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Restorative Justice Mechanisms and Gender Based Sexual Violence in
Colombian Conflict

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DECLARATION OF ACADEMIC INTEGRITY

I hereby declare that the study presented is based on my own research and no other sources than the ones indicated. All thoughts taken directly or indirectly from other sources are properly denoted as such.

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Introduction

Colombia is a country recovering from the armed conflict that endured for over fifty years. During that period of time the dynamics and the leading actors have changed, so it was very difficult to finally hold successful negotiations and sign the Peace Accord – the Final Agreement to End the Armed Conflict and Build Stable and Lasting Peace was signed in 2016, after four years of extensive talks between the Government and Revolutionary Armed Forces of Colombia – People’s Army (Fuerzas Armadas Revolucionarias de Colombia—Ejército del Pueblo or FARC – EP) in Havana. Colombia is a country rich with culture, diversity, nature, but with the society devastated due to armed conflict and criminal activities of different groups who have operated in mentioned territory.

Throughout the years there have been many victims of the armed conflict and there must be no family who is not related to it at least indirectly. Considering that the society is very traditional and patriarchal, cases of gender – based violence are something that is normalized in the time of peace and exacerbated to the gravest levels during the violent period. Consequently, women are one of the groups who are disproportionately affected by the armed conflict. Women are heterogeneous group, they differ based on their age, ethnicity, status, education, place of living, and these characteristics all affect their “destiny” during the conflict. Furthermore, they are encountering different roles in conflict: leaders, mothers, daughters, and sisters, wives in one word caregivers, combatants, and agents of change, activists and victims. Their most noted role in the post – conflict society is being a victim. Even though women are significantly more than just victims, they are challenging traditional gender roles, participating in the civil society, starting initiatives, setting agendas and becoming “the heads of their households”. Their activism had achieved that gender approach is adopted in the Final Agreement and in the mechanisms set for the transitional period. By adopting the gender approach in the Final Agreement, it is recognized that women have been disproportionately affected by the armed conflict, significant for the process of transitional justice.

Transitional justice is a sensitive question during the negotiations and after the conflict’s ending. It represents a system of different mechanisms who have the mandate to provide as well ordered as possible transition from the state of negative peace – the absence of violence, after the period of intense violence and then to the state of positive peace – the state of built functioning institutions, vivid and integrated society, where human rights are valued and

respected. Deciding on a dominant approach – retributive or restorative can be very difficult. Context has to be analyzed in detail, as well as the level and seriousness of the atrocities committed against the civilians, in our case the focus is on women. Following, it needs to be examined so that the mechanisms for dealing with the past could be tailor – made to fit the complexities of the mentioned society.

Retributive approach is a punitive mechanism based on international criminal law, shaped by the experience of historical events and war atrocities that have happened throughout history. Starting from the Hague Conventions on the verge of the 20th century, to Geneva Conventions, Protocols after the World War II and the jurisprudence of ad hoc tribunals created after the violent conflicts in the 1990s – Rwanda and Yugoslavia. Followed by the establishment of International Criminal Court by the Rome Statute in the 1998, to whom Colombia is subjected since 2009. Rich jurisprudence and practice of international punitive institutions are important to see if there is something that could be implemented in the Colombian case, but also to see the weaknesses of retributive mechanisms and potential ways to upgrade them and adjust them to the conditions of Colombian societal context. Taking into account the high level of impunity of alleged perpetrators of crimes related to sexual violence aimed at women, that exists in Colombia, basic form of retributive justice has to be enforced. On the other hand, restorative justice mechanisms are more focused on the victims, their subjective experiences of the armed conflict and incorporating their perspective and local practices into the healing process. There is also a rich history of using restorative mechanisms, one of the most valuable experiences is the South African Truth Commission and the level of amnesty that was granted for sharing the truth. Thereof, restorative mechanisms also have arguments who go in favor of their use and the arguments who show their imperfections that should be avoided. It is impossible to apply only one approach, the rich practice of post – conflict transitional societies implies that they should be used complementary.

Colombian conflict has been deadly for majority of Colombian population, a death toll of civilians is close to 220.000 people (Bouvier 2016, 4). Over five decades, there has been more than 6 million internally displaced persons, almost sixty per cent of them are women (Bouvier 2016, 4). In the cases where conflict related sexual violence is used to the large extent by legal and illegal actors, characteristic for Colombian armed conflict, particularly when the ethnic, rural communities have been carrying the disproportionate burden of sexual violence it seems that restorative mechanisms have been more suitable as a transitional

justice mechanism. It is a sensitive matter, where it is necessary to establish the relations of trust and confidence before approaching the survivors and trying to guide them individually and as communities towards the reconciled society. Particularly, when one is observing the cases of indigenous, Afro – descendent or other rural ethnic communities, the understanding of their traditions, culture and practices has to be taken into account. Since there is a diverse number of rituals, chants or dances they are using inside of their communities to restore individual lives or communities.

International and national legal framework are set in favor of women when it comes to women, peace and security agenda, but unfortunately they frequently represent a dead letter. United Nations Security Council Resolutions such as 1325, 1820, and 2467 have paved the way for raising the participation of women in peace processes, condemning sexual violence aimed towards women and girls and sensitizing people working for United Nations and state's institutions to adequately address these cases. They were very encouraging, especially in giving incentive to women's organizations to keep up with their good practices, to speak louder and raise their participation. The work of Colombian civil society is admirable, they have taken over the responsibility of empowering women, supporting them, documenting their stories and turning them into reports crucial for later entrance into the justice system.

The Final Agreement created the Comprehensive System for Truth, Justice, Reparations and Non – Recurrence, with the mission of guiding the process of transitional justice to its ultimate goal – reconciliation. One of the integral parts of this system is the Special Jurisdiction for Peace, a hybrid mechanism that can provide amnesty or alternative sentences if the cases are not representing the serious violations of human rights, on the other hand if the cases are grave the punitive sanctions are going to be executed. Special Jurisdiction for Peace is nurturing relations of trust with the most prominent women's organizations who are providing them documented reports of testimonies relevant for their mandate such as Women's Pacifist Route (Ruta Pacifica de las Mujeres). Furthermore, in its core it has gender and ethnic perspective and approaches, it acknowledges the disproportionate effect armed conflict had on women, especially indigenous, Afro – descendent and other ethnic groups. Besides the mentioned two, Special Jurisdiction for Peace applies the territorial approach considering that not all territories have been equally affected by the conflict. For the purpose of explaining the functioning of the mechanism the case 005: Territorial situation of northern Cauca and southern Cauca Valley, is going to be analyzed.

The interest of a researcher in this topic derives from the affection towards Latin American countries, culture and language, the similar mentalities and shared historical struggles of conflicts from the past. The chosen topic gathers the most thought - provoking spheres of interest of the researcher: transitional justice, gender studies, history, international criminal law, peace studies and political science.

The research is conducted in a form of a qualitative study which is based on normative theoretical texts discussing transitional justice mechanisms, with the emphasis on restorative justice and how they relate to a situation of rebuilding a society after the violent conflict taking into account the situation in Colombia in terms of history, context and consequences of the conflict with the gender focus.

In terms of structure of thesis chapters it starts with the brief Introduction as the guide through the thesis. Further, the paper is framed in two sections. Section one consists of Theoretical framework, with two chapters: Transitional justice and restorative justice: repairing lives, rebuilding societies and Gender, peace, security: women in focus of peace and conflict. The goal of the section one is to explain the most important concepts for explaining the armed conflict, transitional justice problems, the Final Agreement and the most important issues to be addressed in the context of Colombian conflict.

Section two is a case study, consisting of five chapters: Context of Colombian conflict (1948 – 2016), Sexual violence: strategy of war and testimonies (1993 – 2016), Special Jurisdiction for Peace, Case 005: Territorial situation of northern Cauca and southern Cauca Valley, Civil society, victims and indigenous women – local level peacebuilding: restoring society from the margins to the center. Section two is a case study, with the historical context of Colombian conflict, documentation of testimonies and voices of sexual violence survivors, the work of Special Jurisdiction for Peace, focusing of the Case 005, and in the end civil society and local level peacebuilding are explained. Followed by Conclusion, where the summary of the thesis and its most important remarks are presented.

1. Theoretical framework

1.1. Transitional justice and restorative justice: repairing lives, rebuilding societies

Transitional justice represents an attempt to handle past violence happened in the societies who are in the process of undergoing or trying to go through some form of political transition (Bell 2009, 7). The term itself started being used during the mid – nineties, precisely in 1995, after Neil Kritz published his three volume study “Transitional Justice: How Emerging Democracies Reckon with Former Regimes”, which followed the transition from authoritarian to democratic regimes in former Soviet countries and Central America (Bell 2009, 7). Transitional justice has an aim of providing as smoothest possible transition from the stage of severe human rights violations to the peaceful, reconciled society. International humanitarian law plays an important role in this process, since it sets the rules that should not be breached during the armed conflict. No possibility of amnesty is allowed whenever serious human rights violations have been documented, this is learned from the previous experiences of Latin American countries, where blanket amnesties were given in the transitional period. Here one will explain the process of transitional justice through its two approaches: retributive and restorative. Since the work itself is dedicated to the restorative approach, the focus is going to be laid on it and how is this approach integrated into the Final Agreement to End the Armed Conflict and Build a Stable and Lasting Peace (Final Agreement) ratified in November 2016. Additionally, important concepts for the process of transitional justice and dealing with the past are going to be laid out, such as: justice, truth, denial, remembering, victims, structural violence, gendered based violence and conflict related sexual violence.

Even though the term transitional justice originated during the 1990s, considering the level of armed conflicts and transitions many states have undergone from authoritarian to democratic regimes, the process itself was developed during two thousands and started referring to the social protracted conflicts (Bell 2009, 8). Transitional justice is an interdisciplinary and comprehensive mechanism that includes all the constructing mechanisms of a society, from development and economy to anthropology, theology and human rights. But it was built on the existing legal system and mechanisms of international humanitarian law. If a society aims

to achieve reconciliation, it has to redefine itself from the grounds in terms of reforming the institutions, educating people who work there and sensitizing them for working with the survivors of severe atrocities. According to Azar, mentioned protracted social conflict is a type of ongoing conflict that seems unresolvable, with typical characteristics like: prolonged nature, economic and technical underdevelopment, unintegrated social and political systems (Azar 1985, 59). Colombian case fulfills the requirements to be classified as a protracted social conflict. Establishment of transitional justice mechanisms was a difficult process and more than necessary one to undertake, especially taking into account that there were many rounds of failed negotiations through decades, before the Final Agreement has been signed in 2016.

Context of the armed conflict is very important in determining mechanisms of transitional justice that are going to be used in dealing with its consequences. Transitional justice leans on to international law, what international law requires is that amnesty can be given except when it comes to serious human rights violations, but also that in some situation amnesty is allowed and encouraged (Bell 2009, 16). In Colombia solving the problem of high levels of impunity for all sorts of crimes related to the armed conflict is one of the focal problems to be addressed, as one will see in the following chapters the amnesty or reduced sentences have become a part of the solution by learning from the cases such as South Africa. In the end, transitional justice represents a mix of “legal, quasilegal and political mechanisms for addressing the past” (Bell 2009, 19).

When one thinks about justice, the associations with this term are many – criminal, distributive, victors, transitional justice, etc. It is sort of a philosophical question discussed by Greek, medieval and philosophers of other epochs, in the modern world justice equalizes with the punitive, legal mechanisms. The truth is that everyone does have a subjective view on justice – the victims, perpetrators, institutions. The focus here is set on two dominant approaches: retributive and restorative. Retributive justice refers to punitive/criminal justice, by using judicial mechanisms to punish the perpetrators. There are arguments going in favor of this approach and the opposed to this approach. According to Huyse the reasons to avoid retributive mechanisms are: not focused on the feelings of the victim, trials can obstruct reconciliation process, hard to gather the evidence (Huyse 2003a, 97). The groups of authors confirms the neglected victims, trials are not giving enough space for victim’s voices to be heard, their narrative truths and interpretations of their experiences are not taken into account (Nikolić – Ristanović, et al. 2018, 116). On the other hand, arguments in favor of the use of

retributive justice: avoiding private revenge, preventing the return of perpetrators to power, prosecuting and punishing the perpetrators as a way of fulfilling obligations to the victims, individualization of the guilt as a way of preventing the stereotyping the group, providing democratic consolidation by strengthening democratization process and breaking the cycle of impunity (Huyse 2003a, 98). Additionally, legal justice is seen as a tool of preventing the conflict from continuance, setting the starting point for peacebuilding and re – gaining the trust of public in institutions (Nikolić – Ristanović, et al. 2018, 115). Retributive justice can be accomplished through the jurisprudence of national and international tribunals or combined, but domestic persecutions of serious human rights violations such as crimes against the humanity are not really common since these crimes are mostly related to international documents and conventions and the mechanisms set by international law, such as mentioned ad hoc tribunals for Yugoslavia and Rwanda or International Criminal Court. One of the reasons why domestic trials are not dominant is the fact that the influential, powerful perpetrators could easier manipulate the process by meddling, killing the witnesses or judges. Thereof, retributive justice has many crucial arguments that go in favor of it and it is necessary to predict punitive mechanisms for the serious violations of human rights if we want to rebuild institutions, security and society by providing non – repetition of violent acts, but it is not enough for achieving complete reconciliation. The risk in opting for retributive mechanisms is that they can destabilize the existing fragile peace and lead to the re – victimization of the victims.

Even though legal justice is viewed as the best and necessary in dealing with the past and transforming the society into the society of rule of law, it lacks not being complemented with the programs who offer compensation for the victims (Nikolić – Ristanović, et al. 2018, 115). Therefore, there is a need to complement retributive mechanisms with restorative justice mechanisms, with the victim centered approach that is taking into account their subjective experiences of the armed conflict. More resources are invested in retributive mechanisms, while little attention is paid to the agency of the civil society and victims (Nikolić – Ristanović, et al. 2018, 113). Some researchers claim that the differential line between retributive and restorative justice is completely blurred, and there are examples of good practices that combine both: *nahe biti* in East Timor and *gacaca* in Rwanda (Lambourne 2009, 31). Rigid Western models often allow one form of justice to be dominant – retributive or restorative. But, the mentioned institutions – *gacaca* and *nahe biti*, seek to combine several elements from different approaches in keeping with the values of the community (Lambourne

2009, 32). This complementary use of the elements from both approaches, who have shown to be the best in practice, have become frequent in the emerging peace accords when thinking about the transitional justice process such as Colombia.

