombian politicians who have massively stolen the public budget for their own personal benefit, and who therefore, have contributed to the development of the conflict. Further, participants actively criticize the international community, particularly the developed countries, that have financed the
Colombian drug business, which is the conflict’s main fuel. It is worth clarifying and repeat again that despite the profound social issues the country may have, Colombians no longer believe in an ideological conflict, but in a conflict based on the profitable business of drugs. So, according to the victims and ex-combatants, the Colombian conflict cannot be limited to the illegal armed groups, but covers a vast range of variables and indirect offenders without whom the conflict would have never reached such dimensions.

As a result, establishing retributive mechanisms of justice susceptible of judging everyone who has had a stake in the conflict would somehow paralyze the whole country, and this, for many years. Criminal trials must choose whom to prosecute, and therefore leave behind the complicity of those who supported cruel leaders (Fletcher & Weinstein, 2002). Frequently, to comply with legal standards related to evidence and due process, criminal trials end up focusing on low-level offenders instead of high-level offenders (Aukerman, 2002). This exclusive and individual retributive form of accountability is not well accepted by those who live large-scale conflict. For instance, many Rwandans and Bosnian Muslims believe retributions should have also been applied the UN and foreign governments (Drumbl, 2007). According to Colombians, the conflict goes beyond the illegal armed groups. The transitional justice mechanisms should therefore involve those who participated in one way or another in the prolongation of the conflict. Although there is a big difference between common crimes and serious violations of human rights, criminal trials have so far applied the same rules for both (Drumbl, 2007). Accordingly, Fletcher and Weinstein argue that there is a need to think about the issue of collective responsibility (Fletcher & Weinstein, 2002). We argue that a restorative approach may constitute an adequate approach to deal with the issue of responsibility in a collective way. Unlike the retributive approach, which holds offenders individually accountable through punishment, restorative justice, by taking away the intention to inflict punishment and by imposing restorative obligations that may be executed collectively by those who collectively committed the crimes, deals with the issue of responsibility or accountability in a collective way. As we will further explain, the flexibility of the restorative approach may allow the implementation of collective procedures of justice, in which offenders may collectively participate in the truth telling process and in collectively executing restorative obligations.
In its creative quest to find a balance between justice, understood in a retributive way, and peace, Colombia created a DDR process and a prosecutorial process, known as the Justice and Peace process. Undoubtedly, the dominant legal tendency, also approved by some victims and symbolized and represented by the ICC, had exerted great pressure over the countries like Colombia to implement retributive forms of accountability. Nevertheless, from a restorative perspective, these mechanisms remain inappropriately limited to ex-combatants and contain non-restorative and/or retributive elements that could become much more restorative to better deal with the issues of transitional justice. In our opinion, thus, it would be worth creating restorative transitional justice mechanisms in which all offenders, ex-combatants and others, would collectively contribute to the reparation of the social and individual harm through full disclosure of truth, handing in the benefits they obtained through the conflict and actively participating in activities designed to restore the victims’ and social harms, such as community service or, as some participants suggested, working in poor neighborhoods to prevent young people from joining the conflict.

2.2. The blurry criminal intention behind mass atrocities

In cases of mass atrocities, the intention to commit a crime or to offend, meaning the criminal or wrongful purpose, is not crystal clear. Emotions of fear and tension, which characterize conflict situations, may be discharged through Collin’s mechanism of “forward panic”, according to which fighters become absorbed in a repetitive uncontrolled attack on a victim (Collins, 2011). Ex-combatants of the Colombian conflict explained how strong emotions of fear, rage and tension conducted them to blindly fight the enemy in order to win the battle. Fighting violently is further encouraged by the audience, or the illegal group in this case, that only aims at winning the battle. In conflict situations there are sensations, feelings and passionate emotions that are rarely present in non-conflict situations and that somehow explain the viciousness behind mass atrocities.

Furthermore, ex-combatants are obliged to execute orders. An ex-combatant who commits a crime by executing an order of his or her superiors is not similar to the serious criminal who meticulously plans an ordinary crime and executes it with the intention to
do so. As ex-combatants thoroughly explained, the illegal armed group constitutes an enterprise, based on hierarchies, rules and orders like any other working institution. The particularity of these illegal organizations is that committing atrocities is part of the job combatants have to carry out. They are trapped in the “laws of war”, in a violent machine where if they do not execute the orders they are obliged to, they simply lose their lives in the blink of an eye. What we mean here is that unlike the criminal offender of a common crime, who consciously calculates the act, combatants execute the cruelest crimes to comply with their war obligations. Although in our opinion restorative justice could be also applied to serious common crimes, most probably by including a restorative incapacitation, the lack of clear intention behind mass atrocities constitute an additional argument to implement restorative justice mechanisms aiming at restoring and reintegrating fighters.

Moreover, the empirical findings demonstrate that ex-combatants can feel remorse and regret for the harms they have caused to innocent victims and to their own families. These findings reveal that when changing the environment, by simply coming out of the jungle and facing another reality, ex-guerrilla members can see and consider a paramilitary, who used to be their worst enemy, as their friend, as their comrade. This doesn’t mean that all ex-combatants will magically and successfully join civil life by simply changing their environment. But what we mean is that in spite of the gravity of the acts committed, they do not necessarily correspond to the category of “irrational or fanatic offenders”. There is a great potential for ex-combatants to successfully join society, especially if their reintegrative and justice processes are further governed by the principles and values of restorative justice.

As Neubacher rightly argues, most Nazis were ordinary people, educated, caring husbands and family members, who still were capable of dreadful acts (Neubacher, 2006). In conflict situations, there are various factors such as emotions, group dynamics, the phenomenon of obedience and the feeling of executing a “legitimate” goal, among others, which can make an ordinary citizen capable of committing cruel mass atrocities. Furthermore, behind mass atrocities there is complicity of active and passive bystanders: national or foreigner citizens, NGO’s, other countries and international organizations. As ex-combatants explained, in addition to war emotions and the obedience phenomenon,
the illegal armed group’s activities were strongly encouraged by politicians, the armed forces, NGO’s, businessmen and industrials, other countries, among others.

2.3. Restorative accountability and ex-combatants submitted to orders

To raise the degree of restorativeness of the accountability processes of those who participated in the conflict without decisional power, we should reinforce and establish a psychological assistance. In addition to this assistance, ex-combatants should be offered the possibility of carrying out a productive activity that could help them in keeping their interests far away from criminal matters. Furthermore, restorative justice processes, like peacemaking circles or CRP’s, could be established with the victims of the Colombian conflict and these ex-combatants.

2.3.1. Strengthening the ex-combatant’s DDR process through psychological assistance and suitable activities

As we know, the DDR process applied to those who are not guilty of having committed serious violations of human rights, offers extraordinary opportunities for their reintegration into civil society. The DDR process contains restorative elements like the absence of intentional punishment infliction, the various educational and job opportunities, the psychological assistance and health services, among others. However, in our opinion, these restorative efforts should go further in terms of restoration of the social and individual harm of victims and ex-combatants. In fact, according to the interviews, on the one hand, many low-level ex-combatants haven’t yet built up a new identity different from the one gained in times of war which would demand further psychological and moral assistance, and on the other hand, despite their willingness to carry out activities to restore the social harm and the individual harm of victims, DDR participants are very much disconnected from such activities.

So, first and foremost, ex-combatants would need to find a new identity, achieve a real shift in consciousness and leave behind the memories of the conflict. This is far from being an easy task. In order to attain this goal, in our opinion, one must tackle their first form of suffering, or victimization, which influenced in their decision to join the illegal armed groups. In fact, as foot soldiers have thoroughly explained, the reintegration
process is extremely painful and tough: not only they have to overcome the harms and traumas caused by the horrors of war, but they have to reintegrate into an unknown world in conditions of extreme poverty while painfully realizing they lost the best years of their lives in a conflict that harmed their own families and innocent victims. Additionally, they must find the means to live without particular skills while hiding their pasts.

Despite the various opportunities provided by the DDR process, some ex-combatants haven’t changed their mind-set and therefore continue to see criminality as an option. Although many amongst them seem to have gone through a real transformation according to which they realize their wrongs and even regret their past actions, others continue to have a war mentality. In fact, some ex-combatants have joined or created criminal gangs that operate in the cities.

In order to achieve a real change of mind-set, give a good and different example to their children and stop the cycle of reoffending, ex-combatants need further psychological and moral assistance, like the one provided by the intensive periodical program to the victims of Aguablanca. In fact, many of them have no one to rely on, and therefore need further assistance to avoid falling into the temptation of criminality. As frequently explained by ex-combatants, the loved-ones are amongst the most important reasons, if not the most important one, to demobilize and peacefully reintegrate into society. Since transportation and living seem logistically difficult and expensive for them, it would be coherent to think about permanent/short term reintegrative centers, in which they could have an intensive activity that would maintain them busy and far from past memories. In fact, ex-combatants constantly reproach spending too much time doing nothing; according to them, free time or leisure allows them to relive their war memories and push them towards the path of violence. One could also think about some kind of agricultural farms, as proposed by Homero. In fact, on the one hand, many ex-combatants are peasants and find it extremely difficult to reintegrate into cities, and on the other hand, such program would provide them with the needed constant assistance and the opportunity to feel useful to society through a constructive activity or job, which, according to them, becomes essential in the reintegrative process. In other words, such program would aim at healing their harm and achieving a shift of consciousness through constant professional psychological and moral assistance. Undoubtedly, ex-combatants need to heal and
develop their inner world and therefore moral and/or spiritual assistance should be provided to them.

2.3.2. Executing restorative measures through restorative processes

As we have thoroughly explained under the restorative process of victims, DDR ex-combatants and other minor participants in the conflict could take part in peacemaking circles or CRP’s like the ones established in East Timor. In this way, they could further indirectly or directly participate in the healing process of victims through collective community service actions or other creative activities. Regarding DDR ex-combatants, although some of them are currently doing community service, in our opinion, such restorative initiatives should involve all ex-combatants and from the very beginning of the reintegration process. When being asked if they would like to do something to repair the victims of the Colombian conflict they seemed very enthusiastic with the idea of establishing programs designed to repair the harm inflicted to victims and to society. Some ex-combatants proposed to contribute in the healing process of the social harm they have caused by preventing the youth in poor neighborhoods from joining criminal activities. Generally, ex-combatants feel remorse for the harms committed to innocent civilians, to their families and to themselves; they wish to catch up with all those years they lost in the battlefields through a productive activity. In this way ex-combatants would have a feeling that they truly belong to a helpful program and be accountable for their acts in a more pragmatic, constructive and future oriented way. By doing activities for others they may further realize their wrongs, assume responsibility constructively while strengthening moral bonds with the community.

So, we argue that ex-combatants going through the DDR process should be held accountable in a restorative way. According to the interviews, victims would probably agree with the idea of holding DDR ex-combatants in a restorative way. As a matter or fact, most victims believe low-level offenders were also victims of the conflict due to the lack of opportunities and poverty. But what about those covered by the JPL, those guilty of having committed serious violations of human rights? And what about the political, military and business leaders who actively and significantly participated in the conflict?
2.4. Restorative accountability and the powerful actors of the conflict

In our opinion, restorative accountability for chief ex-combatants and other political, military and business leaders should take place in the same way as it has been previously described regarding DDR ex-combatants and those who participated in the conflict in a less significant way, meaning avoiding any form of intentional punishment infliction and connecting accountability to restoration and reintegration through restorative measures such as truth, community service, symbolic measures, compensation, giving back the goods obtained through the conflict, among others. Nonetheless, in our opinion, restorative measures should be proportional to the responsibility of ex-combatants, and therefore, chief ex-combatants and other leaders should participate more than low-level offenders in giving back the goods obtained through criminality, telling the truth and restoring the individual and social harm.

In first place we will analyze the way in which the existing judicial transitional justice mechanisms established by the JPL could become more restorative, and secondly, we will propose a restorative accountability process carried out through the eventual Colombian TC, meaning a non-judicial restorative transitional justice mechanism.

2.4.1. Restorative accountability and the JPL

In our opinion, the judicial transitional justice mechanism established by the JPL may become more restorative by changing the sanctions established by the law and by embracing other leaders than ex-combatants.

2.4.1.1. Turning the JPL’s sanctions more restorative

In Colombia, the JPL is often assimilated to restorative justice since it has considerably reduced the prison sentences inflicted to ex-combatants. We argue, though, that reducing prison sentences is not enough to consider a system restorative. In our opinion, the JPL is not really restorative since it doesn’t necessarily contribute to the restoration of the social harm and the individual harm of victims and ex-combatants. In fact, ex-combatants, at least those who were interviewed in the Itagüí prison, complain about the terrible conditions of the prison and haven’t received any psychological assistance. The JPL
Part IV: Applying restorative justice in Colombia
Chapter 2. Restorative justice and the victims and offenders of the Colombian conflict

process remains a quite formal and long conventional justice system; behind the JPL process there is obviously the intention to inflict punishment and the system has been largely focused on proving the offender’s guilt. As a result, victims have somehow been ignored and their judicial reparation has taken too long. According to experts, Colombia would need approximately one hundred years to accomplish this process.

So a reduction of the prison sentence is in no way synonymous of restorative justice. It all depends on the conditions of such incapacitation. Zehr believes incapacitation could be good; sometimes offenders need this time (Zehr, 2012). We believe, thus, high-level ex-combatants and other responsible leaders should go through a period of restorative incapacitation. Regarding ex-combatants, coming from a long and violent life in the jungle to civil life is a drastic and difficult change that requires time and adaptation. A restorative incapacitation could consist of a space capable of offering ex-combatants the suitable means to restore his/her harms and the victims’ and social harm through constructive activities like restitution, compensation, community service, symbolic measures, among others. In fact, there should be a minimum appropriate period of incapacitation, but within a restorative justice institution designed for restoration, like the agricultural farm, in which ex-combatants would work on themselves to achieve, or at least try to achieve, a shift of consciousness; a necessary internal transformation that would allow him/her to reintegrate peacefully into society. As they thoroughly insisted, ex-combatants at the Itagüí prison believe it would be worth making a better use of their time in prison through work, education, sports and psychological assistance. They agree being deprived of freedom, but in a more constructive way.

