Institutional and Social Resistance to Impunity: The Transitional Justice Experience in Colombia

Gabriel Ignacio Gómez
Gabriel.Gomez@asu.edu
Arizona State University

LASA Annual Forum
Toronto, October 2010

Over the past few decades, Colombian society has endured the impact of longstanding political conflict and outrageous expressions of violence perpetuated by leftwing guerrillas, rightwing paramilitary groups as well as the Colombian government. One of the most visible manifestations of this conflict has been the use of military force against the civil population, abuses that constitute infractions against international human rights and humanitarian law. Currently, the country faces one of the worst humanitarian crises in South America, with more than four million people displaced. In 2003, two of the major actors in the conflict, the Colombian government and the paramilitary groups, started a peace process that led to the demobilization of more than 30,000 paramilitary members by 2005. However, this peace process was not the outcome of a social and political consensus on how to transition from war to peace and how to deal with past human rights violations. As a result, the peace process and the legal framework that came from this negotiation has been contested by various social actors. On one hand, the government and the demobilized paramilitary groups have stressed the pursuit of reconciliation, forgiveness and forgetfulness through a process of disarmament, demobilization and reintegration (DDR). They also attempted to promote a legal framework that provided alternative punishment for those perpetrators of gross human rights violations who confessed some of their actions. The political elites did not seriously consider the possibility of including grassroots and victims' organizations in the process. On the other hand, from the very beginning of the peace talks, domestic and transnational human rights non-governmental organizations (NGOs) have raised awareness about the implications of the peace process and the need to introduce human rights standards of truth, justice and reparation. These organizations have helped introduce the language of victims' rights into the political arena and have played a significant role in the law-making process as well as the application of legal mechanisms. Ever since, Transnational Advocacy Networks (TAN), led by domestic human rights NGOs and the courts, have resisted a political project that maximized the pursuit of forgetfulness and forgiveness (Keck and Sikkink, 1998).

The recent Colombian experience reveals new elements that can enrich a comparative analysis of law and society, human rights and transitional justice. First, there has not been a clear and complete transition from war to peace in large part because the guerrilla groups did not take part in the peace process (Uprimny and Saffon, 2006; Diaz, 2008). From a more optimistic perspective, a partial transition has occurred in which a large armed group has been demobilized. Although this demobilization contributing greatly to decreasing the level of political violence in Colombia, there is still an ongoing political conflict involving the Colombian government and the leftwing guerrilla groups. Second, unlike other cases in Latin America, the role of the courts represents a case of institutional resistance that constrains the sphere of maneuver of the state government. The Constitutional Court, the Supreme Court and sometimes the Office of the Attorney General have struggled to defend their independence and protect human rights. Finally, the practices of transnational and domestic human rights networks and their alliances with victims' organizations make it necessary to think seriously about the impacts of non-state actors on transitional justice processes. From this perspective, it is not enough to address the process of transitional justice based solely on elites' decisions and institutional frameworks. Behind the institutional processes and the enactment of legal

frames, there are the collective actions and practices of various actors who make possible the emergence of resistance to oppression and the construction of new paths of justice.

As part of my dissertation research, this paper presents information gathered in Colombia between July 2009 and June 2010. In doing so, I employed a qualitative research design based on documents analysis (mainly congress bills and human rights reports) and in-depth interviews with members of different international and domestic human rights organizations, victims' organizations and national institutions. The main purpose of this paper is, on the one hand, to analyze the role of TAN and the courts in the context of the recent 'transitional justice' experience in Colombia, and on the other hand, to analyze the extent to which the discourses of 'human rights' and 'transitional justice' provide emancipatory tools to protect victims' rights in Colombia. One of the main arguments of the paper is that TAN and the courts have led a social and institutional resistance against softer visions of justice, like that embodied in the DDR framework, in order to reach what McEvoy calls "thicker" versions of justice, truth and reparation (McEvoy and McGregor: 2008). In doing so, TAN follow two main strategies: *social and political activism*, and s*trategic litigation.*