Along the lines with the searching for complementary or alternative approach to retributive one, inspiration for restorative mechanisms was found in indigenous practices such as Africa or New Zealand, that are based on meditation (Huyse 2003a, 111). Thereof: “Restorative justice is thought to handle wrongdoing differently: it works with the full participation of the victim and of the relevant communities in discussing the facts, identifying the causes of misconduct and the defining sanctions” (Huyse 2003a, 111). Restorative justice is inclusive, it is based on dialogue, mutual respect and understanding, interactive communication and participation of all. (Nikolić – Ristanović, et al. 2018, 118 – 119). Characteristic of restorative mechanisms will be explained through the testimonies in latter chapters, majority of them include the idea of the future, or are oriented towards how is one going to heal. Retributive mechanisms frequently come from above – international community, without caring too much about the local perspectives and restorative justice is in the scope of work of non – governmental organizations or civil society organizations including local level communities. Civil society organizations are very important in documenting the testimonies of the victims and providing them all kinds of necessary support, to become active participants, agenda setters and advocates for change. Restorative approach is viewing the problem as a community problem, it is about restoring the social harmony of mentioned community, it requires public participation, will to participate and implement consensual agreements, listening and acknowledging the truth and experiences of the victim, confirming decisions through rituals aimed at reintegration (Huyse 2003a, 112). Some mechanisms such as victim – offender reconciliation, circle sentencing and community conferencing are considered to be better in promoting reconciliation and non – repetition than retributive ones (Lambourne 2009, 30). There are significant arguments who confirm the efficiency of restorative approach, especially for rural and indigenous communities: easier to access, held in local language, simple procedures without the need for legal aid, the offered justice is based on the principles of rehabilitation, compensation, reconciliation to restore the relations in community, highly participative, open for all stories and experiences to be shared, educative and simpler to execute (Huyse 2003a, 112). Difficulties, especially when it comes to gender based and sexual violence can be found in the abuse of power of traditional leaders, who could protect themselves at cost of the wellbeing of the victims, but also if the

restorative mechanisms have the capacity to deal with serious human rights violations after the armed conflict. This is to be examined in the following chapters, by going through the examples from Colombian conflict. In conclusion of two approaches, retributive approach is important for redefining the state as a mechanism, restorative one for helping people in restoration of their lives, but as a hybrid who would take best of both approaches they would be much more efficient by hearing the needs of the people. It would offer the comprehensive approach, focused on more than one components of transitional justice.

“The truth, the whole truth and nothing but the truth”, this popular sentence one can here in every movie or TV show that portrays any form of trial, actually represents what the society needs in order to redefine itself – to hear everyone’s truth and acknowledge the ones who can help achieving the target – reconciliation. Victims in the first place need to know what has happened, who is responsible for that, where are their loved ones – alive or dead, so they could continue and overcome the bad things they survived. Thereof, individual truths gathered through testimonies and classified in reports can help us in building official collective history and comprehensive narrative that explains what has happened and why. That would give a level of clarification to the society and create a narrative to explain what do one need to avoid to provide non – repetition. There are different types of truth: factual or forensic, personal and narrative truth, social truth and healing and restorative truth (Choen 2009, 34 - 35). For example institutions will be prone to forensic truth since their goal is to establish the facts of what happened, victims to narrative and restorative ones since they need the acknowledgment of their experiences. All of the mentioned truths are important for the process of reconciliation, but in terms of restorative justice the goal is to hear personal truths to understand the context of the unfortunate events that have happened – both from victims and perpetrators. But the last – healing and restorative truth is characterized by thinking about moving on, transforming your negative feelings to think that your experience and suffering matter, such as everyone else’s, to be acknowledged and valued, with the will to move on. There are obstacles to truth seeking during the period after the conflict ends, the main one is denial, it has multiple forms and it is encountered in every post – conflict society: “official denials and cover ups (it didn’t happen), individual denial (I wasn’t even here) or amnesia (I must have been there, but I can’t remember anything)” (Choen 2009, 30 - 31). It is very common for the perpetrators to deny their wrongdoings in any form, creating the atmosphere of silence and fear for the victims. Hence, it is very important to allow the victims to share their story, to be valued and acknowledged, so the truth could set them free and to stand in

the way to denial. Especially when they are the ones who have undergone trauma, auto – denial can happen in the form that they can't get the grips with what has happened to them and articulate their truth. Conflict related sexual violence is causing the reaction “This can't be happening to me”, which produces internal battle between denial and truth (Choen 2003, 14). Also, there is a worldwide practice to remain numb to sexual violence, considering the stigmatization that goes with it for both – victim and the perpetrator. But the silent treatment goes in favor of the perpetrator.

While establishing the truth, one should think about the ways of remembering. Remembering is very important part of transitional justice process. According to Heribert, there are two types of remembering: progressive that is learning from the past and educating for future and retrogressive vengeful truth that is trapping people into the cycle of continuous pain and violence (Heribert 2009, 80). The definition of progressive memory by itself qualifies this type of remembering as an adequate for achieving reconciliation, and it is embodied in restorative justice, considering that it is oriented towards the future. Since the main point of restorative mechanisms is to find the truth, understand it and transform all the negative feelings into positive forward – thinking, focused on the restoring the balance of society. Heribert enlists six existing paths of coming to terms with remembering the past: amnesia, trials and justice, lustration, negotiated restitution, political re – education and truth commissions (Heribert 2009, 81). All of these forms are being present in Colombian post – conflict context. Consequently, the negotiated restitution and political re – education should be crucial in creating the path towards reconciliation. Negotiated restitution in terms of giving the forcibly displaced persons the possibility to return and re – gain their lands, by including female, rural and indigenous perspective in understanding the context of the conflict, inciting them to rebuild their lives, start businesses. When it comes to political re – education it would be agreeing on the minimum standard of the truth of the events, educating society about the wrongdoings and the existing mechanisms to prevent them from happening ever again, developing critical consciousness, multiculturalism, awareness and communication.

Victim represents a concept of many forms. Definition of who can be considered as a victim differs from system to system. According to Huyse, the United Nations Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power, General Assembly Resolution 40/34, 29 November 1985, victims are “persons who, individually or collectively, have suffered harm, including physical or mental injury, emotional suffering, economic loss or

substantial impairment of their fundamental rights, through acts or omissions that do not yet constitute violations of national criminal laws but of internationally recognized norms relating to human rights”. (Huyse 2003b, 57). One of the classifications differs two types of victims, direct and indirect victims. The former represents persons who have been under direct impact of violence – psychological, physical or similar, the latter represents persons who are in some form of relation to the victims – partners, families, and friends. As we will see through the upcoming chapters, both direct and indirect victims have experienced severe trauma during the Colombian conflict, by experiencing, seeing and memorizing certain violent events. Additionally, gender plays an important role in victimization. Women have participated in Colombian conflict as combatants, politicians, activists, care givers, mothers and it has been noted that women, especially indigenous and Afro – Colombian have felt disproportionate consequences of the armed conflict. Their role in conflict has been changing in terms of breaking traditional norms and patterns of behavior that is typical for patriarchal societies, from being mothers and housewives to occupying positions of leadership in their homes or communities. UNHCR defines gender based violence as “harmful acts directed at an individual based on their gender. It is rooted in gender inequality, the abuse of power and harmful norms” (UNHCR, 2021). This type of violence exacerbates during violent conflicts and it’s mostly pointed at girls and women, done by all legal and illegal actors, with high levels of impunity after the conflict. Conflict related gender based and sexual violence has become very characteristic method of war, usually it is focused on women who are becoming victims of: forced labor, prostitution, forced abortions, forced pregnancies, physical violence, sexual violence and psychological violence. Besides the vulnerability that derives from the perception of a female body, women often lack basic rights like land ownership, so for them economic and social vulnerability represents a big problem since they can’t claim assistance or compensation. This is the consequence of patriarchy - structural economic, social and political inequality.

Final Agreement to End the Armed Conflict and Build Stable and Lasting Peace was signed in 2016, after the years of dialogues between the National Government and Revolutionary Armed Forces of Colombia – People’s Army (FARC – EP). The dialogue who had this Final Agreement as a product started in Havana in 2012, after many rounds of failed negotiations during the decades the acting President, at the moment, Santos managed to go through with it. The Agreement emphasizes social dialogue to build a culture of trust, non – discrimination, broad participation of Colombian citizens in building sustainable peace. Additionally,

Colombian Constitution from 1991 establishes peace as a right and a mandatory duty, in Article 22 (Final Agreement 2016, 2). The Final Agreement in its preamble predicts the rights of the victims to truth, it puts emphasis on women's rights, vulnerable social groups such as indigenous people, Afro – Colombians, other ethnic groups, small scale farmers who have been disproportionately affected by the armed conflict (Final Agreement 2016, 3). Women from different ethnic groups have suffered severe consequences of the conflict, mostly through surviving sexual violence and loss of their families. Ethnic communities are mostly territorially based in rural areas of Colombia, the section of the Final Agreement dealing with the rural reform is very important for reaching peace and rebuilding rural economy. One of the guiding principles of the agreement is the equality of men and women, it sets the aim of structural transformation of patriarchal society that is responsible for approval and silence for the gender based violence who Colombian women have suffered.

Chapter 5 of the Accord represents the Agreement regarding the Victims of the conflict, it sets the Comprehensive System for Truth, Justice, Reparations and Non – Recurrence. The system consists of: “the Truth, Coexistence and Non – Recurrence Commission; the Special Unit for the Search for Persons deemed as Missing in the context of and due to the armed conflict; the Special Jurisdiction for Peace; Comprehensive reparation measures for peacebuilding purposes; and Guarantees for Non – Recurrence” (Final Agreement 2016, 9). This chapter of the Final Agreement sets the ground for transitional justice process – comprehensive system, which makes it one of the most important chapters in the Accord. Victims are in focus, as one could believe there must be no family in Colombia that had not suffered the consequences of the armed conflict due to its longevity and intensity. Principles set by the Agreement are: Recognition of the victims, Acknowledgment of responsibility, Realization of victim's rights, Victim participation, Historical clarification of the truth, Reparations for the victims, Guarantees of protection and security, Guarantees of non – recurrence, Principle of reconciliation, Rights – based approach (Final Agreement 2016, 132-133). It is important to point out that victims organized in different forms: forums, organizations, informal groups to take participation in the negotiating process and their voice forms the integral part of the Final Agreement. “The underlying principles on which the Comprehensive System is founded are the recognition of the victims as citizens with rights; the acknowledgement that the full truth about what has happened must be uncovered; the acknowledgement of responsibility by all those who took part, directly or indirectly, in the conflict and were involved in one way or another in serious human rights violations and

serious infringements of international humanitarian law; the realisation of victims' rights to the truth, justice, reparations and non-recurrence, based on the premise of non – negotiation on impunity, additionally taking into account the basic principles of the Special Jurisdiction for Peace, one of which is that “damage caused shall be repaired and made good whenever possible”.” (Final Agreement 2016, 135). Characteristic of the Comprehensive system is that it puts emphasis on restorative and reparative measures, so it is not implementing only the retributive measures they are reserved for serious human rights violations, only the crimes that are less serious or political can be considered for amnesty. It recognizes what retributive mechanism lacks and it complements it with restorative measures. Conflict related sexual violence as one of the biggest issues of Colombian armed conflict requires restorative approach, since it is highly sensitive and institutions do not have human capacities developed and sensitized to deal with it. The Investigation and Persecution Unit is predicted to have a special team to deal with the sexual violence, working in accordance with the Rome Statute (Final Agreement 2016, 179).

When it comes to reparations, the Final Agreement predicts three clusters: Acts of early acknowledgement of collective responsibility, Concrete contributions to reparations, Collective reparations at the end of conflict (Final Agreement 2016, 187-189). Both the Government and FARC – EP should recognize their collective responsibility for the atrocities done during the armed conflict and apologize to the people who had suffered. Public acknowledgement and apology are showing a strong will and commitment to the non – repetition of the past atrocities. Together with the National Episcopal Conference, Inter – church Dialogue for Peace, civil society organizations and victims themselves the mentioned acts will be coordinated (Final Agreement 2016, 188). Besides rebuilding the infrastructure and institutions of the state, it is important to take into account psychosocial rehabilitation of people and in that manner rebuild the society. Final Agreement sets the emotional recovery measures at individual level, by improving the quality of care so the victims could get emotional recovery tailored for the specific trauma they have lived, stressing the psychosocial consequences of sexual violence (Final Agreement 2016, 192). Furthermore, for this purpose it predicts opening the local centers who would provide such care and support to the victims (Final Agreement 2016, 192). Psychosocial plan for rehabilitation and non – recurrence will develop strategies for rehabilitation on equity – based and gender – based principles that will: create space for community dialogue and collective mourning, introduction of activities associated with exchanges and coexistence in communities, boosting local initiatives,

reflecting collective attitudes on future, creation of learning environments for changing attitudes, rediscovery of pre – conflict social practices, promotion of agreements for peaceful coexistence and confidence building between public authorities and communities, strategies for rebuilding family ties with respecting religious, ethnic and cultural differences (Final Agreement 2016, 192 – 193). The entire Comprehensive system was developed to the detail with the purpose of providing non – repetition, in the years to come one will have a chance of seeing if the system set by the Final Agreement is functional and if it will help in reaching the ultimate goal of reconciliation of society. One can say that an enormous efforts have been put into its development, by studying the successful mechanisms of transitional justice and peacebuilding from different post – conflict societies such as African and other Latin American countries.

When it comes to the general principles of implementation, the Final Agreement is guided by: rights – based approach, respect for equality and non – discrimination, gender – based approach, respect for freedom of religion, territorial integration and social inclusion, strengthening and coordinating institutions, there are more principles but these are considered the most important for the purpose of this master thesis (see more: Final Agreement 2016, 204 - 205). There is a need for special, affirmative measures who encourage women to active participation, to organize themselves in the process of peacebuilding and recognition of their victimization in the armed conflict and the Final Agreement is stressing that in the text. It is important to take into account the intersectionality of women, since there are many social categorizations overlapping and making them more vulnerable – indigenous, rural, poor, women, for example.