Of significant importance, chief ex-combatants and other leaders of the Colombian conflict should remain during this period of time isolated from society in order to really cut-off with illegal activities, notably with the business of drugs and money laundering. Only visits from the loved ones should be allowed. According to some participants, although the paramilitaries have demobilized, their criminal structures continue to exist and ex-combatants continue to work in criminal matters from prison through their mobile phones and various visits they receive. As a matter of fact, those who were interviewed in the Itagüí prison had mobile phones and were in constant contact with the external world. This phenomenon has been well known in Colombia; under the extradition treaty between Colombia and the United States, drug cartel leaders and even paramilitary...
leaders have been extradited to the United States to face drug charges and long prison sentences. The extradition of paramilitary leaders to the United States became a real controversial issue in Colombia. The government of Uribe justified these extraditions relying on the fact that these leaders of paramilitary groups continued their illegal trade from prison, and therefore in the eyes of the authorities extradition became a necessity. Some participants argue though, that the government extradited them to hide the truth behind the conflict, notably the well-known links between some politicians and the paramilitaries.

When being asked about the prison sentences inflicted to the paramilitaries and guerrilla members who committed serious violations of human rights, which goes from 5 to 8 years, some participants highlighted the absurdness of inflicting lower prison sentences to those who committed serious violations of human rights and were in the business of drugs, than to the drug cartel leaders. Although we will not analyze the way in which ordinary crimes related to drug trafficking could be dealt with, we believe restorative justice could be obviously applied to such matters. In any case, in our opinion, Colombia should be able to judge and control, ideally in a restorative way, all Colombian citizens, drug cartel leaders or guerrilla and paramilitary ex-combatants.

If after that period of time the ex-combatant proves to have achieved a real transformation and has actively participated with the issues of transitional justice, incapacitation should end up, but obviously under control and constant lifestyle supervision to avoid precisely the typical Colombian case-scenario in which ex-combatants, corrupted politicians and others, come out of prison with their bank accounts full of money obtained through criminality.

So, from a restorative perspective, the offender’s fate shouldn’t be decided by an abstract law, but by his/her willingness to renounce to violence and restore the harm. The chief ex-combatant would need to prove to the Colombian society that he or she could peacefully reintegrate into society after having actively participated with the issues of transitional justice. In other words, if chief ex-combatant are unwilling to give back what they illegally obtained, meaning all the goods and vast properties, cut up with violence and participate in the truth telling process and in the restoration of the harm, they should
remain in the reintegrative centers and join society only if these requirements are accomplished.

According to Walgrave’s pyramid of restorative law enforcement related to common crimes, some pressure should be exerted over the offenders who are not complying with their restorative obligations (Walgrave, 2008a). In the Colombian case, chief ex-combatants and other leaders could be threatened to go into less restorative incapacitation centers if they are unwilling to comply with their obligations. Walgrave believes though that there should be a maximum to avoid stubborn offenders, who do not represent a real threat to public safety, spend disproportionate sentences (Walgrave, 2008a). However, in the context of mass atrocities committed in Colombia, the seriousness of the offenses may make us take a different position. Would it be just to end-up the incapacitation period of someone who has committed the cruelest atrocities and who has obtained exorbitant amounts of money without executing his or her restorative obligations? In our opinion, ex-combatants and other leaders should remain in the restorative centers until they execute their restorative obligations and, notably, if they no longer represent a threat to public safety. We understand that this will be very difficult to measure and determine. Therefore, we believe each case should be studied and analyzed by professionals, doctors and psychologists who would analyze the ex-combatant’s capacity of reintegration.

2.4.1.2. Embracing other responsible authors

Moreover, in our opinion, the JPL should go beyond ex-combatants responsible for the serious violation of human rights and involve the various political, military and business leaders, meaning those operating within legal structures without which the conflict would have never reached such dimensions. Instead of distinguishing between those who have committed serious violations of human rights and those who haven’t, as established by the JPL, these processes could focus on the most responsible ones; those holding authority and power. In fact, as previously explained, the JPL covers ex-combatants having committed serious violations of human rights. However, the government’s selecting criteria are far from being clear; many postulates to the process are in fact low-level ex-combatants who most probably didn’t have a role in the decision making process of illegal armed groups.
In our opinion, thus, instead of focusing on those who have committed serious violations of human rights, transitional justice process, either restorative or retributive, should focus on those who played an influential role in the conflict. In fact, with regards to ex-combatants, many victims and even ex-combatants make a clear distinction between low-level ex-combatants and high-level ex-combatants; whereas the first ones are often seen as victims, the second ones are often seen as the real offenders and unique beneficiaries of the conflict.

So the judicial process established by the JPL could become more restorative by replacing its retributive oriented form of accountability for a restorative form of accountability involving chief ex-combatants, but also other leaders who significantly participated in propagating the conflict. However, this process remains a complex and very long legal system that, in our opinion, should be ideally replaced by a non-legal restorative transitional justice mechanism, like a truth commission.

2.4.2. Restorative accountability and the Colombian truth commission

As previously explained, the eventual Colombian TC could establish a restorative committee designed to impose restorative measures upon chief ex-combatants and influential actors of the Colombian conflict through non-judicial processes. The restorative sanctions, and notably the restorative period of incapacitation, would take place in the same way that it has recently been explained under the process of the JPL. Likewise, this process should also include the actors that, in our opinion, should have been covered by the JPL, meaning the chief ex-combatants of the illegal armed groups and the political, military and business leaders who actively participated in the conflict.

This accountability process established by the TC would drastically change from the JPL process since it constitutes a non-judicial restorative transitional justice mechanism. As a result, this process would turn out to be more flexible, fast, informal, easily understandable and governed by the restorative justice values such as dialogue, respect, solidarity, and active responsibility, among others. This process should provide a physical space where a constructive dialogue could take place between victims and offenders.
Although we will not explain again these process, which has already been deeply explained under the chapter regarding restorative justice and the victims of the Colombian conflict, it is worth mentioning the fact that such processes could further encourage ex-combatants to collectively restore the harms they have jointly committed through actions involving truth-telling, restitution, compensation, symbolic measures, etc. In this way, the phenomenon of illegal armed groups would pass from being tackled and administered in an individual and fragmented way, to being collectively and globally dealt with. Such collective process would allow for a comprehensive and all-inclusive vision of truth, which would be useful preventing the reoccurrence of mass atrocities.
Conclusions and recommendations

Finally, I would like to say that all these years of intensive research and deep human interaction lead me to the conclusion that humanity needs to take a step towards a healthier vision of justice capable of strengthening social cohesion, particularly in torn apart societies like Colombia. It is time to leave behind an old fashion justice system designed to divide and punish to build a solid justice system aiming at restoring; it is time to move from the legal retributive justice system to restorative justice.

Despite the lack of common definition and existing literature vacuums, we were able to demonstrate that restorative justice constitutes a coherent vision of justice susceptible of finding solutions to the weaknesses of the conventional legal justice system. Some may consider it naïve or too soft. But, as Walgrave rightly notes, “relying on interhuman empathy is not naivety, but a well-reflected option” (Walgrave 2008a, p. 674); an original option that intents the difficult task of breaking a justice tradition based on disguised revenge or retribution and respectfully bare into account all stakeholders’ needs and interests to successfully achieve the substantive goal of restoring the harm.

This research project indented to shed light on the way in which restorative justice could penetrate the challenging and peculiar context of transitional justice in Colombia. In spite of Colombia’s undertaken efforts to implement transitional justice mechanisms during its devastating ongoing conflict, the country is still struggling to achieve a peace agreement with the remaining guerrilla groups and to successfully deal with the issues of transitional justice. Colombia constitutes in fact an example par excellence proving that ordinary criminal justice systems are not adequate in dealing with the massive complexities of a long-lasting and still ongoing conflict.

More precisely, this research project attempts to explain why and how restorative justice could be applied during the Colombian transitional justice process. In order to explain why restorative justice could be applied in Colombia, we examined the advantages of the restorative approach over the conventional justice approach when dealing with the issues of transitional justice. We based this explanation, on the one hand, on a thorough literature study of the field of transitional justice, the conventional and the restorative
just systems and the Colombian transitional justice process, and on the other hand, on empirical data gathered through interviews and focus groups carried out with 31 victims and 25 ex-combatants of the Colombian conflict. As a result, this research project contributes to the scientific knowledge about restorative justice and transitional justice by proposing a concrete theoretical framework on the fusion of restorative justice and transitional justice, and in this way, helping to fill in the literature gap on this theoretical coalition. This research project further offers unique data on the suffering and healing processes of the victims and offenders of the Colombian conflict as well as on their opinions and perceptions about the Colombian conflict and the issues of transitional justice and finally. Finally this research project contributes to the scientific knowledge by explaining why and how the victims and offenders of the Colombian conflict could benefit from the restorative justice approach.

Drawing upon the literature study and the empirical findings, we will now explain why and how restorative justice could be applied during the Colombian transitional justice process.

1. Why could restorative justice be applied in Colombia to the expenses of the conventional justice system?

Unlike the retributive approach, which remains narrowly legally oriented, restorative justice constitutes a flexible justice approach that encourages the integration of various disciplines in the field of transitional justice system. A restorative approach may therefore embrace disciplines like criminology, anthropology, psychology, theology, the arts, etc. that could all significantly contribute to better understand the issues of transitional justice, and therefore, to better deal with them. This openness and flexibility allows to finding better ways to heal the harm of Colombians and putting in place more effective forms of accountability aiming at restoration.

1.1. Restorative justice: A better approach in achieving the necessary goal of restoring the harm of Colombians

Colombia urges to implement transitional justice mechanism aiming at restoring the harm caused by mass atrocities. Unlike those who believe these crimes should be dealt with in a legal conventional way, we argue that the characteristics of transitional justice further
contexts justify the application of a restorative approach to the expenses of the retributive approach.

1.1.1. Replacing suffering for restoration: A win-win strategy for Colombians

Restoring the harm of millions of victims and offenders of the Colombian conflict should be seen as a necessity, not an option. We believe the best way to achieve this goal is through the implementation of systematic transitional justice processes aiming at restoring the individual harm of victims and offenders and the social harm. Retributive-oriented mechanisms focus so much on condemning offenders that they leave behind the healing needs of victims and offenders. The JPL, for instance, has certainly contributed in unveiling the truth behind the conflict, notably the ties of politicians with illegal groups, in confiscating some of the goods illegally obtained, etc. Anyway, these goals could be attained through restorative justice systems, avoiding the JPL’s complex and long judicial process, which has done very little in restoring the harm of victims and offenders. The stakeholders needs are: to be treated with respect, the need to be able to understand the justice system, to freely express their queries and emotions, to feel that the justice system is about them and not about the legal practitioners. The JPL system is unable to meet the real needs of victims and offenders simply because this is not its main goal.

In our opinion, a transitional justice strategy focused on healing is what Colombia needs. All Colombians would benefit from repairing the harm of both victims and offenders, to erase so much suffering through restorative actions instead of further generating painful emotions through intentional punishment infliction, which in any case will never be proportionate to the crimes committed and which would only add more suffering to the victims, by indirectly encouraging revengeful feelings, and to offenders and their families, who have already endured so much.

1.1.2. Restorative justice: A viable option in addressing mass atrocities

Contrary to those who advocate for intentional punishment infliction in cases of serious violations of human rights, we believe the seriousness and the high numbers involved in mass atrocities should not constitute an obstacle in implementing restorative transitional justice mechanisms. These particular characteristics of transitional justice contexts may affect the restorative practices usually implemented when dealing with common or
ordinary crimes, but they should not affect the essence of the restorative practice. In other words, well-executed voluntary deliberative practices, in which stakeholders decide on the solution of their conflict with the assistance of a facilitator and others, have proven to achieve restorative goals when dealing with common crimes. But implementing these practices in contexts of ongoing conflict may be extremely difficult due to logistical and security issues.

For instance, it would be almost impossible for an offender of one thousand victims to achieve an agreement with each one of them, and to execute the resulting obligations. However, as we have thoroughly explained under Part IV of this research study, in transitional justice contexts it is totally feasible to create non-judicial mechanisms guided by the restorative justice principles and values and aiming at restoring the harm caused by mass atrocities. So the gravity and high numbers of the crimes involving mass victimization should not be an excuse to avoid the implementation of restorative transitional justice mechanism.

On the contrary, we believe the characteristics of mass atrocities further justify the application of restorative justice, to the expenses of the conventional justice system. In cases involving mass victimization, the harmful purpose or the intention to cause harm by the combatants of the various illegal armed groups, is distorted by the laws of the war that are imposed to them. Normally, ex-combatants commit crimes not because they really want to, but because they are obliged to execute orders in order to survive within the illegal organization; combatants are trapped in the circle of violence, and in many cases, they do not have the choice to quit.

In addition to the blurred intention behind massive crimes, many ex-combatants have shown remorse and have even changed their perception about those who used to be their enemies in the battlefields. Ex-combatants have been proven to be able to adapt to their new environments and its laws. However, their process of reintegration remains a challenging task and a key element for peace in Colombia. It is for this reason that we argue that transitional justice should also meet the needs of ex-combatants through a restorative form of accountability, which in our opinion, should involve permanent short periods within a restorative and reintegrative institution for some, and a period of restorative incapacitation for others.
1.2. The advantages of implementing a restorative form of accountability

Dissimilar to the conventional and retributive form of accountability, a restorative form of accountability, which avoids the intention to inflict punishment, may encourage combatants to demobilize and tell the truth, the reconciliation of the justice and peace issues, and may also allow for more pragmatic and collective ways of executing restorative obligations.

1.2.1. Punishment and the fear of demobilizing and telling the truth

As we have explained in our theoretical framework, intentional punishment infliction goes against our vision of restorative justice. By inflicting intentional punishment we are holding offenders accountable in a passive and retrospective way. Restorative justice, on the contrary, holds offenders accountable in an active and future-oriented way by asking them to restore the harm they have committed. As thoroughly explained, studies until now have shown the inability of punishment in reintegrating offenders and deterring people from committing offences or from reoffending. Punishment might be effective in deterring rational people who think of consequences, but it is not effective in deterring people who will actually commit an offense, and who do not think about consequences. (Zehr, 2012).