1. Theoretical Framework

In this research, I draw on law and society literature and studies of human rights and transitional justice to analyze the recent experience of transitional justice in Colombia. As with other legal fields (Bourdieu, 1987), the very notion of transitional justice is contested with various actors struggling over how it should be conceptualized (Bell, 2009; McEvoy, 2009), framed and its various mechanisms applied (Hagan and Levi, 2005; McEvoy, 2008). Said in more practical terms, social and institutional actors are struggling to persuade others to accept their versions of the best way to transform the political conflict and achieve justice. However, what makes transitional justice an interesting and challenging subject of study from the perspective of the social field is the complexity of conflicts and tensions. I will highlight two main tensions that deserve deeper analysis. The first tension is related to the conflict between perceived political needs in a given context and the normative values of justice. The second tension is related to the contradictions between the interests of powerful groups and the interests and perspectives of grassroots and disenfranchised social actors. I do not understand these tensions as dichotomies, but rather as two continuums that admit the possibility of intermediate levels. Contemporary literature on transitional justice and human rights acknowledges these contradictions through the categories of transitional justice from above or a "top down" approach, and transitional justice from below' or a "bottom up" approach. However, to be consistent with the theoretical framework, I will draw on Mark Goodale and Sally Merry's argument, which states the necessity of overcoming these dichotomies and acknowledging the practices in between (Goodale and Merry, 2007). The top down approach addresses the relations between politics and law from an institutional perspective. This approach stresses the design of public policies, legal frames and the role of political elites. In that new political conditions entail the transformation of constitutional and legal frames, politics exists in a complex and, at times, conflicted relationship with the law. From the perspective of human rights and constitutional law, reforms and legal frames ought to reflect some minimum standards of human rights and promote institutional mechanisms of accountability (McAdams, 1996; Mendez, 1996;

Roht-Arriaza & Marriazcurrrena, 2006). However, there is no agreement on this perspective. According to Ruti Teitel (2000), there is a tension between those who believe legal principles and rules should guide the transition (a point of view has been called the "idealist perspective"), and those who think the transition should depend primarily upon the political context (the "realist perspective"). According to Teitel, while idealists attempt to defend a universal normative model of transitional justice and the rule of law, realists suggest the design of transitional justice mechanisms should depend on political (and economic) constraints. However, Teitel attempts to go beyond this dichotomy and suggests a constructionist perspective which bridges the two approaches. For Teitel, it is necessary to observe the role of law in times of political change (Teitel, 2000). With principles of justice at one pole and political needs at the other end of the continuum, this tension does manifests not only in the sphere of institutional design and law-making processes but also in the sphere of institutional practices. For instance, John Hagan and Ron Levi (2005) illustrate the conflict between politics and legal principles in the context of the international courts. In doing so, the authors analyze the formation and performance of the United Nation's International Criminal Tribunal for the former Yugoslavia (ICTY) in the Hague and provide an analysis of the political conditions that framed its emergence. Hagan and Levi show how the formation of the ICTY, especially between 1994 and 1996, was characterized by the contradictions between the political needs of international relations and the moral and legal imperatives of criminal law and human rights. Both the constructionist perspective and the contextual approach emphasizing institutional functioning help overcome the false dichotomy of idealists and realists. However, even this perspective suffers the shortcoming of focusing mainly on the institutional sphere and neglecting to account for the role of non-state and non-institutional actors and perspectives.