The Law 975 – Justice and Peace Law defines the term of the victim in Article 5: “For the purposes of this law, the victim is understood to be a person who individually or collectively has suffered direct harm such as temporary or permanent injuries that cause some type of physical, psychological, or sensory disability (visual and/or hearing), emotional suffering, financial loss, or infringement of his or her fundamental rights. The harm must be the consequence of actions that were in violation of the criminal law, by illegal armed groups.” and “In addition, the victim shall be understood to refer to the spouse, or common-law spouse, and relatives in the first degree of consanguinity, or first civil, of the direct victim, when the victim was killed or is disappeared.” (Law 975, 2005). Article 37 defines the rights of victim and their access to justice, it predicts support such as: legal advices, translator, respect of their privacy and security, dignified human treatment during the procedure. Article

39 predicts protection of victims in form of exception to public trials, which is particularly important for the victims of sexual violence and preventing their continuous re – victimization. The Law also defines the measures of reparation – individual and collective, victims could use, in order rebuild their lives and demand justice.

Considering the initial intent of this chapter, for the further development of thesis it was needed to define the basic concepts that are going to be used to explain Colombian conflict, particularly conflict related sexual violence and the mechanisms of restoring individual victims and entire communities in the post – conflict period. The Chapter 5 of the Final Agreement was examined in order to explain how the Comprehensive System for Truth, Justice, Reparations and Non – Recurrence was set and developed. Additionally, the brief examination of Justice and Peace Law is given so we could see basic definition of the victims and how the mechanisms of transition from violent armed conflict to demobilized, peaceful society were set.

1.2. Gender, peace, security: women in focus of peace and conflict

“Patriarchy is the power of the fathers: a familial-social, ideological, political system in which men – by force, direct pressure, or through ritual, tradition, law, and language, customs, etiquette, education, and the division of labor, determine what part women shall or shall not play, and in which the female is everywhere subsumed under the male.” (Puechguirbal 2010, 172). Patriarchy is a form of structural violence, the root cause of gender based violence can be found in its structure that as a consequence has social, economic and political marginalization on women. During the armed conflict it exacerbates and the violence becomes normal, justified, used for establishing social patterns of behavior or blackmailing and manipulation. Women represent the category who is the subject of vulnerability, discussions, regulations, resolutions and wrongdoings. In this concrete manner one is discussing the role of women in conflict and peace, she is a combatant, mother, daughter, peace activist, victim, and spoil of war and agenda setter. Armed conflicts that have happened during the nineties have put conflict related sexual violence in focus of the international agenda – jurisprudence of ad hoc tribunals for Rwanda and Yugoslavia. Based on the practice of mentioned tribunals, the Rome Statute from 1998 had classified gender based sexual violence as war crime and crime against humanity, Colombia is subjected to jurisdiction of International Criminal Court since 2009. International and national legal framework are set in favor of women, from United Nation’s Security Council’s Resolutions

1325, 1820 and 2467 to Law 975, even in Colombian Final Agreement gender – based approach is proclaimed to be in focus of transitional justice process. This chapter discusses the system made for women in war and peace.

Resolution 1325 from the year 2000, expresses how women and children are vastly affected by the armed conflict. It urges member states of United Nations to include women in decision – making processes in all institutional levels, and mechanisms who are set for prevention, management and resolution of conflict. Additionally, it supports local initiatives and indigenous processes that are helping conflict resolution and their inclusion in creation and implementation of the agreements. It recognizes how sexual violence and impunity are one of the components necessary to determine and understand that men and women in conflict suffer different consequences and have different needs from the justice system. It has given the space to women’s organizations to lobby and advocate for women’s rights. Puechguirbal claims that UN documents are written in masculine’s language and women are often stereotyped as caregivers, caretakers, providers, innocent, vulnerable victims which stripes away the possibility that they can play more dynamic, or active role during and after the violent conflict (Puechguirbal 2010, 172 - 173). The problem emerges, that men are not entirely aware that there is a different reality and experience of armed conflict if you are a men or a women, and they represent them in the peace negotiations and decide about their realities. But the truth is that a man is not able to fully grasp female reality during the conflict, hence their needs who have to be addressed at the negotiating table. “Women are defined according to their biology, as objects of maternity, not as social subjects with rights of their own” (Puechguirbal 2010, 176). This is an example how existing documents define women and how the patriarchal structure pertains despite being challenged by brave women every day. “According to Sanam Anderlini, ‘from Dayton to Rambouillet, Arusha to Colombia, it is predominantly male leaders of the fighting parties who are negotiating an end to war and laying the foundations for peace’” (Puechguirbal 2010, 177). This statement describes how in the peace negotiations you can see participants who were holding up arms during the conflict, but it is completely neglected that women are participating in the armed conflict in this role too. In Colombian guerrilla groups, there is a high percentage of women combatants – around 40% of FARC’s combatants are women (Bouvier 2016, 20). “Not all women are civilians and not all men are combatants” (Puechguirbal 2010, 177). Thereof, there must be more women sitting at the negotiating table and setting peace agendas which is

one of the targeted goals of the resolution 1325, even though there is a high dose of criticism pointed at the UN as a mechanism and its documents.

Structural gender inequality may be helpful in explaining why sexual violence is used in conflict to such an extent. Women's body is often observed as an object that could be used as a strategy of social and territorial control. Armed actors "use the bodies of women as a battlefield to reach male enemies by sending a strong signal about their failure to protect 'their' women" and "women are more vulnerable than men because most often they survive after a rape and pay the price of their survival through guilt and shame" (Puechguirbal 2010, 177). "Sexual violence, in other words, has been 'assigned' to women as female and sexualized bodies" (Kreft 2020, 461). Also, when their loved ones are missing or murdered, women are taking over the roles who were traditionally assigned to their husbands, fathers, brothers, sons. So they become carriers of multiple burdens in conflict, "the powerless other" (Puechguirbal 2010, 179). Besides exacerbating the negative consequences of patriarchy to women, armed conflict can be an opportune moment to deconstruct it and challenge traditional gender roles. Furthermore, if women manage to use this opportunities, transformation becomes a possibility and the role of women as a caregiver unable to perform the leadership role in her community and peacebuilding process could change. United Nations are not leading by example, they never had a female Secretary General and the number of women in top management positions is very low. Resolution 1820 from the year 2008, stresses the need to end all forms of discrimination of women, especially conflict related sexual violence aimed at women and girls. Or to say zero tolerance for using the sexual violence as a strategy of war.

After the Resolution 1325 was passed, Colombian women established initiatives like "Women's Initiative for Peace" and "1325 Coalition" to help ensuring the place for women in the negotiations to come (Bouvier 2016, 18). Senator Piedad Córdoba, supported by the prominent women's organizations lobbied and managed to pave the way for talks with FARC by building confidence (Bouvier 2016, 18). In spite of all the legal framework, resolutions, norms women have been left out of negotiating teams at the beginning of the peace talks in 2012. Of course, women had no attention of allowing their silencing, so they organized themselves on the margins of negotiations, they organized many civil society organizations, participated in forums, campaigns, researches and so on until they managed to change the status from beginning point of negotiations. Every step along the way towards peace, women have shown how brave and fearless they are, by always showing the initiative to act and

provoke change. This resulted in Government appointing Nigeria Rentería and María Paulina Riveros as plenipotentiary negotiators in 2013, and by 2015 FARC's delegation in Havana was made of 40% women, which reflected its composition in general (Bouvier 2016, 20).

Intersectionality can help us grasp gendered dimension of the conflict and its overlapping with multiple identities, such as ethnicity, age, sexual orientation, and what that multiple layered identities imply (Bouvier 2016, 6). By this one means that it is more likely that if a woman is poor, indigenous, poorly educated, that she will be at greater risk of displacement, violation of her human rights and sexual violence (Bouvier 2016, 7). Intersectionality is an interesting approach that can help us in addressing the conflict affected individuals and communities in a more appropriate way. It gives an insight that we have to examine situations from different perspectives and take into account various characteristics, for example that disarmament, demobilization and reintegration process in Colombia should be addressed through gendered perspective. Since women guerilla combatants have medical, political and other skills and after the conflict they were forced to return to typical roles of women in patriarchal societies “as soon as we demobilized, the women had to go back to the kitchen and to give birth” (Weber 2020). Thereof, the reality of female combatants have to be taken into account, also does the reality of victims of sexual violence. Different characteristics/needs/realities of these women have to be taken into account and addressed accordingly. UNSCR Resolution 2467 from year 2019, introduces “survivor – centered approach” and recommends member states to adopt it, particularly in the cases of sexual violence (Stavrevska, LSE Women, Peace and Security Blog 2019, 2). If the following acts jointly, conflict related sexual violence will get the spotlight it deserves: “the adoption of 2467, the work of the Special Representative of the Secretary-General on Sexual Violence in Conflict, Pramila Patten, together with civil society organizations and the 2018 Nobel Peace Prize laureates, Denis Mukwege and Nadia Murad, have centered the need for a survivor – centered approach and relatedly, access to justice and reparations for conflict - related sexual violence (CRSV), in numerous policy discussions.” (Stavrevska 2019, 2). This approach needs to be supplemented with intersectionality, since it “requires a broadening in terms of discourse and policy solutions” and “Politically it remains important to emphasize the impact that CRSV has on women and girls. At the same time, an intersectional approach means using and producing a more nuanced understanding of different forms of violence and establishing a historical record that redirects the experiences of different groups impacted by conflict – related violence. It also means acknowledging truths that are not represented at the

table and challenging the assumption of homogeneity of victims/survivors.” (Stavrevska 2019, 6). Meaning that the existing framework of women, peace and security is not perfect and that there are enough experiences, studies, reports coming from the institutions, civil society and academia that can help its supplementing and further development. Putting people into rigid categories and excluding their voices will not bring us far and provide justice and non – repetition. Our world is constantly changing, identities are constantly changing, so the mechanisms have to keep up too.

2. Case study: Colombian conflict

2.1. Context of the Colombian conflict (1948-2016)

Understanding the historical context, main actors and processes can help us grasp the complexity of a violent conflict, its causes, longevity and consequences. Colombia is the land of coexisting complexities and contradictions which requires appropriate contextualization. It is a country known for having one of the longest internal violent conflicts in the world happening on its territory. Period that this research is going to cover is from the year 1948, which is often observed as a starting year – Liberal populist and important political figure of that time Jorge Eliécer Gaitan, was assassinated. The year when the Final Agreement was signed symbolizes the end of violent conflict, at least on paper, hence the analysis of the violent conflict itself ends in 2016. In the beginning it is important to explain who the main actors of this conflict are from the government forces and guerilla to paramilitary groups.

Historically, ideological division starts in the nineteenth century when two parties who are active to this day were founded – Conservative and Liberal (LeGrand 2003, 170). The structure of people who were affiliated to the parties was mixed, they both included elites and peasants. During the nineteenth century their ideological division was so deep, that the violence in the form of civil war would break out from time to time. After the Great War of Thousand days that took place from years 1899 to 1902, there was a period of peace of

almost forty years. Even though Gabriel Garcia Marquez wrote in the manner of magic realism, in his literature one can find many connections between history and fantasy, so to speak he portrays the Liberal – Conservative division of that time very well and accurate. Starting from Aureliano Buendia and the War of Thousand days in “One hundred years of solitude” to his other books and characters. In 1946, Liberals lost the elections which led to the period known as La Violencia, ending in 1964. As abovementioned, the event who triggered the conflict was the assassination of Liberal politician Jorge Eliécer Gaitan in 1948. This event was followed by massive rebellion in Colombia. Needless to say how this intensified the existing rivalry and divisions between two parties and led them straight into violence. The Conservative party controlled the apparatus of the state – military and police forces at the time were responsible for the later creation of paramilitary groups. On the other hand, Liberals were against the regime and for the purpose of fighting the government forces they organized themselves to become guerilla groups. After their elites united in National Front in 1958, they both actually were the causes for creation of paramilitary groups, on the one hand doing the “dirty work” for the military and methods of guerilla fight (kidnappings especially) (Domingo, Rocha Menocal and Hinestroza 2015, 9). National Front was one of the reasons why guerilla was formed, they wanted to end the oligarchy of both parties (Justice for Colombia 2019). As one will see through this analysis, the conflict dynamics in terms of actors, ideology, resources has changed through different periods of time.

In her article, LeGrand points out how Colombian case is very specific, even though violent conflicts were something that was happening in the Latin American region, what differed Colombia is that it was a democracy or led by the civilian government, not a military dictatorship (LeGrand 2003, 170-173). Colombian military did not take the political power like in other Latin American countries, it stayed subordinate to civilian one. They were fighting guerilla since the violent conflict started and they are shaped by that fight. As time went by, the military gained higher political influence, but without taking over control directly from the civilian government. Colombian army was majorly influenced by United States of America and their National Security doctrine, since they shared a common enemy – Communist guerilla groups and the American fight against Communism. Colombian military was schooled in American army schools and studied their literature, they also shared a goal of exterminating narco cartels, but it seems that happened only on paper since the military was closely related to paramilitary groups. Paramilitary groups were closely related to drug lords and landowners – cattle ranch owners who were bought by drug money. In a way, both

military and paramilitary were out of control and trained to fight counterinsurgency, so they often were to blame for civilian victims. The state was too weak to control them completely and to bring the responsible figures to justice.

In the 1980s, change in doctrine that considered guerilla as number one enemies of the state happened (Domingo, Rocha Menocal and Hinestroza 2015, 9). Colombian President Betancur initiated peace negotiations in 1982, with the idea to deal with guerilla politically and to stop the violence in that way. He even initiated the establishment of Presidential commission for human rights to deal with the consequences of the violent conflict. Colombian military didn't want to negotiate with guerilla, since they observed them as number one enemies of the state. Later, with the end of Cold War changes started happening, President at that time – Gaviria, appointed civilian person as a minister of defense as a message that state should be demilitarized and brought back to people. In the end of 1990s - beginning of 2000s after clashes of FARC and ELN with the military, kidnapping of soldiers, etc. Colombian military again strengthens the narrative of a strong army opposite to guerilla.