Ex-combatants explain how the fear of ending-up locked within punitive institutions prevents actual combatants from giving up weapons and demobilize. In this sense, punishment infliction is not deterring combatants from committing crimes, but it is preventing them from demobilizing and putting an end to the conflict. In other words, in an ongoing conflict, intentional punishment infliction does not necessarily deter from committing mass atrocities but may paradoxically contribute to the conflict’s prolongation. Interestingly, those who are not considered responsible of having committed serious violations of human rights, and who therefore participate in the DDR process, are not fully telling the truth about their acts because they fear being submitted to the JPL process and undergo a 5 to 8 years prison sentence. Again, the fear of being punished prevents ex-combatants to constructively contribute to one of the main issues of transitional justice: truth.
1.2.2. Reconciling the issues of justice and peace

By preventing combatants from demobilizing, the conventional justice system hampers the road towards peace. Reconciling the issue of justice, understood in a retributive way, and the issue of peace, becomes very difficult. On the contrary, restorative justice, by taking away the intention of punishment infliction and dealing with the issues of mass victimization in a respectful way, censuring the act, not the offender, and aiming at restoration, is capable of reconciling the issues of justice and peace.

Restorative justice imposes obligations to offenders, but by taking away the intention to inflict pain, these obligations may become more attractive to them than the painful obligations usually imposed by the conventional justice system. As a result, in our opinion, combatants would be keener to leave up weapons and join society. Ex-combatants are willing to give back; they are willing to execute obligations. Even those who are participating in the DDR process would like to do something constructive to restore the harms caused to the victims and the Colombian society. Even those who are in prison believe they should be deprived of freedom, but in a different way. In our view, ex-combatants are not looking to being amnestied; generally they want to help in the healing process of victims, they want to prevent the poor youth from joining the criminal life, they want to join the path of goodness through a decent job. They want to execute obligations, but constructive and future oriented obligations like the ones proposed by the restorative approach. This is just beneficial for all Colombians.

Further, while aiming at restoring and reintegrating offenders into civil life, and not at punishing and isolating them, restorative justice facilitates the path towards reconciliation. Although reconciliation and forgiveness are not the primary goal of restorative justice, these issues obviously constitute a secondary desirable goal.

1.2.3. The benefits of collective forms of accountability

According to Colombians, the conflict is not limited to the members of the illegal armed groups; there are many other actors that have contributed in a way or another to the creation and the proliferation of the Colombian conflict. However the JPL process remains limited to some offenders, to those who committed serious violations of human rights.
One of the paramilitary leaders interviewed in prison argues that the JPL process should also include others who participated hand in hand with them in the conflict.

Since the conventional justice system is extremely complex and long, it has to choose amongst the offenders. As we explained in our theoretical framework, very often the choosing criteria are not very coherent, and may end up prosecuting low-level offenders to the expenses of those who had decisional power.

By implementing more informal, flexible and rapid mechanisms of doing justice, restorative justice may involve more offenders who could collectively participate in the restorative and truth-telling processes. In our opinion, establishing collective processes could contribute to better unveil the truth about the facts. As one ex-combatant argued, chief commanders are no always aware of the crimes committed by their groups, among which many occurred years ago. So, giving an order is very different from executing it. Correspondingly, we believe resolving the cases collectively could strengthen the truth-telling processes. In this way, they could collectively execute their truth-telling obligations, as well as other restorative obligations like community service and advance in a more pragmatic way with the various restorative obligations.

Finally, before explaining the way in which restorative justice could be applied in Colombia, we would like to conclude this point by noting that the retributive system defended and promoted by the legal network, and notably by the ICC, may not be an appropriate approach for a country like Colombia, which is still struggling to integrate into society thousands of ex-combatants and find a peace accord with the remaining illegal armed groups, which most probably would never give up weapons if they were obliged to go to retributive prisons. We argue, thus, that the ICC should be prudent with regards to the transitional justice processes of the countries, like Colombia, which were not lucky enough to find a solution to the conflict before the entry into force of the Rome statute. In other words, the ICC should allow and even encourage other forms of justice, like restorative justice, that would better contribute to the solution and the administration of the conflict.
2. How could restorative justice be applied in Colombia?

Restorative justice could be applied in Colombia by taking preventive restorative measures, creating restorative transitional justice mechanisms and carrying out future research studies on the theoretical and practical coalition of the field of transitional justice and the approach of restorative justice.

2.1. Taking preventive restorative measures

To succeed in its process of transitional justice and in order to achieve peace, Colombia would need to take preventive measures to fight against the causes of the conflict, such as corruption, absence of state presence, lack of opportunities and the drug trade. Moreover, after many decades of conflict Colombians have developed a violent and indifferent mentality that makes any road towards constructive dialogue and peace, challenging.

Implementing a widespread practice of restorative justice, across schools, communities, in the workplace and inside political institutions, would help to combat the selfishness, individualism and lack of common self-interest that have taken Colombia to the actual critical situation. Its effectiveness would reside on the good promotion of the restorative justice principles and values (the principle of interconnectedness, of non-violence, and the values of respect, solidarity, humility and love), but also on finding pragmatic solutions to many of the problems, for instance the legalization of drugs to stem their flow and the adequate control over politicians to stop corruption. Moreover, Colombians should study the unifying philosophies of indigenous communities, which most probably would constitute a great tool in promoting a culture of respect susceptible of backing-up the Colombian restorative transitional justice process.

2.2. The Colombian restorative transitional justice mechanisms viewed along a continuum

The degree of restorativeness of transitional justice mechanisms should be seen in a continuum; from less restorative to very restorative. States may implement one or many transitional justice mechanisms to deal with the complex issues of transitional justice. For
instance, in Colombia, various judicial and non-judicial mechanisms have been created. Some of them relate exclusively to the victims, others to offenders and others, to both.

With regards to the victims of the Colombian conflict, the Victims law of 2010 offered the opportunity of returning millions of acres of land to Colombians who had lost their homes due to the conflict and has recently started to implement individual and collective forms of reparation to the victims. In addition, the victims may obtain financial administrative reparation and some of them may participate in the judicial process established by the JPL. In our opinion, every measure designed to heal and repair the harms of victims, if well executed, is obviously restorative. However we believe, the degree of restorativeness of these measures may increase by replacing the judicial system established by the JPL for a non-judicial system, like a TC that may further implement restorative justice practices like peacemaking circles and East Timor’s CRP.

With regards to offenders, on the one hand, the DDR process, which in our opinion should cover only the ex-combatants who executed orders, could become more restorative by strengthening the psychological assistance offered to ex-combatants, by providing them with the means of realizing productive activities, and by executing restorative obligations resulting from the peacemaking circles or the CRP’s. And on the other hand, the JPL, which we believe should be applied to the chief ex-combatants and to other political, military and economical leaders, could become more restorative, if while remaining a judicial mechanism it could impose obligations in view of restoring instead of punishing. However, the last category of offenders could be held accountable in a more restorative way by a TC: a non-legal, flexible and participative restorative transitional justice mechanism governed by the principles and values of restorative justice. Therefore, we believe the TC should replace the JPL process. In sum, a non-judicial transitional mechanism aiming at restoration would be more restorative than a legal transitional justice mechanism, which also aims at restoration. And the latter would be more restorative than a legal transitional justice mechanism aiming at retribution. So, Colombia may put in place exclusively very restorative transitional justice mechanisms, partly restorative, retributive or not restorative, or it can put in place a mixture of all. We obviously defend the first case scenario, meaning exclusive very restorative transitional justice mechanisms.
In its quest for promoting restorative justice, and increase the degree of restorativeness of the transitional justice process, Colombia could draw upon the unifying and restorative philosophies and techniques embedded in various indigenous communities, which hold invaluable wisdom and knowledge susceptible of brightening the administration of mass atrocities. It is quite surprising to see that whereas local-level or traditional forms of justice have inspired transitional justice strategies worldwide, notably in Africa, Colombia hasn’t developed any interest towards the justice mechanisms of its existing indigenous communities. Obviously one must analyze the capacity for restorative indigenous practices to be generalized or universalized to be applied outside the given community. Certainly, belonging to the same community, the same family, and sharing the same philosophy may strongly influence the successful implementation of restorative practices. However, experience has shown that indigenous practices have strongly inspired western techniques, bringing about satisfying results, even outside the given community.

2.3. Carrying out future research studies

Since this research study is qualitative it does not assess the issue of generalizability or external validity like quantitative researches. Accordingly, Keele argues, “the goal of qualitative research is meaning, discovery, and richness of detail of the phenomena of interest... Generalizability of study findings to a larger population is not the goal as it is in quantitative research”\(^\text{14}\). Although the model of restorative justice could be applied to other situations of transitional justice and even to situations involving ordinary crimes, the findings of this project on the opinions and perceptions of some victims and ex-combatants of the Colombian conflict are neither representative of the Colombian population, nor susceptible of being generalized. Nevertheless, the questionnaire used to interview participants could be also used to interview other victims and combatants of the Colombian conflict, as well as other victims and combatants from other countries.

It would be interesting, thus, to carry out the following research projects to further complete this thesis:

Conclusions and recommendations

- A qualitative research study involving groups of victims and ex-combatants, members of the illegal armed groups or state soldiers, who were not included in this project. For instance, the questionnaire used for the present research project could be serve to carry out in-depth interview or focus groups with survivors having gone through other forms of victimization like being recruited as a child soldier, having undergone a sex-assault, being a victim of a landmine, etc. The victims of the abuses of the Colombian army, notably the victims of the *falsos positivos*, could be included. With regards to ex-combatants, this research project could interview soldiers, particularly those behind the *falsos positivos* cases, and more chief ex-combatants members of both paramilitary and guerrilla groups. The aim of this project would be to listen to their stories, their painful experiences, the factors that have contributed to their healing process and to analyze their visions and perceptions of the issues of transitional justice.

- A qualitative research project designed to interview legal advocates, including members of the ICC and of the Inter-American Court and Commission of Human Rights, about the restorative form of accountability defended in the present research project.

- A quantitative research with Colombian citizens on the issue of restorative and retributive accountability related to the responsible actors of the Colombian conflict that have been mentioned in our thesis. Probably it would be necessary to briefly and in the simplest possible way explain both forms of accountability and/or to include questions on the various components of these forms of accountability.

- A qualitative research project with some participants who fulfilled the JPL process, for instance, some chief ex-combatants and some of the victims they actually victimized. The in-depth interviews or focus groups would aim at obtaining information on their opinions and perceptions about this judicial process, notably with regards to the issues of truth, accountability, reparation and reconciliation.

- An experimental research project designed to establish a healing program with ex-combatants, chief commanders, foot soldiers or both. This healing program could draw upon the victim support program established in *Aguablanca* with the victims of the Colombian conflict under the framework of this research project. The goal of this research
An experimental research project designed to create a healing program involving victims of the Colombian conflict who feel hatred and revengeful emotions. The aim would be to examine if the healing program could contribute in healing these vindictive emotions. Moreover it would be interesting to observe if by healing these negative emotions they also change their opinions about the intentional punishment infliction, which characterize the conventional justice mechanism. For this purpose the participants could receive some information about the weaknesses of the conventional justice system in reintegrating offenders and reducing criminality and some of the advantages of the restorative justice approach in this regard.

- A qualitative research study on the philosophies and justice practices used by some Colombian indigenous groups, notably those living in the Sierra Nevada of Santa Marta. The aim of this project could be to analyze whether the restorative aspects of these philosophies and practices could be used to deal with the issues of mass atrocities in Colombia. For this matter, it would be necessary to interview the spiritual leaders of these groups who have the knowledge about the indigenous philosophies and conflict resolution techniques that have passed from generation to generation. Generally, the spiritual guides live in the mountains and do not necessarily speak Spanish. A translator would be thus necessary to correctly carry out this research project.

- Right now the government of Santos is negotiating in Cuba a peace accord with the members of the FARC. There is a controversial issue regarding the eventual political participation of the members of the FARC once they have given-up weapons. In our opinion, it would be interesting to carry out a quantitative study with Colombian citizens on their opinions about the FARC's eventual participation in the political sphere.