The bottom up approach addresses the participation of non-state actors in the political design and application of mechanisms of transitional justice. In doing so, it emphasizes informal practices of conflict resolution in local spaces. This approach presents a theoretical framework for understanding how mechanisms of transnational justice can be socially embedded. At the same time, it presents an alternate perspective on conflict resolution in times of political transition (McEvoy, 2008; Lundy and McGovern, 2008). Although the literature on transitional justice from below is largely exploratory in nature, advocates of this approach converge around two main points. First, they criticize the one-dimensional and restrictive understanding of justice, democracy and the rule of law suggested by the top down approach. According to McEvoy (2008) and Rajagopal (2003), the top down perspective on transitional justice and human rights law reproduce a Western liberal conception of democracy, human rights and law, and stresses the centrality of state law and state-led initiatives. For McEvoy, this legalistic and 'thin' understanding of transitional justice has reduced the possibility of taking into account other epistemological perspectives such as community-based and indigenous traditions.The bottom up approach attempts to analyze the role of non-state actors, learn from subaltern subjects, and listen to the voices of disenfranchised groups (Santos and Rodriguez, 2005). For instance, McEvoy and McGregor attempt to start a dialogue among diverse local experiences, paying attention to local groups (2008). At first glance, they suggest a bottom up understanding of transitional justice is 'thicker' in that it is fundamentally based on the experiences of grassroots organizations detached from

institutional expressions. However, the different experiences McEvoy and McGregor examine ultimately show the bottom up perspective is more flexible than the top down approach in that it is better able to also take into account the participation of institutional actors and formal languages. In this regard, Lorna McGregor (2008) shows how the institutions and language of international human rights law have the potential to empower disenfranchised groups and contest oppressive practices.

For this paper, I draw on the broader perspective of bottom up approach. However, the violence perpetrated by armed groups in Colombia have seriously undermined the work of grassroots organizations and their capacity for mobilization, especially in some local contexts. As a consequence, human rights NGOs and the courts have been the actors who have resisted the top down project of security and reconciliation that emerged in Colombia in the last decade. The human rights networks have introduced the language of transitional justice and the rights of truth, justice and reparation within the political arena to show how political negotiations are limited by ethical and legal constraints. Human rights networks and the courts have taken perspective seriously and have advocated for thicker understandings of victims' rights.

In order to analyze the process of resistance exerted by human rights NGOs and the courts, it is important to clarify the meaning of two concepts: the *transnational advocacy networks* (TAN) and the processes of *resistance*. The literature on transnational advocacy networks (Keck and Sikkink, 1998) and human rights activism (Jelin, 1994; Merry, 2006) highlights the relevance of the mobilization of human rights NGOs and activists in the process of enhancing social and political transformations. Transnational and domestic human rights NGOs form networks that raise awareness about the violation of human rights, create symbolic tools, mobilize organizations to pressure governments and gain political leverage, and once gained, promote political change and new practices of human rights (Keck and Sikkink, 1998). However, considering the concept of transnational advocacy network emerged from the field of International Relations, it focuses on the role of the networks in influencing and enhancing political transformations in public policies on the nation states. In this paper, I highlight the role of the human rights NGOs and the TAN in the process of introducing the concepts of transitional justice and victims' rights in the domestic arena. Sally Merry and Mark Goodale's (2007) work offers an interesting approach regarding the role of human rights NGOs and the courts in the process of bringing the language of human rights mechanisms into the local vernacular. They also show that the demand for human rights and mechanisms of accountability, truth and reparation are not a monopoly of legal actors. New actors emerge on the scene, introducing new political and legal practices that go beyond the legal practices used by lawyers (Merry, 2006, 2008, Goodale, 2007). Following Goodale, "these practices of human rights describe all of the many ways in which social actors across the range talk about, advocate for, criticize, study, legally enact, vernacularize, and so on, the idea of human rights in its different forms" (2007: 24).

To conceptualize processes of resistance, I will draw on a literature emphasizing legal consciousness and narrative studies emerging out of the field of law and society. Studies in this vein highlight the possibility of resistance to the state law by means of different individual or collective practices such as disobedience in everyday life or struggles for identity (Ewick and Silbey, 1995 and 1998; Merry, 1995). However, these studies also show it is possible to resist oppression through legal discourse (Merry, 1995;

Ewick and Silbey, 1998; McGregor, 2008). Recent literature on law and society and transitional justice, especially in the international arena, goes beyond the idea of resistance as an individual reaction against state law and incorporates the idea of resistance as the possibility for social constructions of alternatives to oppressive rules (Rajagopal, 2003; Santos and Rodriguez, 2005). I draw on counter hegemonic perspective to sustain that human rights networks have used the language of victims' rights to contest a hegemonic discourse of security and a project of forgetfulness and forgiveness.