As abovementioned, when guerilla started with the methods such as kidnapping of soldiers, the Government responded by creating paramilitary groups. Afterwards, when the drug commerce started developing private armies become a necessity to protect landlords and drug lords from taxation, kidnappings and other methods of guerilla violence (LeGrand 2003, 182). Furthermore, FARC – EP and its working methods are mostly responsible for creating or continuing this cycle of violence that goes from the state to guerilla and back to the state and its satellites again, since paramilitaries are irregular forces of the state. The main financiers who are supporting these groups are drug commerce (drug lords and land owners), businessmen, politicians, etc. Representative group of 37 united paramilitaries is United Self – Defense Forces of Colombia (AUC), they are the largest, the most severe and are held accountable for the countless number of victims, especially female. Union created during the nineties was led, at that time, by Carlos Castaño whose father was murdered by FARC where the motive for his fight can be found - revenge. AUC is national organization financed mostly by drug money. It is very well organized and equipped. They are fighting and demanding their political recognition, Castaño even sought to be included into peace process which is against FARC – EP' will, who are strongly against negotiating with them. Additionally, paramilitaries in Colombia are doing reverse agrarian reform by displacing people, so they could appropriate the land and establish ranches with the money earned from drug trafficking.

These ranches seem like local self – governments led by drug lords, criminals who are terrorizing any civilians left and often accusing them of being guerilla.

Civilians in rural areas are targeted and mostly killed by the paramilitary, on the other hand upper middle class and elites in urban areas are more frequently targeted by the guerilla (LeGrand 2003, 184). There are other groups of people in provinces, targeted by both. But the main target of these actors show us a bit of that ideological division existing from the beginning. Drug lords invested in cattle ranching, with the idea to return the profit from drug trafficking back to Colombia by buying land and cattle, that wasn't profitable for the economy since it wasn't sustainable and was concentrated in landholding. Without developing new jobs or anything actually, the money was not circulating and the economy could not sustain. Since the drug lords have become very rich and almost the only rich in Colombia, guerilla started targeting them for kidnappings. After the paramilitaries or the alliance of 37 paramilitaries – AUC was demobilized in 2006, they didn't cease to exist, they continued with their criminal behavior as neo – paramilitary groups or criminal groups (bandas criminales emergentes) - BACRIM (Justice for Colombia 2019). These successor groups are severe in their actions, mostly targeting civilians, human rights defenders, activists, Afro – Colombians and indigenous people who are seeking the right to their traditional lands, etc (Human Rights Watch 2010, 3). Non – governmental organizations estimate there is over ten thousand criminals who belong to these groups, their methods of action are extortion, kidnappings, rape, murders and the list goes on (Human Rights Watch 2010, 3). Needless to say that demobilization that occurred wasn't real and that it has brought the sense of security to Colombians, illusion of security to be precise. Considered to be major neo – paramilitary groups are: “the Urabeños, the Rastrojos, ERPAC, the Paisass, the Machos, New Generation, the group from the Magdalena Medio, and Renacer” and “Black Eagles in Nariño”(Human Rights Watch 2010, 4).

Guerilla groups started acting in the beginning of the sixty's, as mentioned they have emerged from the Liberal party since they were the opposition at the time, but mostly consisting of peasants, their actions were pointed against the system and ideologically they were leftist inspired by Cuban revolution. In the following years and decades, the active organizations or guerilla groups were: Popular Liberation Army (EPL), Movement of April 19 (M – 19), National Liberation Army (ELN), Revolutionary Armed Forces of Colombia (FARC).

During the 1960s - 1970s FARC started its work and it was majorly a peasant movement, they were acting in the areas where state had low presence or none (LeGrand 2003, 175-176). That was specific for Colombia, since the apparatus wasn't functioning in the entire territory of the state, particularly the rural ones weren't covered by the states' apparatus which was a fertile ground for control of various groups. FARC – EP originated as a group who responds to state's violence and military repression. As time went by, ideology was getting weaker and different types of war business opportunities started developing (war economy), one of them was drugs. It has become the main product of export to the US market, in the fifties it was marijuana and later 1970 – 1980s came coca and crack (LeGrand 2003, 180 - 181). In the 1980s peasants started growing coca, since these areas were not controlled by the state and in that way they were suitable for commercial growing of coca. In the mid - 1980s, with Betancur's attempt of a peace process, political party was born out of FARC – Patriotic Union (Union Patriótica – UP) and M – 19, the first was completely eliminated by the early 1990s, since most of the people related to it were killed – 2000 of them, by assassins hired by the paramilitary (LeGrand 2003, 176). Methods of action that FARC – EP used since founding were: killings, bombing, kidnaping, etc. Their most disputable sources of financing were ransom that they would get from the kidnappings and from the 1980s growing and taxation of coca production, they imposed their own tax over the land they were controlling and everything that would get produced on it, miraculous fishing, gold and platinum mining, stolen car business, etc. FARC - EP was able to accumulate from 200 to 500 million dollars per year just from their drug trafficking business and taxation (LeGrand 2003, 181). This diverse and illegal sources of funding made possible for them to act autonomously, even to act as local governments in areas of Colombia where the state apparatus is weak or non – existing.

Besides the areas uncontrolled by the state, “guerrilla groups are also active around major political and administrative centers such as Bogotá and Cali. FARC is especially strong in the southern jungle areas of Guaviare, Caqueta, and Putumayo (destinations of the armed colonization of the 1960s), and ELN in the region bordering Venezuela in Norte de Santander and Arauca, but together these organizations have a presence in approximately 700 of the nation's 1085 municipalities. FARC has 17,000 fighters in arms, one quarter of whom are women” (LeGrand 2003, 177).

ELN or National Liberation Army was formed on July 4th 1964, it was formed by Colombian students who had undergone universities in Cuba (LeGrand 2003, 174). Besides the influence

from Cuba, the influence of religion among them – Catholic was noted too. It was formed in Santander, and operates in regions where oil exploitation and land disputes are happening. Similar to FARC they have been operating by doing: mass kidnapping, damaging infrastructure which can be viewed as a sabotage of national economy, etc. After FARC, ELN has been one of the most relevant and numerous groups of this conflict on the side of guerilla.

In the year 1991 Colombia came to a turning point, new Constitution who replaces the one from 1886 was celebrated. This was the outcome of peace negotiations between the Colombian government and one of the armed groups of the time (Movimiento 19 de abril, M-19) and its goal was to increase political participation and to transform violent battle into political one (Domingo, Rocha Menocal and Hinestroza 2015, 9). New Constitution set a goal of decentralizing the state and to make the existing institutions of the state more participatory, it was brought by a liberal President César Gaviria and influenced by other prominent liberals. Furthermore, with the celebration of 1991 Constitution groups as M – 19, EPL and some sections of ELN demobilized and ceased to exist (Justice for Colombia 2019). The state of the civil society was very weak and their influence in Colombian society was very low at the time, even though there were plenty of organizations whose spectrum of work was very vibrant.

In 1998, Andres Pastrana one of the Conservative presidents started peace negotiations without negotiating the ceasefire first, which lead to all parties exercising force to strengthen their position in the process of negotiation, instead of dropping the weapons and gathering around a negotiating table. He had the support of the Colombian public and United States of America for ending the conflict, but his efforts ended up in failure (Long 2015). In 2002 his successor was elected – Álvaro Uribe, another president positioned right on an ideological scale, who had a different idea of dealing with guerilla. He was actually the elected candidate of Democratic center who broke the domination of two party system, before him shifting candidates from the Liberal and Conservative party were dominant. Uribe had a clear goal to lead the final extermination war against FARC, without caring what could happen in terms of human rights and victims, he observed civilian casualties as collateral damage. His unofficial “partners in crime” or the actors who gravitated towards the same goal of guerilla extermination were the paramilitary. If one goes through Uribe’s biography and private life, it comes to an information that his father was murdered by FARC which implies his political position towards guerilla. Particularly FARC, is one of the reasons why he wasn’t ready to

truly engage in the process of negotiations (even though there was some progress with AUC and guerilla in the beginning of his mandate). This is also one of the examples of how historical memories, if there are not proper efforts for reconciliation, turn into complexities very difficult to address. Needless to say how difficult it is to start rebuilding the society in this context. During Uribe's mandate, Santos served as a minister of defense and when he was elected as President the idea was that he will follow the same path as his predecessor, which did not happen. He managed to negotiate and sign the Final Agreement 2016 with FARC's leader Rodrigo Londoño called Timochenko, after years of negotiations (Crisp 2021). Santos was rewarded for his efforts, by receiving the prestigious Nobel Peace Prize in 2016.

“Over 80% of the conflict's casualties have been civilians, among whom women and other particularly vulnerable groups, including children, indigenous peoples, Afro-Colombian communities, social activists and human rights defenders, are disproportionately affected” (Domingo, Rocha Menocal and Hinestroza 2015, 9). UN Women background paper confirms this claim, saying that the number of war casualties is surpassing 220.000 people and the 80 per cent of those are civilians (Bouvier 2016, 4). By year 2015, there were 6 million people registered as internally displaced, out of that almost 60 per cent were women – they are running away mostly because of sexual violence or the threat of it (Bouvier 2016, 4).

Civil society in Colombia was very weak and without high impact for decades, since at first persons who were fighting for freedom and human rights were the guerilla groups. When they also become criminalized and driven by profit – during the 1980s, civil society finally got its possibility to develop and make an impact. Numerous, very important peace initiatives originated from civil society organizations, during the 1990s, who gathered activists and citizens who just wanted to end the war and live their lives in a peaceful way. As an addition to that they were organizing events in areas of art, music, marches, demonstrations, etc. with the purpose of putting the importance of the peace process and peace treaty for its people. It seems from numerous practices that restorative justice mechanisms, such as the program “Vaccination against Violence” where people would go through series of rooms, followed by trainers and counsellors and through different stages they would release their stress and trauma and renounce the violent patterns of behavior (Cameron / Curtis - Evans 2000, 54). What was the setback for Colombian civil society? It was most definitely the fact that activists, human rights fighters, civil society leaders, trade unionists, etc. were executed by the state and paramilitary in most cases, with no mercy. Despite that, civil society managed to

mobilize enough people who realize that the war must end and society has to be rebuilt to become relevant advocate for the peace process. It's important to mention that 60% of human rights defenders in Colombia were female, considering they were organizing themselves to advocate for their rights and represent their cause in form of women organizations and gave visibility to gender issues in Colombia by using international networks (Domingo, Rocha Menocal and Hineostroza 2015, 27). In the context of this paper, it is important to examine the agency of women organizations in the context of sexual violence and restoring the society from female perspective as victims and agents of change. As it will be explained later, civil society organizations are very vibrant, there are many of them who offer different types of support: psychological counselling, legal support, education, raising – awareness, advocating, capacity building and very important – challenging traditional gender roles.

Peace negotiations between the government and FARC started in 2012 in Cuba, they are known as Havana peace talks. At some point, FARC was the strongest support to civil society being at the negotiating table. In the beginning of talks all the negotiators were male, but women organizations who were fighting a long battle against violence couldn't accept that. Women have organized the National Summit of Women and Peace in October 2013, in Bogota (Calbet 2018, 31). As a result of their activism, both teams appointed women as negotiators. In 2014 gender subcommittee was established with the purpose of giving the female dimension and the understanding of the disproportionate effect of conflict on them in the accord (Paarlberg - Kvam 2019, 199). Finally, after decades of failed negotiations, in 2016 the Final Agreement has been signed between FARC – EP and the government – Final Agreement for the Termination of the Conflict and the Construction of a Stable and Lasting Peace. Firstly, it was declined in October referendum with 50.2% people who voted no, and 49.8% voted yes (Mitchell 2017). Almost a month after referendum, Santos pushed the revised peace agreement and the Final Agreement had been ratified, and at least on paper, brought peace to Colombian society. People who mostly voted for the Final Agreement are the ones where violence was the highest, whilst the people in the cities who were less affected by the conflict voted no (DW Documentary 2018). The Final Agreement created a transitional justice system called – Comprehensive System of Truth, Justice, Reparation and Non – repetition. Special Jurisdiction for Peace was introduced as a part of that system, it operates since 2018, with the aim of focusing the attention on the victims in the justice process. The idea is that the restorative justice will be set as a “guiding paradigm” of this process, instead of retributive. Gender, equality and non – discrimination are the guiding

principles of Special Jurisdiction for Peace, since it recognizes that women were disproportionately affected by the armed conflict, which is to be portrayed in the following chapters.

2.2. Sexual violence: strategy of war and testimonies (1993 – 2016)

“Much of my generation is the product of rapes”

Interviewee 35, (Kreft 2020, 466)

Colombia ranks 10th in the world for its high level of femicide (ABColumbia 2013, 1). Women have been active participants in Colombian armed conflict as combatants, victims, peace activists, and more. Gender roles in Colombian society are still strictly determined by patriarchal patterns. So being a woman, precisely an active woman who exercises leadership in her community becomes a bearer of a target on her back. In this particular conflict women have been subjected to rape, forced labor, prostitution, forced pregnancies, forced abortions, forced maternity, enslavement and other forms of gender based violence. Many of them have suffered one of these types of gender based violence multiple times, or repetitively. This section is dedicated to those brave women, since Colombian armed conflict is characteristic by the use of gender based sexual violence at the large extent, by all actors – illegal and legal, with a high level of impunity. This type of violence is specific as it symbolizes the control that an actor/a man has over women’s body, demonstration of power over her body. The period research is going to cover is from 1993 to the Final Agreement (2016), since 1990s are the period when sexual violence comes into focus in the global arena with the establishment of two tribunals: International Criminal Tribunal for Yugoslavia in 1993 and International Criminal Tribunal for Rwanda in 1994. Both tribunals set precedents important for prosecution of sexual violence in armed conflicts, on international level. Besides that, period from 1993 to 2016 is determined by the case 005 in front of the Special Jurisdiction for Peace that we are going to address in the following chapters.

Certainly, the root causes why the militant groups are performing sexual violence are structural inequalities of gender and patriarchy (Kreft 2020, 458). Kreft had made us question the narrative which is observing conflict related sexual violence as a weapon of war and suggesting that the answers can be found on the local level, by listening to the stories of survivors and questioning the structure and traditions that exist in their societies and how this narrative is too narrow in explaining conflict related sexual violence, its roots and consequences. Colombia is in the state of violence for more than a half of the century and

even though there have been changes in the normative framework – international and national, that are in favor of women, the awareness and traditional patterns of behavior are still the same. To be able to base her claims on evidence, Kreft has done 27 interviews with the civil society representatives in Colombia, women have emphasized that conflict related sexual violence has its primary source in the patriarchal structure of their society (Kreft 2020, 459). In addition she claims that sexual violence is often the result of group dynamics, it is not necessarily planned instrument of war, even though sometimes it is used in that way, for spreading fear, destabilizing communities, inciting internal displacement. Therefore, conflict related sexual violence is a combination of different factors and it represents a serious social problem. It originates in the patriarchy and it is emphasized and overly practiced during the violent conflicts.