I would like to conclude by stating that the Legal Framework for Peace has provided Colombia with a second chance to succeed its transitional justice process. How wonderful it would be to see restorative justice conquering this particular field and bring about a
successful and exemplary way of doing justice. This challenging goal would require promoting restorative justice, thinking outside the box, and above all, the honest will and hard work of Colombians to finally break the circle of violence and prepare a future of sustainable peace.
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## Annex 1. List of participants

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<th>Cecilia</th>
<th>Sergio</th>
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<td>F</td>
<td>M</td>
<td>F</td>
<td>M</td>
</tr>
<tr>
<td>Age</td>
<td>52</td>
<td>46</td>
<td>43</td>
<td></td>
</tr>
<tr>
<td>Place of interview</td>
<td>Acción social (Cali)</td>
<td>Unit of Justice and Peace (Cali)</td>
<td>Unit of Justice and Peace (Cali)</td>
<td>Unit of Justice and Peace (Cali)</td>
</tr>
<tr>
<td>Education</td>
<td>Secondary education</td>
<td>University</td>
<td>Primary education</td>
<td>Secondary education</td>
</tr>
<tr>
<td>Job Situation</td>
<td>Employed</td>
<td>Employed</td>
<td>Unemployed</td>
<td>Employed</td>
</tr>
<tr>
<td>Occupation</td>
<td>Nurse</td>
<td>Politician</td>
<td>Home</td>
<td>Administrator</td>
</tr>
<tr>
<td>Form of victimization</td>
<td>Her husband was killed in front of her kids. She believes it was the FARC but she is not fully sure. She has been displaced several times.</td>
<td>His dad was killed by the AUC.</td>
<td>Her husband and son were disappeared. She thinks by the AUC but is not fully sure.</td>
<td>The FARC murdered his brother in 2005.</td>
</tr>
<tr>
<td>Brief personal remarks</td>
<td>-She is extremely sad; she didn’t stop crying during the interview. -Her son is completely traumatized. -She has a strong faith in God.</td>
<td>-He speaks very fluently and knows very well what he wants. -He’s bright and very calm. -He believes in divine justice over human justice. -He believes the media has an important role to play in the solution of the conflict.</td>
<td>-She is completely lost, traumatized, scared. -She feels lonely. -She is very poor. -She really wants to know the truth about the facts. -She believes in God.</td>
<td>-He has clear ideas. -He is happily married and has a stable job. -He believes in God. -He had never spoken about these issues with someone else and feels somehow relieved after the interview.</td>
</tr>
</tbody>
</table>

Table 3: Victims of the Colombian conflict interviewed between December 2008 and January 2009
<table>
<thead>
<tr>
<th>Name</th>
<th>Ariana</th>
<th>Álvaro</th>
<th>Antonio</th>
<th>Carmen</th>
</tr>
</thead>
<tbody>
<tr>
<td>Civil status</td>
<td>Widow</td>
<td>Cohabitation</td>
<td>Married</td>
<td>Widow</td>
</tr>
<tr>
<td>Gender</td>
<td>F</td>
<td>M</td>
<td>M</td>
<td>F</td>
</tr>
<tr>
<td>Age</td>
<td>44</td>
<td>60</td>
<td>35</td>
<td>42</td>
</tr>
<tr>
<td>Place of interview</td>
<td>Unit of Justice and Peace (Cali)</td>
<td>Acción social (Cali)</td>
<td>Acción social (Cali)</td>
<td>Acción social (Cali)</td>
</tr>
<tr>
<td>Education</td>
<td>Secondary education</td>
<td>Primary education</td>
<td>Secondary education</td>
<td>Primary education</td>
</tr>
<tr>
<td>Job Situation</td>
<td>Unemployed</td>
<td>Employed</td>
<td>Employed</td>
<td>Employed</td>
</tr>
<tr>
<td>Occupation</td>
<td>Home</td>
<td>Personal business</td>
<td>Technician</td>
<td>Cleaning lady</td>
</tr>
<tr>
<td>Form of victimization</td>
<td>Her companion (her children’s father) got disappeared by the illegal armed groups but she doesn’t know which group.</td>
<td>The illegal armed groups murdered his stepson.</td>
<td>A love one was murdered by the FARC. He didn’t want to say whom exactly.</td>
<td>His husband was murdered in a crossfire between the Colombian army and apparently the FARC.</td>
</tr>
<tr>
<td>Brief personal remarks</td>
<td>- She’s completely traumatized, paranoid and scared. - Single mother of 3 children. - She wants to know above all why they killed her companion. - She doesn’t have the financial means to raise her children. - She needs psychological and financial assistance.</td>
<td>- I wanted to interview his wife but she was too sad to talk. - He is aware of the JP process and the governmental policies in the field of transitional justice. - He insists on the importance of leaving behind resentful and vengeful emotions.</td>
<td>- He doesn’t believe in dialogue. - He is extremely angry. He had revengeful emotions. - According to him, offenders should not be treated with respect and they should go to prison for a long time.</td>
<td>- She is extremely sad; she cries. - She’s lost. - She believes in God and puts everything in his hands.</td>
</tr>
</tbody>
</table>

Table 4: Victims of the Colombian conflict interviewed between December 2008 and January 2009
<table>
<thead>
<tr>
<th>Name</th>
<th>Ligia</th>
<th>Ingrid</th>
<th>Iva</th>
<th>Amalia</th>
</tr>
</thead>
<tbody>
<tr>
<td>Civil status</td>
<td>Single</td>
<td>Cohabitation</td>
<td>Married</td>
<td>Cohabitation</td>
</tr>
<tr>
<td>Gender</td>
<td>F</td>
<td>F</td>
<td>F</td>
<td>F</td>
</tr>
<tr>
<td>Age</td>
<td>42</td>
<td>32</td>
<td>61</td>
<td>58</td>
</tr>
<tr>
<td>Place of interview</td>
<td>Acción social (Cali)</td>
<td>Unit of Justice and Peace (Cali)</td>
<td>Unit of Justice and Peace (Cali)</td>
<td>Unit of Justice and Peace (Cali)</td>
</tr>
<tr>
<td>Education</td>
<td>Primary education</td>
<td>“Technic”</td>
<td>Secondary education</td>
<td>Primary education</td>
</tr>
<tr>
<td>Job Situation</td>
<td>Unemployed</td>
<td>Employed</td>
<td>Unemployed</td>
<td>Unemployed</td>
</tr>
<tr>
<td>Occupation</td>
<td>Home</td>
<td>Secretary</td>
<td>Home</td>
<td>Home</td>
</tr>
<tr>
<td>Form of victimization</td>
<td>Her husband got murdered in front of her. She doesn't know which illegal armed group did it.</td>
<td>The AUC killed her husband.</td>
<td>Her son was murdered by the AUC apparently.</td>
<td>Her son was murdered by the FARC</td>
</tr>
</tbody>
</table>
| Brief personal remarks | -She had a nervous breakdown.  
-She is in deep sadness. | -She's afraid of everything even talking to me.  
-She was threatened by the AUC.  
-She cries a lot.  
-She thinks the paramilitaries are currently being treated too well.  
-She developed revengeful feelings. | -Very religious; God has been very helpful.  
-Her younger son is really affected by the crime. | -She takes care of her grand children.  
-She has become very religious after loosing her son. |

Table 5: Victims of the Colombian conflict interviewed between December 2008 and January 2009
<table>
<thead>
<tr>
<th>Name</th>
<th>Siena</th>
<th>Riana</th>
<th>Paulo</th>
</tr>
</thead>
<tbody>
<tr>
<td>Civil status</td>
<td>Cohabitation</td>
<td>Cohabitation</td>
<td>Married</td>
</tr>
<tr>
<td>Gender</td>
<td>F</td>
<td>F</td>
<td>M</td>
</tr>
<tr>
<td>Age</td>
<td>55</td>
<td>32</td>
<td>61</td>
</tr>
<tr>
<td>Place of interview</td>
<td>In the neighborhood of Aguablanca (Cali)</td>
<td>In the neighborhood of Aguablanca (Cali)</td>
<td>In the neighborhood of Aguablanca (Cali)</td>
</tr>
<tr>
<td>Education</td>
<td>Primary education</td>
<td>Primary education</td>
<td>Primary education</td>
</tr>
<tr>
<td>Job Situation</td>
<td>Unemployed</td>
<td>Unemployed</td>
<td>Unemployed</td>
</tr>
<tr>
<td>Occupation</td>
<td>Home and commerce</td>
<td>Home</td>
<td>He was a farmer before displacement</td>
</tr>
<tr>
<td>Form of victimization</td>
<td>Displaced from Buenaventura by the illegal armed groups</td>
<td>Her husband was disappeared by the guerrillas and she was obliged to leave her house in Putumayo. Her brother was also disappeared.</td>
<td>Displaced in 2006 by the illegal armed groups. He’s son was recruited by force by the FARC.</td>
</tr>
<tr>
<td>Brief personal remarks</td>
<td>-Her parents were also displaced. -She tells her whole story with all the details; she needed to speak out. -She feels ashamed to be a victim of displacement</td>
<td>-When her husband was murdered she lost consciousness; she was pregnant when this happened and had 4 children. -She felt revengeful feelings</td>
<td>-He has a big family of 12 children. -He’s very religious. -He insists on the importance to forgive offenders.</td>
</tr>
</tbody>
</table>

Table 6: Victims of the Colombian conflict interviewed between December 2008 and January 2009
<table>
<thead>
<tr>
<th>Name</th>
<th>Osmar</th>
<th>Francisco</th>
<th>Wilson</th>
<th>Luis</th>
</tr>
</thead>
<tbody>
<tr>
<td>Civil status</td>
<td>Cohabitation</td>
<td>Cohabitation</td>
<td>Cohabitation</td>
<td>Cohabitation</td>
</tr>
<tr>
<td>Gender</td>
<td>M</td>
<td>M</td>
<td>M</td>
<td>M</td>
</tr>
<tr>
<td>Age</td>
<td>26</td>
<td>28</td>
<td>35</td>
<td>28</td>
</tr>
<tr>
<td>Place of interview</td>
<td>ACR (Cali)</td>
<td>ACR (Cali)</td>
<td>ACR (Cali)</td>
<td>ACR (Cali)</td>
</tr>
<tr>
<td>Education</td>
<td>Primary education</td>
<td>-</td>
<td>Studies in technology</td>
<td>Primary education</td>
</tr>
<tr>
<td>Job Situation</td>
<td>Unemployed</td>
<td>Unemployed</td>
<td>Unemployed</td>
<td>Unemployed</td>
</tr>
<tr>
<td>Occupation</td>
<td>Student</td>
<td>Student</td>
<td>Student</td>
<td>Student</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Group</th>
<th>AUC</th>
<th>AUC</th>
<th>AUC</th>
<th>AUC</th>
</tr>
</thead>
<tbody>
<tr>
<td>Age of Affiliation</td>
<td>22</td>
<td>20</td>
<td>28</td>
<td>19</td>
</tr>
<tr>
<td>Brief personal remarks</td>
<td>-He doesn’t consider himself a victim. -He likes weapons. -He joins the AUC after finishing his military service due to the 'unfair' war carried out by guerrillas. -He kept guard over the laboratories of cocaine. -He gained 500.000 COP. His life was reduced to the conflict. -He is satisfied with the program of reintegratio...</td>
<td>-He’s nervous; he didn’t answer many questions. -He joins the AUC for economic and ideological reasons. -He would have preferred to stay in the AUC instead of demobilizing since he gained more money than today. -He likes Uribe. The war is senseless for him.</td>
<td>-He’s going through a process of transformation. -He has become very sensitive. -His has clear ideas. -He had hatred feelings against the guerrillas. Today he sees them as his equals.</td>
<td>-He joins the AUC to take revenge against the FARC who had killed his father and brother and taken away all their belongings. -He liked to fight; the conflict was his unique raison d’être.</td>
</tr>
</tbody>
</table>

Table 7: Ex-combatants of the Colombian conflict interviewed between December 2008 and January 2009
Table 8: Ex-combatants of the Colombian conflict interviewed between December 2008 and January 2009

<table>
<thead>
<tr>
<th>Name</th>
<th>Age</th>
<th>Civil status</th>
<th>Gender</th>
<th>Place of interview</th>
<th>Level of Education</th>
<th>Job Situation</th>
<th>Occupation</th>
<th>Group</th>
<th>Age of Affiliation</th>
<th>Brief personal remarks</th>
</tr>
</thead>
<tbody>
<tr>
<td>JFrancisco</td>
<td>37</td>
<td>Cohabitation</td>
<td>M</td>
<td>ACR (Cali)</td>
<td>Secondary education</td>
<td>Employed</td>
<td>Works in a construction company</td>
<td>AUC</td>
<td>27</td>
<td>I cannot understand him very well. He joins the AUC to fight the guerrillas. He’s angry against the chief commanders who are the only beneficiaries of the war. He lost his time in the war. Telling the truth could be dangerous.</td>
</tr>
<tr>
<td>Kevin</td>
<td>25</td>
<td>Separated</td>
<td>M</td>
<td>ACR (Cali)</td>
<td>Secondary education</td>
<td>Unemployed</td>
<td>Student</td>
<td>FARC</td>
<td>17</td>
<td>He considers himself a victim. He joins the FARC due to the lack of opportunities and extreme poverty situation. His main incentive was the money. He was a miliciano and had a salary. He lost his parents. He’s really scared and would like to go to another country. His happy with the program of reintegration but would like to have more job opportunities.</td>
</tr>
<tr>
<td>Marco</td>
<td>20</td>
<td>Cohabitation</td>
<td>M</td>
<td>ACR (Cali)</td>
<td>Primary education</td>
<td>Unemployed</td>
<td>Student</td>
<td>FARC</td>
<td>20</td>
<td>He joins the FARC when his mum died because it was the easiest way out. Having a child made him change and take the decision to demobilize. He has encouraged friend to demobilize.</td>
</tr>
<tr>
<td>Celestino</td>
<td>25</td>
<td>Single</td>
<td>M</td>
<td>ACR (Cali)</td>
<td>Primary education</td>
<td>Employed</td>
<td>Works in agriculture</td>
<td>FARC</td>
<td>23</td>
<td>He used to think all the time in death. He was arriero, he transported the FARC's loads. He demobilized with a 14 years young boy who had been wounded and was about to get killed. He doesn't think he did any wrong.</td>
</tr>
<tr>
<td>Name</td>
<td>Ricardo</td>
<td>Ramiro</td>
<td>Marcela</td>
<td>Dario</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>------------</td>
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<td>--------</td>
<td>---------</td>
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</tr>
<tr>
<td>Civil status</td>
<td>Cohabitation</td>
<td>Single</td>
<td>Single</td>
<td>Cohabitation</td>
<td></td>
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<td></td>
</tr>
<tr>
<td>Gender</td>
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<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Age</td>
<td>26</td>
<td>25</td>
<td>27</td>
<td>26</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Place of interview</td>
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<td>ACR (Cali)</td>
<td>ACR (Cali)</td>
<td>ACR (Cali)</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Education</td>
<td>Primary education</td>
<td>Secondary education</td>
<td>Primary education</td>
<td>University</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Job Situation</td>
<td>Unemployed</td>
<td>Unemployed</td>
<td>Unemployed</td>
<td>Unemployed</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Occupation</td>
<td>Student</td>
<td>Student</td>
<td>Student</td>
<td>Student</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Group</td>
<td>FARC</td>
<td>FARC</td>
<td>FARC</td>
<td>FARC</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Age of Affiliation</td>
<td>14</td>
<td>14</td>
<td>14</td>
<td>13 (was born in the FARC)</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Brief personal remarks</td>
<td>-He was threatened by the FARC and decides to join them. -His demobilization process was extremely complex; his family had to move away from their village to hide from the FARC.</td>
<td>-He had a difficult childhood. -He joined the FARC for economical and ideological reasons. -He insists on the importance of fighting poverty through education and job opportunities for the youth. -Prevention is essential. -He believes everyone adapts the truth to his or her own benefit.</td>
<td>-She joined the FARC for family issues; she felt lonely. -She started as low-level offender and with time became chief commander. -Being a woman was difficult since the FARC have a very pejorative image of women. -The FARC don’t have an ideology anymore. -She demobilized for her two children.</td>
<td>-He was born in the FARC. -His family had a very strong ideological orientation. -At the age of 13 he was already armed. -The FARC was his only raison d’être; he didn’t know anything else. -He turned into an “animal” in the battlefields.</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

Table 9: Ex-combatants of the Colombian conflict interviewed between December 2008 and January 2009
<table>
<thead>
<tr>
<th>Name</th>
<th>Camilo</th>
</tr>
</thead>
<tbody>
<tr>
<td>Civil status</td>
<td>UL</td>
</tr>
<tr>
<td>Gender</td>
<td>M</td>
</tr>
<tr>
<td>Age</td>
<td>27</td>
</tr>
<tr>
<td>Place of interview</td>
<td>ACR (Cali)</td>
</tr>
<tr>
<td>Education</td>
<td>Secondary education</td>
</tr>
<tr>
<td>Job Situation</td>
<td>Employed</td>
</tr>
<tr>
<td>Occupation</td>
<td>Student and works in a small company selling chicken</td>
</tr>
<tr>
<td>Group</td>
<td>ELN</td>
</tr>
<tr>
<td>Age of Affiliation</td>
<td>17</td>
</tr>
</tbody>
</table>
| Brief personal remarks | -He sees himself as a victim.  
-He thinks he lost 10 years of his life, his youth.  
-He was wounded during the war.  
-He insists on the importance of being busy to forget the memories of the war. |

**Table 10: Ex-combatants of the Colombian conflict interviewed between December 2008 and January 2009**
<table>
<thead>
<tr>
<th>Name</th>
<th>Beto</th>
<th>Mali</th>
<th>Paulo (see status above)</th>
<th>Riana (see status above)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Civil status</td>
<td>Widower</td>
<td>Widow</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Gender</td>
<td>M</td>
<td>F</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Age</td>
<td>52</td>
<td>43</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Place of interview</td>
<td>In Aguablanca (Cali)</td>
<td>In Aguablanca (Cali)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Education</td>
<td>Primary education</td>
<td>Secondary education</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Job Situation</td>
<td>Unemployed</td>
<td>Partially employed</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Occupation</td>
<td>Nurse</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Form of Victimization</td>
<td>Displacement</td>
<td>Murder of her husband and displacement</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
| Brief personal remarks | Beto, Mali, Paulo and Riana are some of the victims who participated for one year in a healing program established in Aguablanca (Cali). The program was very successful in helping victims to overcome, or at least reduce, their suffering. Victims were very grateful. |}

Table 11: Victims of the Colombian conflict interviewed between December 2009 and January 2010
<table>
<thead>
<tr>
<th>Name</th>
<th>Constantino (Arhuaco)</th>
<th>Amandino (Wiwa)</th>
<th>Dinamo (Arhuaco)</th>
<th>Enrique</th>
</tr>
</thead>
<tbody>
<tr>
<td>Civil status</td>
<td>Separated</td>
<td>Cohabitation</td>
<td>Married</td>
<td>Married</td>
</tr>
<tr>
<td>Gender</td>
<td>M</td>
<td>M</td>
<td>M</td>
<td>M</td>
</tr>
<tr>
<td>Age</td>
<td>58</td>
<td>34</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Place of interview</td>
<td>Casa Indígena in Santa Marta</td>
<td>Casa Indígena in Santa Marta</td>
<td>Casa Indígena in Santa Marta</td>
<td>Casa Indígena in Santa Marta</td>
</tr>
<tr>
<td>Education</td>
<td>Secondary education</td>
<td>He is about to finish medicine</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Job Situation</td>
<td>Independent</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Occupation</td>
<td>Writer - philosopher</td>
<td>Representative of his community</td>
<td>Leader and representative of his community</td>
<td></td>
</tr>
<tr>
<td>Form of victimization</td>
<td>Displacement and aggression</td>
<td>The illegal armed groups murdered his father. He has been victim of displacement and aggression</td>
<td>Displacement and aggression</td>
<td>Displacement and aggression</td>
</tr>
<tr>
<td>Brief personal remarks</td>
<td>They are very deep. They insist on the importance of establishing a culture of respect amongst human beings and towards nature. They explain the way in which they have been victimized for more than 500 years by the western man and have always responded in a peaceful way. They insist on the importance of values and spirituality. Their principles, values and conflict resolution techniques are very much restorative justice oriented.</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

Table 12: Victims of the Colombian conflict interviewed between December 2009 and January 2010
<table>
<thead>
<tr>
<th>Name</th>
<th>Beatriz</th>
<th>Mateo</th>
<th>Jorge Luis</th>
<th>Ilana</th>
</tr>
</thead>
<tbody>
<tr>
<td>Civil status</td>
<td>Widow</td>
<td>Married</td>
<td>Married</td>
<td>Single</td>
</tr>
<tr>
<td>Gender</td>
<td>F</td>
<td>M</td>
<td>M</td>
<td>F</td>
</tr>
<tr>
<td>Age</td>
<td>48</td>
<td>75</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Place of interview</td>
<td>At her house</td>
<td>At his house</td>
<td>At a restaurant</td>
<td>At her house</td>
</tr>
<tr>
<td>Education</td>
<td>Intermediate carrier</td>
<td>Postgraduate</td>
<td>Currently at University</td>
<td></td>
</tr>
<tr>
<td>Job Situation</td>
<td>Employed</td>
<td>Employed</td>
<td>Employed</td>
<td></td>
</tr>
<tr>
<td>Occupation</td>
<td>Business woman</td>
<td>Business man</td>
<td>Business man</td>
<td>Student</td>
</tr>
<tr>
<td>Zone</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Form of victimization</td>
<td>The FARC kidnapped her husband for economical reasons. (9 months)</td>
<td>The FARC kidnapped him for economical reasons. (6 months)</td>
<td>He got kidnapped by the ELN for economical reasons and was then sold to the FARC. (6 months)</td>
<td>The FARC kidnapped her for economical reasons. (7 months)</td>
</tr>
<tr>
<td>Brief personal remarks</td>
<td>-She had revengeful feelings. -She was traumatized by this event and her harm will never be restored. -She believes chief commanders should be inflicted capital punishment. -She cannot forgive.</td>
<td>-He became an impatient person after his ordeal. -His family was traumatized. (His daughter cannot even talk about it). -He developed hatred feelings against the person who sold him to the FARC. -He criticizes the disrespectful way in which the Colombian state acted after his abduction. -He sees low-level offenders as victims. -He became a religious person during his abduction. -He enjoys talking with other victims about this experience.</td>
<td>-God and his spiritual life were essential during his abduction and afterwards. -He has worked very much to forgive offenders. -He believes human rights organizations defend the guerrillas and not the victims. -He thinks the Transitional justice process in Colombia should include the practices of indigenous communities.</td>
<td>-She got kidnapped when she was going back home from school at age eleven; she came out of the jungle being a completely different girl, defending left-wing oriented ideas and behaving and acting like the guerrilleros. -She is a very mature person. -She proposes some educative prisons; she believes prison sentences without a constant healing process would be worse. -She would like to meet the person who kidnapped her to tell him that she forgives...</td>
</tr>
</tbody>
</table>
Table 13: Victims of the Colombian conflict interviewed between December 2009 and January 2010
<table>
<thead>
<tr>
<th>Name</th>
<th>Gonzalo</th>
<th>Adolfo</th>
<th>Matias</th>
<th>Sócrates</th>
</tr>
</thead>
<tbody>
<tr>
<td>Civil status</td>
<td>Married</td>
<td>Married</td>
<td>Married</td>
<td>Married</td>
</tr>
<tr>
<td>Gender</td>
<td>M</td>
<td>M</td>
<td>M</td>
<td>M</td>
</tr>
<tr>
<td>Age</td>
<td>33</td>
<td>54</td>
<td>47</td>
<td>55</td>
</tr>
<tr>
<td>Place of interview</td>
<td>At his house</td>
<td>At his office</td>
<td>At a public place</td>
<td>At the hospital</td>
</tr>
<tr>
<td>Education</td>
<td>University</td>
<td>Postgraduate</td>
<td>University</td>
<td>Postgraduate</td>
</tr>
<tr>
<td>Job Situation</td>
<td>Employed</td>
<td>Employed</td>
<td>Employed</td>
<td>Employed</td>
</tr>
<tr>
<td>Occupation</td>
<td>Lawyer</td>
<td>Manager of an agricultural company</td>
<td>Stockbreeder</td>
<td>Politician</td>
</tr>
</tbody>
</table>

| Form of victimization | The ELN kidnapped his father for economical reasons. (9 months) | The ELN kidnapped him for economical reasons. (almost 6 months) | He got kidnapped by common delinquency and sold to the FARC. (252 days) | Kidnapped by the FARC with 11 fellow deputies. (7 years) |
| Brief personal remarks | -He became crazy when he knew about his father's kidnapped.  
-He armed himself and wanted to personally kill the offenders; with time he left behind these hatred feelings.  
-He would not like to meet the offenders.  
-Today he has cleaned up his soul.  
-He believes drugs should be legalized. | -He believes Europeans are not well informed about the reality of guerrillas; he thinks it is very important to demonstrate to the international community that the guerrillas are drug dealers without any ideology.  
-For him whereas low-level offenders are victims, high-level offenders are the real offenders. | -He believes high-level offenders should be punished.  
-He was guarded by little boys from the FARC.  
-He thinks the developed countries should stop considering the guerrillas like "Robin Hood". | -Sócrates survived the massacre of his 11 colleagues in 2007 and was released on February 5, 2009.  
-He thought of committing suicide.  
-His faith in God played an important role during his ordeal and afterwards.  
-He thinks the real truth about the conflict is not well known in Colombia.  
-He highlights the irony of punishing more severely the drug dealer than the offender of serious violations of human rights. |

Table 14: Victims of the Colombian conflict interviewed between December 2009 and January 2010
<table>
<thead>
<tr>
<th>Name</th>
<th>Abraham</th>
<th>Jeronimo</th>
<th>Jorge</th>
<th>Natalia</th>
</tr>
</thead>
<tbody>
<tr>
<td>Civil status</td>
<td>Single</td>
<td>Cohabitation</td>
<td>Cohabitation</td>
<td>Cohabitation</td>
</tr>
<tr>
<td>Gender</td>
<td>M</td>
<td>M</td>
<td>M</td>
<td>F</td>
</tr>
<tr>
<td>Age</td>
<td>23</td>
<td>38</td>
<td>25</td>
<td>28</td>
</tr>
<tr>
<td>Place of interview</td>
<td>ACR Cali</td>
<td>ACR Cali</td>
<td>ACR Cali</td>
<td>ACR Cali</td>
</tr>
<tr>
<td>Education</td>
<td>Secondary education</td>
<td>Secondary education</td>
<td>Secondary education</td>
<td>Secondary education</td>
</tr>
<tr>
<td>Job Situation</td>
<td>Unemployed</td>
<td>Unemployed</td>
<td>Unemployed</td>
<td>Unemployed</td>
</tr>
<tr>
<td>Occupation</td>
<td>Student</td>
<td>Student</td>
<td>Student</td>
<td>Student</td>
</tr>
<tr>
<td>Group</td>
<td>ELN</td>
<td>FARC</td>
<td>FARC</td>
<td>AUC</td>
</tr>
<tr>
<td>Age of Affiliation</td>
<td>14</td>
<td>He was born in the organization but started at the age of 15.</td>
<td>10</td>
<td>18</td>
</tr>
<tr>
<td>Brief personal remarks</td>
<td>- He’s silent, very basic, not very expressive. - He doesn’t know what he wants. - He joins the group due to family issues. - He thought he was going to be paid but this never happened. - He demobilized for his mother and because he got bored. - He believes chief commanders should go to prison. - Sometimes he regrets having demobilized. - He’s joyful; he’s happy with the decision of demobilizing. - He has become another person; he passed from being aggressive to calm. - He criticizes the luxurious lifestyle of chief commanders. - He wants simple things and offer a different life to his children. - The members of his family were all from the FARC. - He likes politics and the left-wing oriented ideology. - He joined the FARC because he had been victimized by the paramilitaries. - His companions are almost all dead. - The war is senseless but one gets used to it. - He feels proud of having been in the FARC because he likes their ideology. - He wouldn’t like to meet the victims. - She is very sensitive. - She cried a lot. - She regrets and considers that she lost many years of her life in the conflict. - She gained 450.000 COP. - She couldn’t finish the interview for emotional reasons.</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

Table 15: Ex-combatants of the Colombian conflict interviewed between December 2009 and January 2010
<table>
<thead>
<tr>
<th>Name</th>
<th>David</th>
<th>Ariel</th>
<th>Alexandre</th>
<th>Pascal</th>
</tr>
</thead>
<tbody>
<tr>
<td>Civil status</td>
<td>Cohabitation</td>
<td>M</td>
<td>M</td>
<td>Single</td>
</tr>
<tr>
<td>Gender</td>
<td>M</td>
<td>M</td>
<td>M</td>
<td>M</td>
</tr>
<tr>
<td>Age</td>
<td>26</td>
<td>32</td>
<td>35</td>
<td>24</td>
</tr>
<tr>
<td>Place of interview</td>
<td>ACR Cali</td>
<td>ACR Cali</td>
<td>Itagüí prison</td>
<td>Itagüí prison</td>
</tr>
<tr>
<td>Education</td>
<td>Secondary education</td>
<td>Unemployed</td>
<td>Studies psychology in the prison</td>
<td>Prisoner</td>
</tr>
<tr>
<td>Job Situation</td>
<td></td>
<td>Unemployed</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Occupation</td>
<td>Student</td>
<td>Nothing</td>
<td></td>
<td>Prisoner</td>
</tr>
<tr>
<td>Group</td>
<td>FARC</td>
<td>FARC</td>
<td>AUC (Chief commander)</td>
<td>ERG</td>
</tr>
<tr>
<td>Age of Affiliation</td>
<td>22</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Brief personal remarks</td>
<td>-There's a real shift of consciousness.</td>
<td>-He felt like a prisoner in the FARC.</td>
<td>-We talked for more than 3 hours.</td>
<td>-He's very shy.</td>
</tr>
<tr>
<td></td>
<td>-Spirituality has played a key role in the process of reintegration.</td>
<td>-He feels free today.</td>
<td>-For him neither the government nor the businessmen want to unveil the truth.</td>
<td>-He doesn't talk much.</td>
</tr>
<tr>
<td></td>
<td>-He harmed himself and his family by joining the FARC;</td>
<td>-He has no education at all.</td>
<td>-He demobilizes due to the military pressure.</td>
<td>-He seems very sad.</td>
</tr>
<tr>
<td></td>
<td></td>
<td>-He doesn't talk much.</td>
<td>-He doesn't know what he wants.</td>
<td>-He lost his leg in a landmine (see additional remarks below).</td>
</tr>
</tbody>
</table>