Background paper developed by UN Women shows that by 2015 there were almost 6 million people registered as internally displaced, out of that number 60% were women, additionally the conflict had a highly disproportionate effect on Afro – Colombian and indigenous women (Bouvier 2016, 4). Many of these women were exposed or at risk of sexual violence and gender based violence. Thereof, gender based sexual violence is often used in a violent conflict as: punishment or corrective mechanism, for spreading fear, awakening uncertainty in individuals, communities and entire population living in an area affected by the conflict and its armed actors. It gives them incentive to leave and become a part of the statistics as internally displaced persons. Consequently, this leaves wounds – both mental and physical, it interrupts the sense of continuity of women’s life from individual to the community level, very difficult to approach to considering the patriarchal values, patterns and traditions deeply rooted in Colombian society.

The patriarchy, as mentioned, reflects itself in behavior of the militant groups. During the armed conflict the paramilitary were conducting gendered based violence in order to impose codes or patterns of behavior by dividing women into “decent” and “indecent” and by regulating their lives by telling them what to do, how to dress, when to sleep, who can they talk to (Bouvier 2016, 10). On behalf of guerilla FARC was well known by its policy of forced abortions, exceptions were made only for the partners of the commanders, the rest of the women were sexually exploited and then subjected to another form of gendered based violence – forced abortion (ABColumbia 2013, 10). Women were often public shamed, beaten, raped or murdered to set an example how community should behave and in that way

used as objects of imposing a certain social behavior, as to say a weapon used for exercising power.

During the armed conflict, women experience three different dimensions of violence: psychological, physical and sexual which are responsible for women's suffering (Ruta Pacifica de las Mujeres 2017, 45). Consequently, women feel so many different emotions: the fear, intimidation, pain, humiliation, loneliness. Description of the consequences of psychological violence are understood best through the testimony of the victims: "My mom suffered so much –they were going to kill her, her little granddaughter had been raped, and the displacement after that – that she died in La Virginia because she was thinking about it so much" (Ruta Pacifica de las Mujeres 2017, 45). This testimony gives us the insight into women's subjective feel and interpretation of what happened to her mother, how anxiety, insecurity, fear, stigmatization and rejection can lead a person to death by becoming trapped by the impossibility to deal with her thoughts and feelings. There were many examples of women being tortured by making them witness the cruel acts of militant groups hurting their loved ones and live with the memories of those scenes. When it comes to physical violence, its levels have been so severe and inhumane, they have brought to destruction of victim's personal integrity and the testimony describes it as: "They came and passed through the Río Viejo lake and killed eight people, one of the people murdered was a woman who was giving food to the workers, because they were planting corn, and that's when they began to kill her. They violently cut through her nipples, they ripped them off, they stuck her nipples in her mouth, cut off her tongue and they ripped off her fingernails" (Ruta Pacifica de las Mujeres 2017, 47). Noted testimonies with descriptions of ruthless killings and torture show how serious and brutal all armed actors in Colombian conflict were. They were taking away every inch of one person's dignity and dehumanized them to the unbelievable levels, so they could commit the mentioned atrocities and spread terror and request obedience everywhere they go.

Sexual violence represents a violent assault against women's integrity and physical autonomy (Ruta Pacifica de las Mujeres 2017, 48). Assaults of this type have been normalized by the patriarchal system that exists in Colombia, it has been passed on through generations of private relations, especially from the closest environment or family members. Sexual violence related to conflict, as mentioned exacerbates during the violent conflict. Besides, the age did not discriminate any group of women, armed actors did not care if they were girls, teenagers or adults. There are many stories waiting to be heard by the institutions, since high number of cases of sexual violence are not officially registered and the number of registered

cases is around half million women and girls. Additionally, the police and others who are supposed to help women are not sensitized enough to support them in those situations. In spite of having regulations that forbid the use of sexual violence, institutional capacity is highly inadequate for addressing this type of violence and level of impunity is at 97% (Sisma mujer 2021). Story of Jineth Bedoya Lima and how kidnap and rape changed her perspective of war and shaped her struggle for peaceful, violence free and equal society had an immense effect on the Colombian society. She set an example and paved a way for Colombian women to speak up and advocate for their rights and justice by starting a process in front of Inter – American Court of Human Rights in 2019, case no. 12.954 “Jineth Bedoya Lima and other, regarding Colombia”, but before she dared to speak she spent the years in silence resenting herself. May 25th in 1996, was the day when she was kidnapped by the paramilitary – AUC, they held her for some time and she became sexual violence survivor. Motivation for her kidnap can be found in the scope of her work, she is investigative journalist who tackled important issues such as murders and arms trafficking in prison Modelo done by AUC (Sisma Mujer 2009, 115). She was kidnapped for the second time by FARC, four years after AUC kidnapped her. The day of her kidnap is now a memorial day for all the victims of sexual violence in Colombian conflict, which is important manifest of solidarity, care for all the victims and memorialization. It is a form of symbolic reparation.

In order to describe the complexity, endurance and strength of patriarchy in Colombian society this paragraph from Kreft’s interview with Colombian women is singled out: “Much of my generation is the product of rapes – my generation is the product of rapes – a man who went and invaded the body of a woman for the circumstance of her being his wife and it being her obligation. Or, to not be unfair, about 70 per cent of our generation and the previous generation was like this” (Kreft 2020, 466). That shows how some Colombian women are very much aware of the origins of sexual violence and how it is being justified, but there are also the ones who don’t realize that this is wrong because this pattern of behavior is so deeply rooted in the society. Besides conflict related sexual violence, other forms of gender based violence have been mentioned too – beating, slavery, control, forced labor, forced abortions, forced maternity and more. These are even more difficult to tackle and address in front of the courts, since they are completely invisible. Women in Colombia need their voice to be heard, healing, empowerment, psychological assistance and restoring their dignity.

Consequences of sexual violence are many: displacement, fear, judgment by partner or family, stigma, mental trauma, physical trauma, inability to work or start over, poverty, etc. Along the lines with information stated so far, it is important to point out that women from rural areas perceive that they are more endangered than women from urban areas (Kreft 2020, 470). This can be related to the mentioned lack of capacity of state to be present in remote areas of the country, or to say, there are no institutions who can help them or protect them. Especially if indigenous or Afro – Colombian communities are in question, because the former have specific traditions and lifestyle different from the majority of the country. If a victim is coming from lower income status or belongs to one of the vulnerable groups, she is taken for granted, since the system is rigid, non – sensitized, prone to victim blaming and re – victimization and the fear of being treated like this is stopping them from speaking up. “Many women have had to withdraw into silence, they don’t tell anybody, out of fear, because they feel dirty, because nobody will believe them, because they blame themselves, because it is normalized, because ‘you were asking for it’, because she was wearing this dress” (Kreft 2020, 470). Indigenous and Afro – Colombian women are additionally stigmatized because of their bodies, beliefs and the way of life, but also as a part of previously practiced racist behaviors who are a consequence still felt by the age of colonialism and slavery (ABColumbia 2013, 7). Thereof, they face difficulties with the judiciary if they dare to report the cases of violence. Constitutional Court of Colombia declared in 2011 that there are 34 indigenous communities who are in the risk of disappearing, both culturally because their practices and traditions are endangered or physically, because of the severity of conflict – forced displacement and killings (ABColumbia 2013, 7). The statement of UN Women that describes the consequences of sexual violence “low cost, but high impact”, says more than enough about the effect that the perpetrators of conflict related sexual violence leave behind (ABColumbia 2013, 8).

During the violent episodes, which in Colombia last for half of the century, on the one hand armed actors dehumanize themselves and their victims. On the other hand, women as vulnerable group become even more endangered in private and public sphere. This heightened vulnerability, next to all described consequences is making sexual violence a valuable strategic weapon of war, used to control and frighten people and communities. As one off Kreft’s interviewees says that confirms our conclusions is: “[the woman’s body] becomes one more object that can be destroyed, and with that ... you cause damage to the other” and “we’re not autonomous, so everything they do to us, nonetheless does not do

damage to us, no? It is to do damage to him who is there, him who is with her” (Kreft 2020, 473). So the female body is used to destroy everything related to her, her closest environment and relationships – honor, family, and community.

Data that derives from the research conducted during the campaign “Violaciones y otras violencias: Saquen Mi Cuerpo de la Guerra”, shows that in the period from 2000 to 2009 almost 55 thousand of women per year have been subjected to some form of sexual violence (ABColumbia 2013, 7). Groups who mostly use female body as an instrument of social and territorial control are the paramilitary or BACRIM, their methods are often severe and levels of impunity for their crimes very high. One of the testimonies confirming this brutality, related to a women from Cali, says: “Four men, who were paramilitaries, raped her as a group. She was only 14 years old“, “stabbed her“, “left her unconcions to die“, “she survived“ (ABColumbia 2013, 8). Another factor that incents sexual violence is economy, zones of consolidation where the mines are located, agricultural zones, organized crime – drug trafficking, prostitution, enslavement, these are all pretty profitable for all the actors of conflict. Horrors of the paramilitaries continue in the testimonies of how indigenous women were killed, mutilated in front of their families or entire villages, how they raped them in front of their husbands, calling women names and punishing them if they do not follow traditional norms by raping, beating or publicly cutting their hair, all with the purpose of achieving social and territorial control (ABColumbia 2013, 10). Pueblo Nuevo, according to a testimony of a women who lives there, is a place where paramilitaries entered, raped, killed, especially young girls for four days until they were stopped by the state forces (ABColumbia 2013, 11). As previously mentioned, FARC had made their female combatants to forcibly stop their pregnancies, besides that they were recruiting young girls for their soliders and abused them sexually as a price for them spearing or protecting their families. Also, they were kidnapping and torturing women who held certain positions in the society or exercised any form of leadership, such as mentioned case of Jineth Bedoya Lima.

It is evident that all the actors are participating in conflict related sexual violence, but unfortunately participation of official state military forces in these atrocities is the most worrying. State military has the mandate to protect and defend Colombian population, so their involment in violence against civilian women of all groups sends the most dissapointing message and takes away the hope that there is someone who will protect the people and bring the responsible persons to justice. Ministry of Defense issued a Directive 11 in year 2010, which states that there will be zero tolerance for sexual violence perpetrated by the state

forces, but if we take into account the levels of impunity it is apparent that this will not work if there are no guarantees (ABColumbia 2013, 11). Testimony of indigenous women from Putumayo from 2012 confirms this fear, as she was raped by a soldier just a hundred metres from his squad which leaves one with a doubt that he didn't care if someone will see him and take him to justice (ABColumbia 2013, 12). The epilogue of these events is, if you try to persecute and sue the military state officials – lawyers, judges, witnesses and others will disappear under the mysterious circumstances or get murdered.

There are efforts to change this context of fear and silence – the introduction of laws, creation of state bodies and institutions who are supposed to protect the victims, make their process easier, more sensitized to the topic, more dignified, support them in every step of the process, give them guarantees of non – repetition, such as Law 1257 on Gender equality or Advisory bodies. In addition to the improvement of legislature and state mechanisms, it is of the highest importance to take into account the restorative justice mechanisms and the scope of work of the civil society, especially women's organizations. Restoring indigenous societies in a spiritual manner by finding local practices who are helping people, listening to their needs, providing psychological and medical support.

As a result of colonial history and the imposed behaviors of conquistadors, indigenous and Afro – Colombian people were compared to animals and they were dehumanized. These practices haven't stopped even when the modern Colombian state was created and that narrative reflects on the treatment of these vulnerable groups during the violent conflict and in general (Meneses and Meneses 2016, 134-135). Women of rural Cauca are endangered by many groups – states army, paramilitary, guerilla. Militant groups have become a part of their daily life during a long period of violent conflict. Lucia a women from Putumayo explains how the armed actors control everything from how women behave to problems who emerge in their households (Meneses and Meneses 2016, 135). Often, if women engage into a relationship of any kind with the members of army, guerilla punishes them and vice versa. Description of the level of FARC's control in Putumayo given by Lucia explains the level of social and territorial control over them “they are the ones imposing the law and order in this territory” (Meneses and Meneses 2016, 137). Her story is one of the many Colombian women had gone through, she was forced to start a relationship with the guerilla commander in order to protect her family, she was constantly sexually abused, suffered serious physical and psychological damage, displaced and in the end judged by the society for everything she has

lived through. She was continuously re – victimized and stigmatized for surviving sexual violence (Meneses and Meneses 2016, 137 - 138).

Lucia’s case is very important, since in the following chapters we will discuss the Special Jurisdiction for Peace, with the focus on the case 005, who covers the territory of Cauca and holds FARC as accountable for vast majority of crimes committed in this region. Accordingly, all of the testimonies helped us understand how sexual violence derives from the patterns of behavior who are reproduced in the patriarchal system and are deeply rooted in it, but also how this highly gendered violence is used as a weapon of war in achieving social and territorial control. In conclusion, women have disproportionately been affected by this conflict and it is to be seen how the set mechanisms and practices who derive from their agency will help them in restoring their lives and society.

2.3. Special Jurisdiction for Peace

Peace agreement usually puts the end to an armed conflict and it introduces the framework for the transitional justice process, with the goal of reconciliation of society. There are two approaches used in the process of transitional justice: retributive and restorative. Retributive justice mechanisms are oriented towards the legal prosecution and punishment of the perpetrators and restorative justice mechanisms are oriented towards the victims and their goal is to establish the truth, rebuild trust, and provide justice, with the purpose of achieving reconciliation. Colombian Final Agreement from 2016 set the Comprehensive System of Truth, Justice, Reparation and Non – repetition that combines both and has more than one hundred provisions related to gender equality, it also addresses the question of conflict related sexual violence (Valiñas 2020, 454). System was created by learning from the experiences of other countries who have the experience of long – lasting or structural violent conflicts, such as South Africa with apartheid. Gender, equality and non – discrimination are the guiding principles of Special Jurisdiction for Peace, since it recognizes the disproportionate consequences that Colombian conflict had left on women and the importance of the context in which the violence was happening. In that spirit the system is going to be analyzed through the existing literature on its work and the case 005 from its practice.