Table 16: Ex-combatants of the Colombian conflict interviewed between December 2009 and January 2010
<table>
<thead>
<tr>
<th>Name</th>
<th>Homero</th>
<th>Gaspard</th>
<th>Felix</th>
<th>Leopoldo</th>
</tr>
</thead>
<tbody>
<tr>
<td>Civil status</td>
<td>Single</td>
<td>Single</td>
<td>Single</td>
<td>Married</td>
</tr>
<tr>
<td>Gender</td>
<td>M</td>
<td>M</td>
<td>M</td>
<td>M</td>
</tr>
<tr>
<td>Age</td>
<td>46</td>
<td>47</td>
<td>37</td>
<td>43</td>
</tr>
<tr>
<td>Place of interview</td>
<td>Itagüí prison</td>
<td>Itagüí prison</td>
<td>Itagüí prison</td>
<td>Itagüí prison</td>
</tr>
<tr>
<td>Education</td>
<td>Primary education</td>
<td>Secondary education</td>
<td>Secondary education</td>
<td>Primary education</td>
</tr>
<tr>
<td>Job Situation</td>
<td>Unemployed</td>
<td>Unemployed</td>
<td>Unemployed</td>
<td>Unemployed</td>
</tr>
<tr>
<td>Occupation</td>
<td>Prisoner</td>
<td>Prisoner</td>
<td>Prisoner</td>
<td>Prisoner</td>
</tr>
<tr>
<td>Zone</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Group</th>
<th>ERG (Chief commander)</th>
<th>ERG</th>
<th>ERG (Chief commander)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Brief personal remarks</td>
<td>I talked for more than 4 hours with the members of the ERG (Homero, Gaspard, Felix, Leopoldo and Pascal). Although all participated in the conversation, Homero was the main speaker. He’s very fluent and has clear and interesting ideas. He sees himself as a victim of the conflict. He demobilizes because he believes the Colombian society disapproves their conflict. He believes the guerrillas have fully lost their ideology; today these groups only care about making money through the business of drugs. He proposes the creation of an agricultural prison and different mechanisms of transitional justice.</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

Table 17: Ex-combatants of the Colombian conflict interviewed between December 2009 and January 2010
Annex 2. The victim's questionnaire

2.1. The English version

Interviewer’s introduction

Good morning, my name is Isabella and I am conducting a research on transitional justice and restorative justice at the Leuven University in Belgium. Within the framework of my PhD, we are formulating a study, based on a series of questions, to know more about your experience during the conflict, your opinion on the matter and how all Colombians can come together after this war.

The main purpose of this research and interviews is to suggest at a national and international level measures that take into account, the victim’s interests and preoccupations in order to help them ease their pain.

This interview has no political aim. There are no wrong or right answers. Don’t feel oblige to answer if you don’t wish to answer the question or you don't know the answer to it.

Interviewee’s information

- Can you please tell us your age?

- Sex (feminine/masculine)

- Relationship status (single, married, free union, divorced, widow, widower)

- What is the highest educational level that you have achieved? (Primary school, middle school, high school, university, PhD, none)

- What is your current work situation? (Employee, unemployed, independent)

- What is your occupation? (Sales, agriculture, home…)

- Do you belong to an ethnic group? (African-Colombian, indigenous…)

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-Do you live in the countryside or in the city?

**Introductory questions**

-Please tell me about your background, the story of your parents? What important events took place? How was their childhood?

-Would you say that your personal story is similar to the one of other members of your family?

-What part of the country were your parents from?

Now, I am going to make you some questions, some of them are obvious and maybe painful but necessary for the research. I want to ask for your forgiveness beforehand if any of these questions bring back upsetting memories and heartrending feelings that you wish to forget. If you feel that you are not ready, or if it's not the right time, please don't feel obliged to answer.

-What happened during the conflict?

-When did these events take place?

-In what way these series of events affected your life? (The perception of your values, your emotional stability, employment, your economical situation...)

-Have your family relationships changed in any way? (Are you closer to each other or is it the other way around?)

-How would you describe those moments of suffering and pain?

-Did you experience hate feelings and an urge for revenge?

-How do you feel today about these feelings? Do you still feel the hate and urge for revenge?

-Did you feel less will to live?

-Do you feel ashamed to be a victim?
-Why do you think offenders commit crimes?

I would like to know what are the elements and key aspects that have contributed or could contribute to heal the pain, the anger, the urge to seek revenge, the lack of will to live, the disarray and also the elements that on the contrary have intensified these negative feelings.

I am going to start by mentioning some of these elements for us to discuss.

-Indifference. It is well known that victims generally suffer from the indifference of the state and civil society.

-What has been the role of your family?

-What has been the role of your friends?

-What has been the role of spirituality during this process?

**Process of Justice**

-What is the meaning of justice for you?

-What is your opinion on jail criminal punishment?

-How should the chief commanders of the illegal armed forces be treated? And the low level offenders?

-Do you believe victims and offenders should be treated equally?

-What does respect mean to you?

-From your point of view, what does the ideal process of justice between victims and offenders be like?

-Would you like to speak to the offenders?

-Would you like it if your family were involved in the process of justice?
- Would you like to receive psychological support?

- Would you like to receive spiritual support?

- Do you personally know your aggressor? And if you don’t, will you like to meet him/her? Why would you like to meet him/her? Why would you object to meet him/her?

- Would you like to see him/her on video?

- Would you like to talk to him/her personally? Or would you rather establish contact with him/her through a mediator?

- Do you think a personalized treatment should exist for every victim?

- The dialogue. Do you feel an open space where victims could meet other victims, receive psychological support and share their experiences should be created?

- What kind of place do you consider appropriate to share the victim’s experiences during the conflict? (In a court of Law, public installations, the victim’s community buildings, amongst other victims, only in the presence of friends and family, before the offenders, with a psychologist...)

- Do you know about the Justice and Peace process?

- Have you participated in the Justice and Peace process? If so, how?

- What has been your personal experience in this process?

- Has the process of Justice and Peace helped heal the pain or has it made it worse?

- Have you received psychological support?

Questions about Truth

- What is truth for you?
Concerning the events that happened to you, what would you like to know? (the reason behind the events, the offender’s identity, the details...or would you rather not know anything?)

Why? As a means to help you heal the pain, to come to peace with the situation, to better plan your revenge...

Right now there are various ex-combatants declaring their war crimes through the "versions libres" (free hearings). Has your offender declared anything before the public prosecutor’s office? Do you believe these open declarations have helped to unveil the truth behind the facts?

If your aggressor showed remorse, would you forgive him?

In what general way do you believe the process of Justice and Peace has been efficient in shedding light on the truth about the conflict?

How did you feel before the Justice and Peace process? How do you feel now?

From your point of view and considering your personal experience, can the process of unveiling the truth be made in a better way?

Is there a possibility that a member of your own family triggered somehow this situation?

Questions about responsibility

The following questions concern the offenders and how they have to assume responsibility for their acts and crimes.

What does assuming responsibility for one’s crimes means to you?

What should your aggressor be held accountable in order for you to feel better? (Judgment in a court of law, forgiveness, death penalty..)

Do you believe offenders should be sentenced to jail? Why? (For them to suffer, to pay for the suffering you experienced, for them to pay for what they have done, for them to
reconsider their actions and assume their responsibility for their crimes, because they are dangerous individuals...)

- Should they be in a Colombian prison or a prison outside of the country?

- Do you believe offenders should receive psychological aid as well?

- Do you believe an offender can reintegrate into society and live a peaceful life amongst others?

- Do you believe in a psychological aid to help in this assimilation process?

- According to the Justice and Peace Law mayor offenders are given a jail sentence of 5 to maximum 8 years. What is your opinion on this criminal punishment?

- The competent authority to judge these types of crimes is a National one. Do you believe the International community should be involved?

- Do you believe that a Commission of Truth could help to bring responsibility amongst the offenders?

- Amongst the members of the illegal armed forces, who should be prosecuted? (Only the chief commanders, the middle officers, etc)

- Do you hold other entities responsible for the Colombian conflict? (International community, the state, Colombian society...)

- Do you feel that justice has been served?

- What is the meaning of justice to you?

- Has the state shown any support? In which ways?

- How can the state improve the treatment and attention to the victims of the conflict?
**Question about reparation**

- For you, what is the meaning of reparation?

- Who should pay for all the harm caused? (The person who committed the crime, the chief commanders, the Colombian government, other countries...)

- Have you received any form of reparation? Are you satisfied with it?

- Would you like to participate in the reparation process? In which way?

- Would you like to be able to choose in what way you wish to receive reparation?

- Would you like to receive money as a form of reparation?

- Would you like to receive psychological support as a form of reparation?

- In what way should your harm be repaired in order for you to feel better? (The offender should go to prison, serve community service, the state should compensate the victims with economical measures, the offender should ask for forgiveness...)

**Questions about reconciliation**

- What is the best solution for the Colombian conflict?

- Is dialogue important?

- Is military intervention important?

- Is the arbitration of other countries important?

- The mediation of other organizations such as ONGs?

- Do you believe the intervention of The Church is important?

- Do you believe the media has played a key role in the process of reconciliation?

- How can the media contribute or help with the process of reconciliation?
- What does reconciliation mean to you? (To forgive, live in harmony, to live without shame, law measures against offenders... )

- Under what circumstances would you agree to reconciliation with your aggressor? Could you live in the same neighborhood? Could you work with him? Would you accept him as a political figure?

- For you, what are the most important conditions to start a reconciliation process in Colombia? (Access to the truth, punish the offenders, that the offenders ask for forgiveness, victim’s reparation, the organization amongst the communities of reconciliation events, to ensure that this awful events will never be repeated

- How could we improve the relationship victim-offender?

- What are the teachings of this experience?

- In a general way, and summarizing a bit our discussion, what elements in the Justice and Peace process, and outside of it have contributed to heal your suffering? What could help ease the pain furthermore?

Many thanks for your participation and for your precious time.
2.2. The Spanish version

*Introducción del entrevistador*

Muy buenos días, mi nombre es Isabella, estoy haciendo un trabajo de investigación en la Universidad de Lovaina (Bélgica) sobre justicia restaurativa y justicia transicional. Dentro del marco de mi doctorado, estamos llevando a cabo un estudio para conocer su experiencia durante el conflicto, su percepción y opinión sobre temáticas del conflicto y como los Colombianos podríamos vivir juntos.

El propósito de esta investigación y de estas entrevistas, es proponer a nivel nacional e internacional medidas que tomen en cuenta los intereses y preocupaciones de las víctimas del conflicto para que éstas sanen su dolor.

La entrevista no tiene ningún objetivo político. No hay respuesta correcta o incorrecta. Si no quieren responder porque no desean o porque no saben que responder, no tienen que hacerlo.

*Datos del Entrevistado*

- ¿Me podría decir por favor su edad?

- Sexo (femenino/ masculino)

- Estado civil (soltero, casado, unión libre, separado, viudo)

- ¿Cuál es el nivel educativo más alto que usted haya alcanzado? (Primaria, secundaria, universitario, postgrado, ninguno)

- ¿Cuál es su situación laboral? (Empleado, desempleado, independiente)

- ¿Cuál es su ocupación? (comerciante, hogar, agricultura...)

- ¿Pertenece a alguna etnia (afro-colombiana, indígena...)

- ¿Vive en una zona rural o urbana?

*Preguntas introductorias*
- ¿Cómo fue la historia de tu familia de origen (padre y madre)? ¿Qué sucesos importantes sucedieron? ¿Cómo fue la infancia de ellos?

- ¿Tú piensas que tu experiencia es similar a la de alguna persona de tu familia?

- ¿De qué parte del país son tus padres?

Ahora les voy a hacer preguntas, algunas muy obvias y quizás dolorosas pero son necesarias para la investigación. Le pido disculpas de antemano si estas preguntas remueven sentimientos o los conectan con emociones que no son agradables o que no quisieran recordar. Si no se sienten listos, preparados o no es el momento para contestar, no lo hagan, no están obligados.

- ¿Qué le sucedió durante el conflicto?

- ¿Cuándo sucedió?

- ¿De qué manera este suceso afectó su vida (la percepción de sus valores, su estabilidad emocional, laboral, su situación económica)

- ¿Han cambiado las relaciones al interior de la familia en alguna forma? (más unidos, más separados?

- ¿Cómo fueron esos momentos de dolor y sufrimiento?

- ¿Aparecieron deseos de venganza o de rabia?

- ¿Cómo se siente ahora con respecto a esto, continua sintiendo rabia o deseos de venganza?

- ¿Sintió falta de ganas de vivir?

- ¿Usted siente vergüenza de ser víctima?

- ¿Por qué cree usted que los victimarios cometen crímenes?
A mi me gustaría saber cuáles son los elementos o aspectos que han contribuido o que podrían contribuir a sanar el dolor, la rabia, la venganza, el desconcierto, falta de ganas de vivir y aquellos elementos que por el contrario, agravarían el dolor.

Yo voy a mencionar algunos aspectos para que los comentemos.

- La indiferencia. Se dice que las víctimas han sufrido de indiferencia por parte del Estado y la sociedad civil.

- ¿Cuál ha sido el rol de la familia?

- ¿Cuál ha sido el rol sus amigos?

- ¿Cuál ha sido el rol la vida espiritual en este proceso?

**Proceso de Justicia**

- ¿Qué significa Justicia para usted?

- ¿Qué piensa usted de la sanción de cárcel?

- ¿Cómo deberían ser tratados los jefes de grupos armados al margen de la ley? Y los mandos medios?

- ¿Usted cree que las víctimas y victimarios deben ser tratados de manera igual?

- ¿Qué significa respeto para usted?

- ¿A su modo de ver cómo debería ser un proceso de Justicia entre víctimas y victimarios del conflicto?

- ¿A usted le gustaría dialogar con las victimarios?

- ¿A usted le gustaría que su familia estuviese involucrada en el proceso de justicia?

- ¿A usted le gustaría recibir apoyo psicológico?

- ¿A usted le gustaría recibir apoyo espiritual?
- ¿Usted conoce su agresor, y si no lo conoce, le gustaría conocerlo? ¿Por qué SI le gustaría conocerlo? ¿Por qué NO le gustaría conocerlo?

- ¿Le gustaría verlo personalmente, a través de una cámara?

- ¿Le gustaría hablar con su agresor personalmente o le gustaría comunicarse con él/ella a través de un mediador?

- ¿Debe haber un trato personalizado para cada víctima?

- El Diálogo. ¿Cree usted conveniente ofrecer un espacio a las víctimas para dialogar con otras víctimas, para contar su experiencia durante el conflicto, para recibir apoyo psicológico?

- ¿Dónde sería conveniente contar las experiencias y vivencias como parte del conflicto (en las cortes, en lugares públicos, en la comunidad a la cual pertenecen, ante otras víctimas, ante únicamente amigos y familiares, ante los victimarios, ante un psicólogo...)

- ¿Qué significa respeto para usted?

- ¿Usted conoce el proceso de Justicia y Paz?

- ¿Usted ha participado en el proceso de Justicia y Paz y de qué manera?

- ¿Cómo ha vivido este proceso?

- ¿El proceso de Justicia y Paz ha contribuido a sanar su dolor o por el contrario lo ha agravado?

- ¿Usted ha recibido ayuda psicológica?

**Preguntas sobre verdad**

- ¿Qué significa verdad para usted?

- ¿Con respecto a lo que le sucedió a usted, qué le interesaría conocer sobre lo ocurrido? (la razón por la cual sucedió el suceso, los agresores, los detalles de lo que sucedió, prefiere no saber nada...)
- ¿Por qué? Para aliviar su sufrimiento, hacer el duelo, para poder vengarse...

- En este momento hay desmovilizados declarando sus delitos a través de las versiones libres. ¿Su agresor ha rendido declaraciones ante la fiscalía? ¿Cree que estas declaraciones han servido para dar a conocer lo que ha ocurrido en el país?

- ¿Si su agresor demostrara arrepentimiento, usted lo perdonaría?

- ¿De manera general, cree que el proceso de Justicia y Paz ha sido eficiente en el esclarecimiento de la verdad?

- ¿Cómo se sentía usted antes del proceso de Justicia y Paz y cómo se siente ahora?

- ¿De qué manera el proceso de esclarecimiento de la verdad podría mejorar para aliviar su sufrimiento?

- ¿Puede ser posible que algún miembro cercano de su familia haya provocado esta situación de alguna manera?

**Preguntas sobre responsabilidad**

Las siguientes preguntas tienen que ver con los victimarios y como éstos deben asumir la responsabilidad de los actos cometidos.

- ¿Qué significa para usted asumir la responsabilidad de los crímenes cometidos?

- ¿Qué debería sucederle a su agresor para usted sentirse mejor? (ser juzgados, ser perdonado, pena de muerte...)

- ¿Usted cree que los victimarios deben ir a la cárcel? ¿Por qué? (para que sufran, para que paguen por lo que han hecho, para que recapaciten y asuman la responsabilidad de sus actos, porque son personas peligrosas...)

- ¿Deben ir a la cárcel en Colombia o fuera del país?

- Usted cree que los victimarios deberían recibir apoyo psicológico?
- Usted piensa que un victimario podría reinsertarse a la sociedad y convivir de manera pacífica con los demás? Cree que un proceso de apoyo psicológico podría contribuir a lo anterior, es decir, a la reinserción pacífica del victimario?

- La ley de Justicia y Paz establece una sanción de mínimo 5 años y máximo 8 años para quienes hayan cometido graves violaciones a los derechos humanos. ¿Qué piensa usted sobre esta sanción?

- La entidad competente para juzgarlos es un tribunal nacional. ¿Cree usted que la comunidad internacional debería estar involucrada?

- ¿Cree que una Comisión de la Verdad u otro organismo podría ser eficaz para responsabilizar a los agresores de sus actos?

- De los miembros de los grupos armados ilegales, ¿quién cree usted que debe ser juzgado? (únicamente los comandantes, los mandos medios, todos...)

- Piensa usted que existen otros responsables de lo que ha sucedido y esta sucediendo en el país? (comunidad internacional, el Estado, la sociedad colombiana...)

- ¿Usted siente que ha habido justicia?

- ¿Qué significa para usted Justicia?

- ¿El Estado a ustedes los ha apoyado y de qué forma?

- ¿Cómo podría el Estado mejorar la atención y el trato de las victimas?

**Preguntas sobre reparación**

- ¿Qué significa reparación para usted?

- ¿Quién debería reparar el daño causado? (aquel que directamente cometió el crimen, los comandantes del grupo armado, el Estado colombiano, otros países...)

- ¿Usted ha recibido reparación? ¿se siente satisfecho con su reparación?

- ¿A usted le gustaría participar en el proceso reparación? De qué manera?
- ¿A usted le gustaría decir como le quisiera ser reparado?

- ¿A usted le gustaría recibir dinero como reparación?

- ¿A usted le gustaría recibir apoyo psicológico como reparación?

- ¿Cómo debería ser reparado su daño para usted sentirse mejor? (el responsable debe ir a la cárcel, hacer servicio de comunidad, el Estado debe compensar a las víctimas con medidas económicas o simbólicas, el responsable debe pedir perdón...)

**Preguntas sobre reconciliación**

- ¿Cuál es la mejor solución para el conflicto colombiano?

- ¿El diálogo le parece importante?

- ¿La intervención militar le parece importante?

- ¿La mediación de otros países le parece importante?

- ¿La intervención de otros organismos como ONGs?

- ¿La intervención de la Iglesia le parece importante?

- ¿Usted cree que los medios de comunicación han jugado un papel importante en el proceso de reconciliación?

- ¿Cómo podrían los medios de comunicación contribuir el proceso de reconciliación?

- ¿Qué significa reconciliación para usted? (perdonar, vivir en armonía, la no venganza, acciones judiciales contra los victimarios...)

- ¿Bajo que circunstancias estaría usted dispuesto a reconciliarse con su agresor? ¿Podría vivir en el mismo barrio, aceptaría que su agresor participara en la política, trabajaría con él...)

- ¿Para usted cuáles son las condiciones más importantes para construir reconciliación en Colombia? (conocer la verdad, sancionar a los victimarios, que los victimarios pidan
perdón, reparar a las víctimas, organizar eventos de reconciliación en las comunidades, que los hechos lamentables no se vuelvan a repetir...)

- ¿Cómo se podría mejorar la relación víctima-victimario?

- ¿Qué aprendizaje ha sacado de esta experiencia?

- De manera general y resumiendo un poco lo que hemos hablado, ¿qué elementos del proceso de justicia y paz, y fuera del proceso, han contribuido para sanar su sufrimiento? ¿Qué podría ayudar a sanar su dolor?

Muchísimas gracias por su participación y por su preciado tiempo.
Annex 3. Offender's questionnaire

3.1. The English version

Interviewer’s introduction

Good morning, my name is Isabella and I am conducting a research on transitional justice and restorative justice at the Leuven University in Belgium. Within the framework of my PhD, we are formulating a study, based on a series of questions, to know more about your experience during the conflict, your opinion on the matter and how all Colombians can come together after this war.

The main purpose of this research and interviews is to suggest at a national and international level measures that take into account the interests and needs of victims and offenders.

This interview has no political aim. There are no wrong or right answers. Don't feel obliged to answer if don't wish to answer the question or if you don't know the answer to it.

Interviewee's information

-Can you please tell us your age?

-Sex (feminine/masculine)

-Relationship status (single, married, free union, divorced, widow, widower)

-What is the highest educational level that you have achieved? (Primary school, middle school, high school, university, PhD, none)

-What is your current work situation? (Employee, unemployed, independent)

-What is your occupation? (Sales, agriculture, home...)
-Do you belong to an ethnic group? (African-Colombian, indigenous...)

-Do you live in the country or in the city?

**Introduction questions**

-How old were you when you joined an illegal armed force?

-What is the name of the group? How long were you there for?

-Do you consider yourself as a victim of the conflict?

-What does it mean to be a victim of the conflict?

-What were the main reasons to join such an organization? (Economical reasons, share an ideology, to belong, social pressure, where you forced...)

-Did you join this group as a result of domestic event? (Forced disappearance of a family member, revenge, neglect, strong conflict...)

-What kept you inside the group? Can you share with us a bit of the enrolment and formation process inside your group?

-How was the relationship between chief commanders and their subordinates?

-How was the money and power distribution organized within the organization?

-Where did the money come from?

-Is it possible for you to share with us your experience during the conflict? Was it painful, hard?

-Describe us a typical day? (What time did you wake up, what did you eat, where did you sleep...)

-Can you please share with me your feelings during an assault, what went through your mind during combat?
-How did you feel afterwards?

-What was the meaning of your life back then? (Regarding values, goals...) And today, after this process you are going through, how do you feel?

-What are the main reasons for your demobilization? (Change in the government, you were forced to, war lost its meaning...) Was it a grouped or individual demobilization?

-From your point of view, what will help the other members of these illegal groups to take the decision to demobilize?

-What is your opinion on the actual situation of the conflict but also regarding its causes and development?

-Do you have any news from you former group? (Have any of your colleagues deserted, demobilized, has the group been weakened, is it stronger?)

-Do you feel a burden, a guilty conscious when you look back at your life then?

-Do you feel ashamed to have taken an active part in the conflict?

-What was the strongest feeling or emotion you experienced during the conflict? (Fear, wrath, sadness...)

-Would you be ready to go through it all again for any motive? (Money, philosophical idea, ideology, political reasons...)

-Why do you think offenders commit crimes?

I would like to know what are the elements and key aspects that have contributed or could contribute to heal the pain, the wrath, the urge to seek revenge, the lack of will to live, the disarray and also the elements that on the contrary have intensified these negative feelings.

I am going to start by mentioning some of these elements for us to discuss.

-Do you feel rejected by the Colombian people?
- What has been the role of your family?

- What has been the role of your friends?

- What has been the role of spirituality during this process?

**Process of Justice**

- How were you treated during the conflict?

- How should the chief commanders of the illegal armed forces be treated? And the lower rank members?

- How should the victims be treated?

- Do you believe victims and offenders should be treated equally?

- What does respect mean to you?

- From your point of view, what does the ideal process of justice between victims and offenders be like?

- Would you like to speak to the victims?

- Would you like it if your family were involved in the process of justice?

- Would you like to receive psychological support?

- Would you like to receive spiritual counseling?

- Do you personally know the victim(s)? And if you don't, will you like to meet him/her/them? Why would you like to meet him/her/them? Would you like to listen to their story, their version of the facts? Can you tell us why?

- Would you like to see him/her/them on video?

- Would you like to talk to him/her/them personally? Or would you rather establish contact with him/her/them through a mediator?
-Do you think a personalized treatment should exist for every offender?

-The dialogue. Do you feel an open space where offenders could meet other offenders, receive psychological support and share their experiences should be created?

-What kind of place do you consider appropriate to share the offender's experiences during the conflict? (In a court of Law, public installations, the community buildings, amongst other victims, only in the presence of friends and family, before the offenders, with a psychologist...)

-Have you received moral and psychological support?

-Do you know about the Justice and Peace process? Have you participated in the Justice and Peace process? If so, how? What has been your personal experience in this process?

-Has the process of Justice and Peace helped heal the pain or has it made it worse?

**Questions about Truth**

- What is truth for you? 

-Right now there are various ex-combatants declaring their war crimes at the Prosecutor's office. Do you believe these open declarations have helped to unveil the truth behind the facts?

- Do you believe telling the truth is important? Why do you think so? (For your peace of mind, to get rid of the guilty feelings, to stop it from happening again...)

-Did you state the truth? How did you feel afterwards?

-In what general way do you believe the process of Justice and Peace has been efficient in shedding light on the truth about the conflict?

-How did you feel before the Justice and Peace process? How do you feel now?

-From your point of view and considering your personal experience, how can the process of unveiling the truth help with your suffering, your guilt feelings?
Some people think that the victims deserved or asked for what happened to them? What is your opinion on this?

**Questions about responsibility**

-What does assuming responsibility for one’s crimes means to you?

-Amongst the members of the illegal armed forces, who should be prosecuted? (Only the chief commanders, the middle officers, etc.)

-Do you hold other entities responsible for the Colombian conflict? (The international community, the state, the Colombian society…)

-Do you believe an offender is capable of peacefully reintegrating society? Do you think that moral and psychological support could help in this reintegration process?

-What is the meaning of justice?

-Concerning the offenders, do you think justice has been served?

-Concerning the victims, do you think justice has been served?

-In your personal experience, in what way would you say you have assumed your responsibility of the facts occurred?

-Do you recognize you have brought harm upon people, that you made a mistake? What has been key for you to get to these assumptions?

-Do you believe admitting that you have induced suffering to others is a necessary step to heal your own pain, your guilt?

-Do you regret your actions? Why? When did you repent?

**Question about reparation**

-For you, what is the meaning of reparation?
-If you consider yourself a victim, how should your damage be repaired? (The offender should go to prison, serve community service, the state should compensate the victims with economical measures, the offender should ask for forgiveness...)

-Who should be held responsible for the harm caused? (The person who committed the crime, the chief commanders, the Colombian government, other countries...)

-Have you received any form of reparation? If so, are you satisfied with it?

-How did you feel before reparation? How do you feel now?

-Regarding the collateral damage of the victims of the conflict, such as the displaced communities, families of the kidnapped or missing, amongst others, how should they receive reparation?