On March 15 2018 Special Jurisdiction for Peace started its term that can go on maximally for 20 years (Valiñas 2020, 451). Special Jurisdiction for Peace is focusing on the victim – centered approach, the main objectives that it aims to accomplish are: “fulfil the victims’ right to justice, offer the truth to the Colombian society, protect the victims’ rights, contribute

to achieving a stable and lasting peace, adopt decisions that provide judicial certainty to those who took direct or indirect part in the internal armed conflict, in particular with respect to acts committed in the context of the armed conflict and that constitute grave violations of International Humanitarian Law and serious human rights violations” (Valiñas 2020, 451). It will investigate and persecute the cases that happened before December 1st 2016. (Special Jurisdiction for Peace 2018). Conditionality regime is in the structure of work of Special Jurisdiction for Peace, it implies that if a person who participated in a violent conflict can actively give positive contribution to the process of truth, reparation and non – repetition can get a special treatment – from amnesty to lighter sentences than the regular judicial mechanisms (Valiñas 2020, 451). As mentioned, it took experiences from South Africa’s and Peru’s Truth and Reconciliation Commissions, where the emphasis was more on restoration of society and conflict related victims, than punishment. Creators hoped that this special treatment will motivate perpetrators and violent conflict actors to approach SJP and give truthful testimonies about the crimes that have happened during the conflict, like it has happened in South Africa. One of the guiding principles also is “pro victim“, that acknowledges how important is for the SJP to provide justice to them (International Commission of Jurists 2019, 36).

Activities of Special Jurisdiction for Peace, both judicial and investigative, are taken by certain organs that have developed procedures of work. The process starts at three Judicial chambers - The Chamber for Acknowledgement of Truth and Responsibility and Determination of Facts and Conduct, that is the first instance where the elected cases are opened and hearings are held this Chamber sends its resolution to the Section on Acknowledgement of Truth and Responsibility for Facts and Conduct of the Tribunal for Peace, if the case is not complete or acknowledged, it will be submitted to the Unit for Investigation and Prosecution. Unit for Investigation and Prosecution together with the Group of Analysis of Information assists to the four sections of Tribunal for Peace. Further, Chamber for Amnesty or Pardon according to the Law 1820 has the authority to give amnesty or pardon to the investigated actors and it can forward the cases to the former. Chamber for the Determination of Legal Situations deals with the cases who are not grave, it can make a decision to waive or terminate proceedings against a person early, defines the legal status of public security forces and third parties that are civilians and non – military state agents if they present themselves to the Special Jurisdiction willingly, for more consult: (Valiñas 2020, 452 - 453). The Final Agreement specifies: “On the Judicial Panels of the Special Jurisdiction for

Peace, justice will be administered by 18 Colombian Justices. Six (6) expert foreign jurists shall also be chosen to act as *amici curiae*. The Justices will not have to be career judges and no age limit will be applied.” (Final Agreement 2016, 203).

Apparently, the mechanisms sets three different types of sanctions: special sanctions with restorative justice character, alternative sanctions and ordinary sanctions (Valiñas 2020, 453). The differing point can be found in the period of time the perpetrators would have to be deprived of freedom, if so and the consequences of their actions. Violence committed against women during the conflict is graver violation of human rights since they are observed as a vulnerable group in conflict, especially taking into consideration the groups of women who are of indigenous or Afro – Colombian descent who are marginalized multiply and disproportionately affected by the violent conflict. Which also has to do with the seriousness of the sanctions. In order to address the disproportionate effect that the conflict had on women, Gender Commission was created as a part of Special Jurisdiction for Peace’s consultative body, striving towards gender equality and inclusion of victims of sexual violence who have different gender identity or sexual orientation. Gender Commission consists of six magistrates, whose aim is to promote and implement gender focus into the work of SJP (Comision Colombiana de Juristas n.d.). Besides mentioned, Special Jurisdiction for Peace guarantees the rights to due diligence and private life to the sexual violence survivors with the purpose of protecting the victims from exposure, invasion of their privacy and re – victimization (Valiñas 2020, 455). Gender commission has the intention of exploring the entire perspective of gender elements of crimes, not just sexual violence, even though the latter have been prioritized. Since the mandate of the SJP can go up to 20 years, hopefully there will be enough time to grasp the gender elements in total, considering the fact that other forms of gender based violence are invisible to institutions and in transitional justice processes in general.

Rome Statute signed in 1998 is the first document that considers gender based sexual violence as war crime and crime against humanity and starting 2009, Colombia becomes subject to the jurisdiction of International Criminal Court. Its norms and procedures are also applied in the work of Special Jurisdiction for Peace, in gathering and treatment of evidence. Besides, the author points out how the generalized “context of coercion” must be given special attention since it is caused by the violent conflict, with the purpose of assessing the non – existence of consent of women who survived the violence (Valiñas 2020, 455). The emphasis on the contextualization and analysis on the context of coercion can help in

determining the motives and consequences of sexual violence, and not trying to look for the answers in individual behavior. Additionally, Constitutional Court of Colombia stated that if acts of conflict related sexual violence constitute serious war crimes, crimes against humanity or genocide, it is impossible to give amnesty or any kind of special treatment predicted by the Law 1820, to the persons involved in incriminating actions (Valiñas 2020, 457). So the amnesty can be given in certain cases, but there are exceptions where it is excluded as a possibility.

Restorative justice aims to create a safe space, where victims can feel secure and are able to share their stories and help others understand the harm done to them completely. In addition, they would be able to give an input to the institutions in charge of justice on how would they like to achieve their justice. Special Jurisdiction for Peace is expected to achieve this comprehensive understanding of what happened and how to address what happened. Civil society organizations are to play an important role here in documenting the victim's stories and developing collective reports that are going to be submitted to the Special Jurisdiction for Peace, until the end of 2019 it had received 101 reports of this kind (Valiñas 2020, 462 - 463). These are submitted concretely to the Chamber of Acknowledgement of Truth and Responsibility, where the stories of victims enter SJP. Cooperation with the women's civil society organizations and the trust that exists on the relation SJP – CSO's – victims, is very important for further investigation and restoration of Colombian society. Currently, in three years of work the seven macro – cases have been opened and none of them with the theme focused exclusively on sexual violence. Instead, sexual violence is explored through all of them under different contexts and themes, the case to be examined for the purpose of this paper is the case 005: Territorial situation of northern Cauca and southern Cauca Valley.

Special Jurisdiction for Peace is also taking into account the existence of Special Jurisdiction of Indigenous People, Chapter 15 of its General Regulations sets the principle of coordination and functioning for both where one of them is restorative justice with ethno – racial focus and respect of indigenous values and practices (Special Jurisdiction for Peace 2018, 21). Special Jurisdiction of Indigenous People was set by the 1991 Constitution, it allows indigenous communities to settle their disputes on their own terms and in accordance with their traditions, values and principles as long as the crime does not endanger anyone's human rights and it is not breaching the Constitution or the Laws of the Republic (Defensoria del Pueblo Colombia 2003). To start with, Jurisdiction of Indigenous People can serve for gathering the information for Special Jurisdiction for Peace that should work closely with

them to incite indigenous victims to actively participate in the justice process by providing the translators, legal aid and defense or providing special treatment of indigenous victims of sexual violence (Special Jurisdiction for Peace 2018, 22). Special Jurisdiction for Peace can organize sessions or hearings in ancestral territories if one of two conditions are met: if the acts have happened in indigenous territory or the victims have been subjected to the acts as a collective, or they are members of community who lives in that territory. These hearings should always be organized in coordination with people in – charge in indigenous community or representatives of the villages or communities (Special Jurisdiction for Peace 2018, 22). Special Jurisdiction for Peace also has Ethnic Commission that aims to take care that ethno – racial approach is implemented in the right way, again with promotion of restorative justice mechanisms developed by the local communities. Next to Gender Commission it is one of the most important for the purpose of understanding the consequences and healing mechanisms for conflict related sexual violence in Colombia, since the disproportionate effect conflict has had on indigenous, Afro – Colombian women and women from rural areas in general.

Today, SJP encounters some challenges, such as the long timeframe that it covers – 50 years of conflict, the quality of evidence, political pressure of Duque’s government, and re – victimization, difficulties with protecting the victims and witnesses (Morales 2021). Morales points out how even the characteristics that SJP uses for the prioritization of cases – territorial approach, is potentially problematic since it excludes some cases and how there is overlap between the thematic cases (Morales 2021). Anyhow, even though it faces the mentioned challenges the work of Special Jurisdiction for Peace has been significant for the process of transitional justice in Colombia and it could potentially become very important source for the future transitional justice processes. Hopefully, in the years to come we will be able to see tangible results of SJP’s work in terms of overcoming the mentioned problems and providing justice to the victims of Colombian armed conflict.

2.4. Case 005: Territorial situation of Northern Cauca and Southern Cauca Valley

The work of Special Jurisdiction for Peace will be shown in practice through the analysis of the macro – case 005 that prioritizes territorial situation of Northern Cauca and Southern Cauca Valley. To begin with, this case covers the period from January 1st 1993 to December 1st 2016 and it investigates the acts committed by the states armed forces and FARC in 17

municipalities of mentioned part of the territory (Juridiccion Especial Para la Paz 2018, 1). Crimes to be investigated are: sexual violence, forced displacement, disappearances, deprivation of freedom, conflict related murders, forced recruitment of fighters and other. Valley of Cauca is a territory where a large number of vulnerable groups live, such as indigenous and Afro – Colombian people, it was highly affected by the violent conflict, it is a rural, poor area very suitable for uncontrolled militant groups and it was one of the epicenters of violence in Colombia during the armed conflict. Territorial approach in setting macro – cases seems adequate, if you take into account that the understanding the context of a region, its traditions, customs, communities and in the end crimes and atrocities, it could be addressed better this way. By exploring region by region and including all the relevant actors operating in them from institutions to individuals. Region of Cauca was very suitable for guerilla insurgency to hide from states forces and the clashes between the two shaped the life of Cauca’s civilian inhabitants deeply. The population that belongs to the ethnic villages of Colombia makes more than forty percent of the entire population and in the territory in question it constitutes the majority in every municipality (Juridiccion Especial Para la Paz 2018, 7). In this area there have been serious breaches of their individual and collective human rights, which requires a thorough investigation by the state’s institutions. Until 2017, more than half million of victims have been registered in this territory, 70% in Cali and Buenaventura (Calbet 2018, 26).

There are multiple steps to be taken when opening and investigating a case in the Chamber of Acknowledgement of Truth and Responsibility, firstly to overview the relevant reports related to the human rights violations. Starting from the reports made by relevant institutions, then Center for Historical memory, NGO’s and similar. The factors who are necessary to explore while observing this case are: material, periodical and individual (Juridiccion Especial Para la Paz 2018, 6). Material factors or competences set the object of investigation and everything that revolves around it, there are multiple factors influencing this – passive subject who refers to the territory and the number of ethnic people living in it, active subjects refer to FARC, Army, AUC, ELN and all other actors who were fighting for control over this territory, geostrategic or geo-economic factor refers to its good geostrategic position and its fertile land for the growth of coca, marihuana, for more consult: (Juridiccion Especial Para la Paz 2018, 1 - 10). Taking this factors into account, especially geo – economic ones, it is quite clear why this area was so attractive for multiple armed groups since the most of their financing was related to drug production, taxation and trafficking.

According to the case 005 files, north Cauca was one of the territories most severely affected by the Colombian conflict. What qualifies it as such are the facts that: it was a zone where the most of the guerilla attacks happened, it is the third region in the country by levels of children fighters recruitment, it has high numbers of forcibly displaced persons, it is a place where the highest levels of sexual violence have happened, it experienced high level of deforestation with the purpose of coca production (Juridiccion Especial Para la Paz 2018, 11). In eight of forty two municipalities of Cauca 29 percent of sexual violence has happened, those are: “Buenos Aires, Caldono, Caloto, Corinto, Morales, Santander de Quilichao, Toribío y Suárez” (Juridiccion Especial Para la Paz 2018, 11). In the second stage, when the mentioned facts have been determined, the focus – territorial, ethno – racial, differential and gender are put in place. National Center for Historical Memory points out sexual violence related to indigenous women of Cauca as particularly grave with the high number of reported cases during the investigated period.

North of Cauca was qualified as one of the zones with the highest rates of disappeared persons, which again disproportionately affected indigenous communities. Civilians of the territory investigated in this case have suffered violations of their fundamental human rights, by all armed actors related to the conflict since they were all fighting over territorial control due to geo – economic reasons. Besides, the environmental issues have become very serious due to illegal mining and exploitation of the regions nature. In the next stage, it is being decided whether the case is going to be prioritized or not. This one actually qualifies for prioritization for the mentioned reasons, but there is criteria set to establish the “subjective and objective impacts” of the violent acts (Juridiccion Especial Para la Paz 2018, 18). Under subjective impacts the analysis questioned condition of vulnerability of victims, the disproportionate effect that conflict had on ethnic villages and territories, effect on other collective subjects and representativeness of alleged perpetrators. On the other hand, objective impact analyzed the severity of the acts, level of victimization and representativeness of acts (Juridiccion Especial Para la Paz 2018, 18). Condition of vulnerability of victim bears in mind that this area is mostly populated by indigenous and Afro – Colombian groups, the attacks that occurred were pointed at women, adolescents, girls who need special protection. Besides that indigenous and Afro – Colombian people have faced severe consequences of the armed conflict, they have been forcibly displaced and their culture, values and traditions endangered. Sexual violence was used towards these communities with the goal of territorial domination. Colombian peasants, farmers, social

movements and syndical leaders have faced severe consequences too. Besides ethnic villages, villages in general have taken the greatest toll of war (Juridiccion Especial Para la Paz 2018, 19). Western Block of FARC who was active in this area is presumed to be responsible for the human rights violations of mentioned groups of people. Besides FARC, report no. 1179653 from the attorney general mentions the crimes of the state's military (Juridiccion Especial Para la Paz 2018, 20).

Interamerican Court of Human Rights recognizes sexual violence as violence that seriously endangers the state of human rights, this is already recognized in international documents, resolutions such as 1820, also in jurisprudence of ad hoc Tribunals for Rwanda and Yugoslavia. Special Jurisdiction for Peace, as mentioned, acknowledges the importance and disproportionate effect that conflict related sexual violence has had on women. It is trying through its practice to understand and work in relation to all existing vulnerabilities and come closer to restoring Colombian society. Mentioned eight municipalities of Cauca represent the ground where 29 percent of conflict related sexual violence victims are concentrated (Juridiccion Especial Para la Paz 2018, 24). It also measures very high numbers of murdered people, with the highest rates of indigenous leader assassinations. Sexual violence is because of its intensity and consequences, officially recognized as one of the priorities of this case in Judgment C – 579 of Constitutional Court, from 2013 (Juridiccion Especial Para la Paz 2018, 26). Thereof, Special Jurisdiction for Peace is prioritizing sexual violence as a topic in cases, even though there is not one thematic case dedicated only to conflict related sexual violence.

After the case has been through Chamber of Acknowledgement of Truth and Responsibility where three phases have happened, it has been decided that decision with everything mentioned goes to Judiciary Secretary, Attorney General, and Colombian Truth Commission and to the Unit for Missing Persons to establish further investigation in the relevant spheres who belong to their field of action (Juridiccion Especial Para la Paz 2018, 27). Going through the context of the region of Cauca, its actors, victims, crimes committed against them and more we examine and try to understand the complexity of the events, the causes and consequences of what happened in Cauca with additional explanation of how Special Jurisdiction for Peace and its departments and organs function, or how is this case going through Jurisdiction itself. By combining restorative justice mechanisms, which are mentioned in the part of functioning of Special Jurisdiction of Indigenous People, with the documents and jurisprudence of Colombian courts it is possible that the victims will be able to achieve their justice and satisfaction in the future. Surely, it is going to be a long process,

but if everyone acts together in good faith, it will be possible that the work of Special Jurisdiction for Peace will successfully fulfill its mandate in the years to come in solving the macro – cases.

2.5. Civil society, victims and indigenous women – local level peacebuilding: restoring society from the margins to the center

“Civil society organizations are the host of associations around which society voluntarily organizes. They include trade unions; non-governmental organizations; gender, language, cultural and religious groups; charities; business associations; social and sports clubs; cooperatives and community development organizations; environmental groups; professional associations; academic and policy institutions; and media outlets. Political parties are also included, although they straddle between civil society and the state if they are represented in parliament” (Quadrat-l Elahi 2009, 1177). Civil society represents the leading actor in transforming the society after a violent conflict. Activists, interested civilians, victims of different knowledge and backgrounds gather in strive for transformation of their society. They are the leaders, the ones who are not afraid to speak up, they provide all kinds of support and services to the victims and they are helping them in achieving justice. Thereof, the work of civil society organizations is aimed towards the institutions by advocating for systemic changes, respect of human rights, reconciliation and justice for all who had suffered during the period of violence. Colombian civil sector is very vivid and variant, with numerous projects aimed at restoration of their society. Additionally, civil society organizations are helping the work of Special Jurisdiction for Peace by doing on field data collection, gathering the experiences of the victims and creating the reports from that data. This chapter has a purpose of explaining the role of civil society organizations during and after the conflict, how victims can become agents of change and how are indigenous communities building peace on the local level. At last, how can they jointly help transferring this positive peacebuilding practices from margins to the center.

Usually civil society organizations become the ones in charge of advocating for protection of human rights, Colombia it is not the exception to this practice. People gather in CSO’s with the aim of protecting their fellow civilians, advocating for improving the situation related to their human rights and providing support and protection for the victims. Additionally, typical role they have is condemning the violence and educating people for peace – creating the culture of peace. Civil society in Colombia was one of the key actors who mediated the peace

process, but it is specific that they have not been invited to the negotiating table officially, they were working mostly on the margins. On the other hand, they have started numerous activities with the goal of achieving reconciliation, in which they have used different methods of expression – art, for example. From painting, to writing letters for reconciliation, singing, advocating for acceptance of the Final Agreement, and facilitating dialogue between the parties, consultative role, organizing marches.

Gómez Isa and Zambrano point out negotiating models made based on the participation of the population, those are: elitist model, consultative model, representative model, participative or direct model and unilateral model (Gomez Isa and Zambrano 2013, 3). Elitist model in short means “those who make war must be those who make peace”, consultative implies that civil society can give comments and recommendations, representative implies that “all political forces with a minimum amount of votes to participate in negotiations”, participative model is applied in specific contexts – geographic or political and unilateral model considers unilateral decision of withdrawing from the armed conflict without compensation of any kind with hope that this will lead to social and political dialogue (Gomez Isa and Zambrano 2013, 3). Unilateral model was something that M – 19 used in beginning of the 1990s when the new Constitution was negotiated, as mentioned in the contextualization of conflict, as a tactic to stop further violence. Now, it seems that consultative model is dominant since civil society has given significant input to the negotiators and afterwards to the implementation of the Final Agreement and is participating in the documenting process for Special Jurisdiction for Peace, but also participative model in forms of National Encounter of Communities from Villages, Indigenous and Afro – Colombians for Land and Peace (Encuentro Nacional de Comunidades Campesinas, Indígenas y Afro Descendientes por la Tierra y la Paz) and assemblies, gatherings on the local levels.

In order to get better understanding of the work of civil society organizations, one would have to go through some examples of the best practices. During the 1990s, civil society was trying to create the space for making peace by mobilizing masses. In 1993, small civil society organizations decided to unite themselves into Network for Peace Initiatives, since the peace movement was very fragmented before that. One of the examples of good practices happened in 1995 when students decided to march from Medellín to Apartadó that are at over 300km distance from each other to send a message of peace after the massacre in Belo del Oso and even though it was only 35 of them, civil society organizations recognized their message and provided them with support (Cameron / Curtis - Evans 2000, 54). Additionally, action

“Vaccination against violence” from 1996 symbolizes transformation of violence into reconciliation, it was supported and guided by CSO’s: “Accompanied by trained counsellors, participants passed through a series of rooms, representing various stages in their renunciation of violence. In the first room after describing an incident that had left them angry and vengeful, they vented their feelings on a doll made of balloons. In the second room, they were invited to express their feelings in writing and to pin this ‘leaf’ to a ‘tree’ of similar messages. The majority of participants wrote about their desire for peace and an end to the war. In the final room was an enormous web of string. Each participant took two loose ends and tied them in a knot, so joining themselves to a web of Colombians who had committed themselves to peace.” (Cameron and Curtis - Evans 2000, 54). This truly represents the restorative mechanism that CSO’s have managed to develop through merging different methods, such as psychology, art, peacebuilding and making survivors comfortable to share and release their pain and transform negative feelings they have about the armed conflict, perpetrators and themselves as victims.

After kidnappings by ELN in 1999, the movement “No Mas” or No More was born. During 1999 and the following year they organized mass peace protests throughout Colombia. On January 2000 there was an action which made 18 million Colombians turn off the lights for peace for two minutes (Cameron and Curtis - Evans 2000, 57). Besides the mentioned actions, there had been three meetings of organizations of women, indigenous people, Afro – Colombians, farmers in: the first one in 2011 – Barrancabermeja, followed by Cauca in 2012 and San Vicente del Caguán in 2013 (Gomez Isa and Zambrano 2013, 4). They gathered in mentioned National Encounter of Communities from Villages, Indigenous and Afro – Colombians for Land and Peace which is a counterpart to the Encounters of Women in Argentina who are marching for the women’s rights on the national level. Encounters have been a place where mentioned groups could set their agendas for peace and send the message about their needs, their understanding of justice and views and initiatives for the peaceful future, they make some form of network of grass – root peace organizations. The role of civil society organizations is embedded in the peace process through initiatives such as the mentioned, since one of their roles is to gather and catalyze the information from the people across the country so they could act jointly with the negotiating parties and help them improve their plan for peace and transitional justice process. Thereof, civil society organizations have to act in two directions, one is aimed at the negotiating process (to the ones who sit in the negotiating table) and the other towards people – educating them on what

is going on, what good it does for them and to make Final Agreement visible and acceptable to the referendum voters – for the culture of peace.

After the signing of the Final Agreement in 2016, the role of civil society transforms into support to the victims and demobilized combatants, in other words reintegration of the entire society. Civil society organizations are the ones who can help the process of implementation of the Final Agreement in the first place by providing psychological, legal and other forms of support to the victims and former combatants. They are cooperating with the Special Jurisdiction for Peace in terms of providing them with reports of human rights, testimonies about the needs of victims that have to be addressed so they could achieve their justice, one of the most prominent organizations who are carrying this process are Sisma mujer and Ruta Pacifica de las Mujeres (Women's Pacifist Route). The other form of their action would be to criticize the state institutions and other actors if they are not acting in accordance with the Final Agreement or giving suggestions how to enhance the peace process, alongside with the media and academia. Academia can help them with analysis in different spheres, from economy to human rights and media in spreading messages and awareness raising campaigns.

Women have resisted the violence embedded in the structure of Colombian society by challenging the existing social roles, becoming leaders and active agents of change and development, learning their rights and fighting for them, by organizing themselves with the purpose of breaking imposed patriarchal roles who are reproduced in an exacerbated way, especially during the conflict. One of the initiatives coming from civil society organizations was “Commission for Truth and Memory of Colombian Women”, implemented by Ruta Pacifica de las Mujeres, a feminist organization that gathers over 300 organizations who act in favor of making the consequences of the conflict on women visible, restoring women's lives after the conflict and helping the transition of Colombian society towards reconciliation. They formed a strategy that has a goal of giving female face to the peace process. Besides the advocating part, they also document and analyze information, cases and publish very significant reports on women's rights and needs and cooperate with punitive organs. Their work is spread throughout the country, so they have capacities to reach all territories that have suffered the consequences of the conflict and take into account the stories of women from all over the Colombian territory, which is very important for latter advocacy at the national level. Additionally, their work is supported by other civil society organizations, foreign development agencies, media, international community, the state (Ruta Pacifica de las Mujeres 2018). This data is mentioned to point out the capacity of the Women's Pacifist

Route as a network, considering the important data that can be found in their reports made from information gathered throughout the country.

Report “The Women’s Truth: Victims of the Armed Conflict in Colombia” conducted by Women’s Pacifist Route (Ruta Pacifica de las Mujeres), gives us perspective and testimonies of women from the territories most affected by the armed conflict, by documenting and analyzing their stories all over the country. The research included one thousand women who survived the conflict, it shows us very worrying data regarding the severities that women have gone through. Data shows that out of interviewed women the average number of violations referred to by each woman is between four and five, and more than 25% of the women suffered more than six distinct types of violence (Ruta Pacifica de las Mujeres 2017, 20). Besides that, every woman knows a certain number of other women who were not the part of the interviews, but have suffered similar consequences. Average year of the participants was 45.86 years, the year range of interviewees went from 17 to 83, with different ethnic identities (Ruta Pacifica de las Mujeres 2017, 20). This shows us alarming data of levels of violence who only one woman had to survive during the armed conflict. Historical memories they have are related to loss of their partners, kidnapping of their children, forced disappearances, rape, forced labor, forced abortions, forced relationships, physical and psychological torture and above all fear of what all mentioned produces. Considering mentioned information, it is very encouraging to see that more than 50% of women are actively participating in organizations who make Ruta Pacifica de las Mujeres. As researchers posit, in every testimony they did not find only memories, but the projections of the future that derived from memories and paths they are taking in overcoming the consequences of the armed conflict (Ruta Pacifica de las Mujeres 2017, 23). This recreation of women’s memories helps in putting the existing narratives into new perspective by recreating collective memories, that altogether creates foundation for non – repetition and benefits the transformation of society.

By acquiring factual truth, which responds to typical questions we need to respond to confirm something as a fact: “what happened, to whom, where, when, how and who was involved”, we get the objective grips of what has happened (Ruta Pacifica de las Mujeres 2017, 26). But, the truth that has actual restorative power is the narrative truth which is subjective, it takes into account the subjective experiences of a storyteller and the meanings that one gives to that truth (Ruta Pacifica de las Mujeres 2017, 26). By doing all mentioned set of documenting activities and listening, Commission is giving space for women to express themselves and for

their words to be valued, to become encouraged to take part in the activities of civil society organizations which gives them purpose because they are taking their lives into their hands and are actively contributing to restoring the society. To be able to narrate their truth gives women hope of creating better society and providing non – repetition, it shows how conscious they are about the power of the acknowledgment of their truth: “I think we have to know history to not repeat it, so I am giving this contribution so that the generations to come have better approaches, so they will not suffer all that I suffered” (Ruta Pacifica de las Mujeres 2017, 61). As mentioned, the violence had caused the interruption in the cycle of women’s everyday lives, they had survived the serious violations of their human rights which made them become the victims. Somehow, they have managed to find coping mechanisms for harm done to them and through sharing their stories individually and in groups they have managed to create common truth. Sharing their stories encouraged them to continue to speak and become active agents of change by participating in the activities provided by civil society organizations, such as: focus groups, workshops, marches, and activism or similar. It is important to mention that without women who worked as interviewers and who have built the relation of trust between the organization and interviewee these data would be hard to get.

Through gathered testimonies, Ruta Pacifica de las Mujeres provided the conclusion that these women are driven by the value of life, which is the main reason why they are not giving up (Ruta Pacifica de las Mujeres 2017, 62). In order to preserve life of the violence done by armed actors, women have acted in dominant three areas: resistance and mobilizing on behalf of the links, remaking the conditions of humanity and weaving together the community life (Ruta Pacifica de las Mujeres 2017, 62). With the purpose of protecting their significant ones, especially children women have created strategies to protect them, from changing their names to fleeing their communities, they did what it takes to protect them. Motivation for resisting and mobilizing they found in protecting the loved ones who are alive or the memories of what happened to them, which made them become active so they could provide justice and non – repetition. As far as remaking the conditions of humanity are concerned, women have used every chance to start fresh, to build a home, to find a new job, to take initiative. Often, they had to change their roles, since they are the only ones left in the family, they have lost their husbands, sons and brothers. It means that they have adapted themselves to every situation that has been thrown in front of them and showed their strength in overcoming the consequences of the armed conflict, but also how much it meant for them to build that new normality again. With a job, a house to take care of and make home. They often became

leaders of rebuilding communities, because they understood their needs and were good at organizing and negotiating, as example from the testimony shows: “Just after I arrived to the Divisa, there was a program that was supposed to be for social development and I asked for material for the staircase and as I started doing that, I became involved in issues of the whole neighborhood, then stairs were made, the sewage system was requested, I had a snack brought for the children, at that time there was no school there. So I started a very strong leadership there and it was growing” (Ruta Pacifica de las Mujeres 2017, 66). This shows how women recognized and used the potentials and programs that civil society organizations or the state have provided for restoring their communities. In the area of weaving for their collective life, the mentioned study shows how almost 36% of women organized themselves in defending their rights and almost 35% participate in the work of an organization of women (Ruta Pacifica de las Mujeres 2017, 66).