-Would you like to participate in the reparation process? If so, how?

-Have you thought of ways to contribute with reparation? Have you taken any actions to repair?

-If you have or had experienced guilt, remorse or shame, has reparation been of any help in eradicating these negative feelings?

-If you enlisted in an illegal armed organization on your free will, would you say you have brought a prejudice upon yourself? Have you done anything to repair this self-inflicted harm?

**Questions about reconciliation**

-What is the best solution for the Colombian conflict?

-Is dialogue important?

-Is military intervention important?

-Is the arbitration of other countries important?

-The mediation of other organizations such as NGOs?
- Do you believe the intervention of The Church is important?

-Do you believe the media has played a key role in the process of reconciliation?

-How can the media contribute or help with the process of reconciliation?

-What role do you think drugs and drug trafficking have played in the conflict?

-What does it mean to you reconciliation? (To forgive, live in harmony, to live without shame, law measures against offenders...)

-Under what circumstances would you be ready to accept reconciliation with other members of the different groups? Could you live in the same neighborhood? Could you work with him? Would you accept him as a political figure?

-Did you ask for forgiveness? Would you be keen to?

-How can we achieve reconciliation?

-Do you believe the Colombian society and your direct victims can forgive you?

-Would you feel better if you could live in harmony?

-For you, what are the most important conditions to start a reconciliation process in Colombia? (Access to the truth, punishment for the offenders, that the offenders ask for forgiveness, victim's reparation, the organization amongst the communities of reconciliation events, the guarantee that these awful events will never be repeated...)

-In a general way, and summarizing a bit our discussion, what elements in the Justice and Peace process, and outside of it have contributed to heal your suffering and guilt? What could help ease the pain furthermore?

Many thanks for your participation and your precious time.
3.2. The Spanish version

*Introducción del Entrevistador*

Muy buenos días, mi nombre es Isabella, estoy haciendo un trabajo de investigación en la Universidad de Lovaina (Bélgica) sobre justicia restaurativa y justicia transicional. Dentro del marco de mi Doctorado, estamos llevando a cabo un estudio para conocer su experiencia durante el conflicto, su percepción y opinión sobre temáticas del conflicto y cómo los Colombianos podríamos vivir juntos.

El propósito de esta investigación y de estas entrevistas, es proponer a nivel nacional e internacional medidas que tomen en cuenta los intereses y preocupaciones tanto de víctimas como de victimarios del conflicto colombiano.

La entrevista no tiene ningún objetivo político. No hay respuesta correcta o incorrecta. Si no quieren responder porque no desean o porque no saben que responder, no tienen que hacerlo.

*Datos del entrevistado*

- Me podría decir por favor su edad

- Sexo (femenino/ masculino)

- Estado civil (soltero, casado, unión libre, separado, viudo)

- ¿Cuál es el nivel educativo mas alto que usted haya alcanzado? (Primaria, secundaria, universitario, postgrado, ninguno)

- ¿Cuál es su situación laboral? (Empleado, desempleado, independiente)

- ¿Cuál es su ocupación? (comerciante, hogar, agricultura...)

- Pertenece a alguna etnia (afro-colombiana, indígena...)

- ¿Vive en una zona rural o urbana?
**Preguntas introductorias**

- ¿Cuántos años tenía cuando se afilió a un grupo armado ilegal?

- ¿Cuál es el grupo? ¿Cuánto tiempo duró allí?

- ¿Se considera a usted mismo como víctima del conflicto?

- ¿Qué significa ser víctima del conflicto?

- ¿Cuáles fueron las principales causas para afiliarse a este grupo? (razones económicas, ideológicas, para asumir un rol en la sociedad, pertenecer a algo, fue forzado..)

- ¿Sucedío algo en tu familia para afiliarte al grupos? (desaparición forzada de familiar, venganza, desunión familiar, conflictos fuertes, abandono...)

- ¿Cómo fue el proceso en el interior de su grupo para que permaneciera allí? ¿Podría compartirnos usted algo de la formación o de la educación que usted recibió en su grupo?

- ¿Cómo era la relación entre los comandantes y los mandos medios?

- ¿Cómo era la distribución de poder y de dinero entre los miembros del grupo?

- ¿De dónde venía el dinero?

- ¿Es posible que nos cuente cómo fue esa experiencia durante el conflicto? ¿fue dolorosa, difícil?

- ¿Cómo era un día cotidiano? (a que horas se levantaba, que comía, dónde dormía...)

- Me podría hablar un poco de lo que pensaba, de lo que sentía en el momento de una invasión, de un combate (cuando entraban con las armas a una propiedad privada...)

- ¿Y cómo se sentía después?

- Si se remite a esas fechas a esos lugares cuál era el sentido de vida (con respecto a motivaciones, valores...) Y ahora después del proceso que está viviendo, cómo es?
- ¿Cuáles son las principales causas de su desmovilización? (la pena alternativa, el cambio de Gobierno, fue obligado, no le encontró más sentido a la guerra...) ¿Esta fue colectiva o individual?

- A su modo de ver ¿qué incitaría a los miembros de grupos armados ilegales a desmovilizarse?

- ¿Qué piensa usted de este conflicto en términos de causas, desarrollo y situación actual?

- ¿Sabe usted cómo se encuentra actualmente el grupo al que usted pertenecía? (se han desmovilizado otros compañeros suyos, se ha debilitado, esta más fuerte...)

- ¿Usted siente alguna carga, algún sentimiento de culpa por su experiencia en el conflicto, en las vivencias que tuvo?

- ¿Usted se siente avergonzado de haber participado en el conflicto?

- ¿Cuál ha sido el sentimiento o emoción más fuerte durante su experiencia en el conflicto? (tristeza, rabia, venganza...)

- ¿Ha sentido vergüenza?

- ¿Volvería usted a vivir una experiencia similar motivado por cualquier motivo? (dinero, filosofía, ideología, posición política...)

- ¿Por qué cree usted que los victimarios cometen crímenes?

A mí me gustaría saber cuáles son los elementos o aspectos que han contribuido o que podrían contribuir a sanar el dolor, tristeza, pérdida, sufrimiento, exilio, separación y aquellos elementos que por el contrario, agravarían el dolor. Yo voy a mencionar algunos aspectos para que los comentemos.

- ¿Usted se siente rechazado por los Colombianos?

- ¿Cuál ha sido el rol de la familia?

- ¿Cuál ha sido el rol de sus amigos?
¿Cuál ha sido el rol de la vida espiritual en este proceso?

**Proceso de Justicia**

- ¿Cómo lo trataban durante el conflicto?

- ¿Cómo deberían ser tratados los jefes de grupos armados? (Mancuso, Marulanda...) Y los mandos medios?

- ¿Cómo debe ser el trato hacia las víctimas?

- ¿Usted cree que las víctimas y victimarios deben ser tratados de manera igual?

- ¿Qué significa respeto para usted?

- ¿A su modo de ver cómo debería ser un proceso de Justicia?

- ¿A usted le gustaría dialogar con las víctimas?

- ¿A usted le gustaría que su familia estuviese involucrada en el proceso de justicia?

- ¿A usted le gustaría recibir apoyo psicológico?

- ¿A usted le gustaría recibir apoyo espiritual?

- ¿Usted conoce la(s) persona(s) a quien le ha hecho daño, y si no la conoce, le gustaría conocerla? ¿Le gustaría contarle su experiencia como victimario? ¿Le gustaría escuchar la versión de la víctima? ¿Podría decirme las razones por las cuales piensa esto?

- ¿Le gustaría verlo personalmente, a través de una cámara?

- ¿Le gustaría hablar con la víctima personalmente o le gustaría comunicarse con él/ella a través de un mediador?

- ¿Cree que los victimarios deben recibir un trato personalizado?

- El Diálogo. ¿Cree usted conveniente ofrecer un espacio a los victimarios para dialogar con otros victimarios, del mismo grupo y de otro grupo, con víctimas?
- Dónde sería conveniente contar las experiencias de guerra (en las cortes, en lugares públicos, en la comunidad a la cual pertenece la víctima, ante otras víctimas, ante únicamente amigos y familiares, ante otros victimarios, ante un psicólogo...)

- ¿Usted ha recibido apoyo psicológico?

- ¿Usted conoce el proceso de Justicia y Paz? ¿Usted ha participado en el proceso de Justicia y Paz y de qué manera? ¿Cómo el proceso de Justicia y Paz ha contribuido a sanar su dolor?

**Preguntas sobre verdad**

- ¿Qué significa verdad para usted?
  - En este momento hay desmovilizados declarando sus delitos ante la fiscalía. ¿Cree que estas declaraciones han servido para dar a conocer lo que ha ocurrido en el país?

- ¿Usted cree que decir la verdad es importante? ¿cuál es la razón por la cual usted cree eso? (para no repetir los hechos, para liberarse del sentimiento de culpa...)

- ¿Usted ha declarado la verdad? ¿Cómo se sintió antes y después de dicha declaración?

- ¿De manera general, cree que el proceso de Justicia y Paz ha sido eficiente en el esclarecimiento de la verdad?

- ¿Cómo se sentía usted antes del proceso de Justicia y Paz y cómo se siente ahora?

- ¿De qué manera el proceso de esclarecimiento de la verdad podría mejorar para aliviar su sufrimiento, su culpabilidad?

- Algunas personan piensan que las víctimas merecían o buscaron lo que les sucedió. ¿Qué piensa usted al respecto?

**Preguntas sobre responsabilidad**

- ¿Qué significa para usted asumir la responsabilidad?
- De los miembros de los grupos armados ilegales, ¿quién cree usted que debe ser juzgado? (únicamente los comandantes, los mandos medios, todos...)

- ¿Usted cree que existen otros responsable de lo que ha pasado en el país? (comunidad internacional, el Estado, la sociedad colombiana...)

- ¿Usted piensa que un victimario podría reinsertarse a la sociedad y convivir de manera pacífica con los demás? ¿Cree que un proceso de apoyo psicológico podría contribuir a lo anterior, es decir, a la reinserción pacífica del victimario?

- ¿Para usted qué significa Justicia?

- ¿Usted cree que ha habido justicia con los victimarios?

- ¿Usted cree que ha habido justicia con las víctimas?

- ¿En el proceso que usted ha tenido de que manera usted ha asumido la responsabilidad de los hechos?

- ¿Usted reconoce que ha hecho daño, que cometió un error? ¿qué ha sido esencial para llegar a este reconocimiento?

- ¿Cree que el hecho de reconocer que ha hecho daño es una etapa necesaria para aliviar su dolor (o culpabilidad)?

- ¿Se arrepiente de lo que hizo? ¿Por qué? ¿Cuándo se arrepintió?

**Preguntas sobre reparación**

- ¿Qué significa reparación para usted?

- ¿Si usted se consideras víctima, cómo debería ser reparado ese daño? (el responsable debe ir a la cárcel, hacer servicio de comunidad, el Estado debe compensar a las victimas con medidas económicas o simbólicas...)

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- ¿Quién debería reparar el daño causado? (aquel que directamente cometió el crimen, aquel que dirigía a quien cometió la agresión, los comandantes del grupo armado, el Estado colombiano, otros países…)

- ¿Ha recibido beneficios del programa de reparación?

- ¿Si lo ha recibido se siente satisfecho?

- ¿Cómo se sentía antes de la reparación y cómo se siente ahora?

- ¿La otra parte del conflicto son los desplazados, los familiares de secuestrados, familiares de desaparecidos entre otras víctimas, cómo deberían ser reparadas estas personas?

- ¿Quién debería reparar este daño?

- ¿A usted le gustaría participar en la reparación de las víctimas? De qué manera?

- ¿Ha pensado en algo para ayudar a reparar? ¿En algún momento ha hecho algo para reparar?

- ¿Se siente satisfecho en cuanto a su reparación?

- ¿Cómo se sentía antes de la reparación y cómo se siente ahora?

- ¿Si usted ha tenido o tiene sentimientos de culpa, o vergüenza, la reparación ha contribuido de alguna manera para que usted se libere de estos sentimientos?

- ¿Si usted fue reclutado con consentimiento propio usted piensa o cree que se ha causado un daño a usted mismo? ¿Qué ha hecho usted para reparar el daño que usted mismo se ha causado? ¿Cómo podría usted reparar dicho daño?

**Preguntas sobre reconciliación**

- ¿Cuál es la mejor solución para el conflicto colombiano?

- ¿El diálogo le parece importante?
- ¿La intervención militar le parece importante?

- ¿La mediación de otros países le parece importante?

- ¿La intervención de otros organismos como ONG?

- ¿La intervención de la Iglesia le parece importante?

- ¿Usted cree que los medios de comunicación han jugado un papel importante en el proceso de reconciliación?

- ¿Cómo podrían los medios de comunicación contribuir el proceso de reconciliación?

- ¿Qué piensa usted del rol de la droga en el conflicto?

- ¿Qué significa reconciliación para usted? (perdonar a los miembros de otros grupos armados, convivencia pacífica entre víctimas y victimarios de diferentes grupos...)

- ¿Bajo qué circunstancias estaría usted dispuesto a reconciliarse con los miembros de otros grupos? ¿Podría vivir en el mismo barrio, aceptaría que ellos participaran en la política, trabajaría con él...)

- ¿Usted pidió perdón por el daño que ha ocasionado? ¿pediría perdón?

- ¿Cómo se puede llegar a la reconciliación?

- ¿Cree usted que la sociedad colombiana y las víctimas directas lo perdonarían?

- ¿Usted se sentiría mejor viviendo en armonía?

- ¿Para usted cuáles son las condiciones más importantes para construir la reconciliación en Colombia? (conocer la verdad, sancionar a los victimarios, reparar a las víctimas, organizar eventos de reconciliación en las comunidades, que los hechos lamentables no se vuelvan a repetir...)

De manera general y resumiendo un poco lo que hemos hablado, ¿qué elementos del proceso de justicia y paz, y fuera del proceso, han contribuido para sanar su sufrimiento (sentimiento de culpabilidad)? ¿Qué podría ayudar a sanar su dolor?
Muchísimas gracias por su participación y por su preciado tiempo.