Women’s organizations and other forms of civil society organizations really helped the victims, encouraged them and gave them incentive to actively participate in reconstructing their societies by providing trainings, workshops, giving them different kind of support – psychological and legal, also they gave them tools to rethink and restore their lives. The work of civil society organizations helped women feel re – socialized, integrated, free, like they are understood and their story is valid: “I was alone until I found those people and they took me to meet others. And it made me very happy; I felt solidarity sharing that pain with them. I know how that mom felt and she knew how I felt, and that made me happy because now I am not alone, because we are a group, even though we are very few. And how nice that the voice of one reaches another and let there be many, because otherwise they will continue to abuse us” (Ruta Pacifica de las Mujeres 2017, 67). Women have realized what are the wrong patterns existing in their society, how to recognize the behavior that is making them subordinate, how to act in those situations and that there is always a way out of violence, no matter if it is the family situation or post – conflict dealing with their trauma. The realization that they were in the state of ignorance before and the power of knowledge that was given to them by participating in the CSO’s activities, gave them so much hope, faith in the future and encouragement. The process which Ruta Pacifica de las Mujeres guided with their Commission helped in recognizing the female perspective of Colombian conflict in the national level. Besides it is very important to give survivors recognition as a victim, concerning that based on that status women have certain rights and reparations that should be given to them. But the most important legacy of this project and the work of civil society is

exactly the recognition and acknowledgement of female perspective in the armed conflict, by gathering their stories, building trust with the interviewees and showing compassion and sensitivity towards their truths. In addition women are given incentive to organize themselves and in organizations who they created with other women who have been through the same, they create new relationships and get encouraged to report the cases of violence and become active actors of peace and development. Finding the comfort in women's truth is a restorative stage in their lives that could lead them to reclaiming for retributive justice.

Colombia is a country made of diverse cultures and ethnic communities, most of them have felt direct consequences of the armed conflict, but they all have their specific ways and practices of dealing with it. People who live in rural areas, indigenous and Afro – Colombian communities are well known for having their spiritual, traditional ways of dealing with the pain produced by violence. Additionally, indigenous people feel the consequences of the conflict on a much higher scale, their spirituality and bonds with their community, land and their ancestors are very difficult to overcome and restore if they are broken. Displacement was a common thing indigenous and Afro – Colombians had to live through as groups, so there were the capacities to restore the cultural part that covers spirituality and tradition in a new territory. Thereof, in the process of restoration of their bonds communities were turning to their tradition. In the region of Choco there are special chants who people sing to deal with different types of loss – Alabaos, Gualíes, and Levantamientos de Tumbas (Beltrán Espitia 2019, 19). Question of forgiveness is very important for achieving justice, but should it be individual or collective and how can we spread the idea of forgiveness to the entire society? Considering the differences of lifestyles of various cultural groups it seems that universal forgiveness could never be imposed to anyone, which is why the work on the local level and overcoming the consequences produced by violence is highly important. In relation to forgiveness and restoring personal lives and society, reconciliation is another process important for achieving peace and the aim of reconciliation is to redefine the existing and establish new social relations if necessary, based on the truth about what happened (Beltrán Espitia 2019, 22). Thereof, reconciliation for the victims means: “truth, protection of the victims, and identification of perpetrators, justice and reparation integral for achieving collective peace” (Beltrán Espitia 2019, 22). In this matter, psychological support to the victims is important because it helps them restore their own lives and group therapy that can help entire communities. But also economic support, so they could develop businesses in different areas and feed their families.

Something that gives release to communities is what mentioned inhabitants of Colombian Pacific coast are practicing - Alabaos, Gualíes, and Levantamientos de Tumbas. Alabaos represent chants that are performed a – cappella, they refer to life and death and are interpreted as prayers, they give the community the opportunity to express their emotions of sorrow and hope, sadness through dialogue with community and preserves the spirituality (Beltrán Espitia 2019, 24). They helped the peace process and healing process of the victims. One village called Bojayá, in Choco, which had a bit over ten thousand inhabitants had 9525 victims, decided to compose alabao to express its support to the Final Agreement signed with FARC. Important change is that men used to perform these chants and women could only sing back vocals, but now the role has transferred to women (Beltrán Espitia 2019, 24-25). To emphasize the argument and help understanding how alabao looks like, a couple of verses are translated from Spanish: “We want justice and peace that comes from the heart, to come to our villages health, peace and education Santa María give us peace” (Beltrán Espitia 2019, 25). The other form - Gualí is an oral tradition characteristic for Colombian pacific region, it is a ceremony performed when a child dies, the aim of the songs is to help child find peace in the afterlife and transform sorrow into joy for the living (Beltrán Espitia 2019, 25). During the period of slavery it was some form of celebration of the fact that the child doesn’t have to live the life of slave (Beltrán Espitia 2019, 26). Levantamiento de tumbas represents saying goodbye to your loved ones during nine days of prayers, followed by food and refreshment, beverages and cigarettes which are provided for the people, songs and prayers are being sang all in the honor of the deceased (Beltrán Espitia 2019, 26).

Beltrán Espitia y Montoya Giraldo have conducted semi – structured interviews to examine whether these traditional chants are contributing in reaching for forgiveness and the process of reconciliation, they have examined 50 people from indigenous and Afro – Colombian representatives who are actively participating in performing these rituals. The results say that these help them express their grief and emotions, which has transformative effect on their communities and generates support for forgiveness and reconciliation. It is about transforming the emotions of victims, but also of the perpetrators (Beltrán Espitia 2019, 28). Role of spirituality and religion should not be neglected, since those can have transformative power in reconciling societies and rural communities seem to understand this as a useful tool for peacebuilding. Besides, Catholic cursh has a very strong base in Latin America and the religious organizations and their work are very significant in the process of restoring the

society. Even during the interviews in various reports one can notice how God is mentioned multiple times in relation to multiple occasions.

Thanks to cooperation between the civil society organizations, indigenous communities and victims the Constitutional Court has brought Decision 004, Decision 092 and Indigenous People Decree (4633/2011) who are ensuring that institutions will include indigenous women in political scene, allowing them to create local councils, public policies and in that way influence the society (Acosta, et al. 2018, 109). Even though institutional framework has been set, the practice is far from desired goals on the national level. In the meantime, local practices are starting to develop very well, due to high level of activity of indigenous women in their communities. Intercultural School of Indigenous Diplomacy is an education initiative started in 2007, during the courses indigenous men and women participate in various trainings and workshops, who lean into artistic and pedagogic methodology such as the theater of the oppressed, personal and collective narratives (oral and written), testimonies, self-portraits, family trees, life histories, social cartography, participatory social mapping of places and women's body maps (Acosta, et al. 2018, 111 - 112). Trainers or facilitators belong to mostly white, middle – class urban, academic women, participants are mostly from the national and local indigenous organizations who are being educated on restorative tools to be used to transform their communities. Again, trust is an important factor since the trainers came to indigenous communities by their invitation (Acosta, et al. 2018, 113). Restorative justice is viewed by the mentioned authors as a feminine or care response to the situation of post – conflict adjustment, which is the truth since the focus of this approach is not to punish the other, but to find the truth and redefine the relations in terms of new social contract.

Siera Nevada of Santa Marta is one of the areas with the most numerous violations of human rights in Colombia, it is the home of Arahua women who have been subjected to gender based and sexual violence during the armed conflict, but also as a part of everyday life when the situation of conflict does not exist (Acosta, et al. 2018, 115). Arahua people have their own justice system, where women and their justice are invisible. Because of typical situation indigenous women face when they have been through violence, the local assemblies have been established. Virginity is considered as highly valuable in indigenous communities, especially when it comes to marriage, for that purpose it represents a requirement. When that bond with community is broken, if we take into account the cases of sexual violence, the only way to restore it is through spiritual restoration (Acosta, et al. 2018, 117). Alcira Izquierdo is leading example of solidarity of Arahua women, next to her cousin who is a female

indigenous leader, she is leading the process of women's assemblies by helping women to acquire self – recognition as protectors and bearers of Mother Earth's energy (Acosta, et al. 2018, 117). Assemblies of Arahua women have become a collective body that represents the new role of women as active leaders of self – government and it is a place where women can discuss and reflect the political participation, restoration and memorialization “from below”, here they have become aware of themselves and of the wrongdoings they have faced, realizing that all the violence does not make part of the Law of Origin (Acosta, et al. 2018, 117). The importance of Arahua women's practices is transferred not just by the civil society initiatives, it is recognized also in the fact that one of Arahua women is a judge in the Special Jurisdiction for Peace which helps connecting the peacebuilding from the margins to the centre. Delia Casama, from the region of Choco belongs to Embera Katio community. During the nineties she broke traditional gender roles by directly negotiating with the paramilitaries, she stopped the atrocities in her community by signing a local peace agreement that lasted for seven years, also she sent a message of solidarity to other women of overcoming the fear of men and invited them to leave the kitchen and become active agents of change and development (Acosta, et al. 2018, 124).

The key of transferring local level peacebuilding initiatives and the knowledge of indigenous women is a good partnership with civil society organizations, based on trust and good faith. Additionally, the role of academia and civil society in documenting, archiving and conducting researches and reports on human rights and local practices can help in transferring the knowledge and agendas from the margins to the centre. They can also contribute by creating evidence – based recommendations who can improve the transitional justice process and the implementation of the Final Agreement. Furthermore, they can spark the attention of institutions to put the focus on intersectionality in order to better understand the situation of women who are marginalized on multiple levels. Media can also play a significant role in reporting about the killings of social movement leaders and activists, but also about their good practices and bravery. If one manages to link these actors together and unite them over the same goal of reaching truth and justice, with taking into account the voices from the margins, we could hope that stable sustainable peace could be achieved in the entire Colombian territory in the coming years.

Conclusion

The Final Agreement to End the Armed Conflict and Build Stable and Lasting Peace, signed in 2016 marked the formal ending of Colombian armed conflict, after more than five decades of continuous fighting. How difficult was it to reach consensus on this agreement, show the results of the October referendum. Even though the result was “tight”, with slightly more people who were not in favor of ratifying the Agreement, with an extra effort provided by President Santos it has been celebrated in November 2016. The Agreement that, at least formally ends protracted social conflict is something to be celebrated truly. With the active participation of civil society, the product of Havana Talks represents the minimum consensus that Colombian society needed to formally put an end to the long lasting conflict.

The Comprehensive System for Truth, Justice, Reparations and Non – Recurrence is a system created based on the experiences of post – conflict societies, by analyzing the approaches who worked well in previous transitional justice processes and the ones that utterly failed. By examining the work of Special Jurisdiction for Peace, firstly the acknowledging of gender, ethnic and territorial approaches and context of use of violence it gives us the promising prediction of the comprehensiveness of its examination of the started cases. The mandate of Special Jurisdiction for Peace can’t be longer than 20 years, it should be enough to try to entangle complicated cases, find the most severe perpetrators and provide satisfaction to the survivors, at least in the form of providing them with the truth. The bridge between the SJP and remote territories are civil society organizations, who are tirelessly working on bringing restorative practices from the margins of Colombian society to the center. Special Jurisdiction for Peace is thereof a hybrid, it combines two approaches of transitional justice – retributive and restorative one. This is a new practice in the transitional justice processes, and it should help reaching the truth by including all the necessary actors, exploring and adopting different approaches and contexts. In some form it applies the approach of intersectionality by acknowledging different approaches – territorial, gender, ethnic, it had emerged as an important tool of understanding why and how certain things happen and how can we address them adequately to provide non – repetition. Normally, Special Jurisdiction for Peace is facing many challenges, but hopefully Colombian civil society will be able to provide adequate support to the process that will help the set mechanism overcome the challenges of the past and presence in terms of political situation.

Richness of indigenous culture who is expressed through various participatory practices, rituals, chants, and prayers is a potential that can be used not just in their communities, it can be transferred to the center and applied nationwide. Work of women's organizations and other civil society organizations in the rural, remote areas of Colombia is worth admiring. Not just that they have managed to document, archive and become the chronologists of a historically important period, not just for Colombia, but for the practice of peacebuilding and transitional justice processes, they have managed to build trust with the victims and make their stories acknowledged by using the restorative approach to transitional justice. In that way, they have restored at least a small part of their dignities and lives, gave them hope and encouraged a vast majority of them to become active agents of change in their societies. Additionally, sexual violence stopped being invisible because restorative mechanisms provided women with support and skills to continue their life cycle. In conclusion, restorative approach must not be avoided when discussing the transitional justice system after the conflict like Colombian one and it should complement the retributive one, especially in the sensitive cases like the conflict related sexual violence represents.

This is a positive picture that cooperation on the level state – civil society – victims paints, but unfortunately reality of the current events is a bit different. In 2020 the pandemic caused by the virus covid – 19, did not bring good to Colombia and its social movement leaders. According to Stavrevska, now it is much easier to target and execute social leaders, but also the situation is not very calm and there are still territories of active violence (Stavrevska 2020). The year 2021 is not painting positive picture either, with the mass protests who have happened in Bogota, because the President Duque's government has decided to reform the tax system. Considering the levels of inequality and poverty of Colombians, this was not received well by the citizens who decided to protest. Duque's government reacted by disproportionate use of force against its citizens (Trujillo 2021).

Hopefully, the years to come are going to bring a positive peace to Colombian citizens and justice to civilians, especially women survivors of conflict related sexual violence. Thereof, potential of alliance of Special Jurisdiction for Peace and civil society is expected to bring reconciliation and non – repetition.

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