2. Shift in the Political Discourse: The Turn to a 'Security' Project

To better understand the complex nature of these tensions, some context is necessary. That is, it is essential to recognize the emergence of a hegemonic discourse of 'security' as integral to creating the political conditions which made it possible for the state to start a peace process with paramilitary groups in Colombia. By the beginning of the century, circumstances led to the emergence of a new discourse about the political conflict in Colombia. This transformation entailed a shift in public representations of the political conflict, the different political actors, and the mechanisms for overcoming political violence. Over the course of a few years, Colombian society moved from a discourse that stressed the importance of political negotiation with the leftwing guerrillas to a perspective based on the characterization of guerrillas as terrorist groups. Since the beginning of the 1980s, several governments have tried to solve Colombia's political conflict by means of negotiations and peace agreements. Belisario Betancur (1982-1986), Virgilio Barco (1986-1990) and Cesar Gaviria (1990-1994) attempted to bring about peace talks, cease-fire accords and peace agreements in order to demobilize and reintegrate leftwing guerrillas. Different guerrilla groups, such us the M-19, the Quintin Lame, the Revolutionary Workers Party (PRT), the Popular Liberation Army (EPL), and the Socialist Renovation Tide (CRS), took part in these peace negotiations and efforts to reintegrate their members back into civil society. But the peace processes faced diverse difficulties such as political opposition from rightwing actors and violence against the demobilized guerrilla members. However, despite the difficulties, during that period Colombia experienced a moment of political and institutional openness that paved the way to the acknowledgement of the leftwing rebel as an 'ethical enemy', someone motivated by a desire to construct a more just and democratic society (Orozco, 1992). This political perspective was complementary to a liberal perspective on criminal law which differentiates between the 'ordinary criminal' and the 'political criminal.' According to this view, guerrillas who were part of the peace process submitted to a differentiated legal treatment in that they were 'political criminals.' As a result, amnesties and political pardons were granted to those who were indicted, convicted or sentenced for committing 'political crimes' such as rebellion and sedition.

However, in the 1990s, new circumstances in the national and transnational arena led to the transformation of the political conflict as well as representations of the different actors. In the national arena, the political conflict between remaining guerrilla groups, the Revolutionary Armed Forces of Colombia (FARC) and the National Liberation Army (ELN), intensified and deteriorated. Especially during the second half of the 1990s, the FARC grew in number of combatants and started a military offensive not only against the government and the army but also against the civilian population. They deployed a tactic

of random kidnappings to gain resources through ransoms and intensified their attacks on small towns. By the end of the 1990s, the country was affected by a high level of political violence and the negative impact of an economic recession (Pecaut, 2006). Under these circumstances, pushed public opinion shifted, beginning to acknowledge the necessity of reaching a peaceful agreement in order to overcome the crisis. It was in this political context that Andres Pastrana was elected in 1998. His government represented the hope for a possible peace agreement with the FARC. However, after three years of difficult negotiations between the government and the FARC, the peace process was broken in 2002, leaving a feeling of deep social frustration. The possibility of political negotiations with the guerrilla groups seemed to have been exhausted. The social activists who had advocated for the peace talks were not only disillusioned but also powerless. (**Who were these people? Why were they now powerless?)

Alongside this shifting political perceptions about the possibility of negotiating with the guerrilla groups, it is important to take into account the transformation of the paramilitary groups. By the end of the 1990s, the paramilitary groups, which functioned as a disperse set of local groups, started a process of expansion, unification and political visibility. According to Mauricio Romero (2003) and Leon Valencia (2007), between 1997 and 2004, paramilitary groups in Colombia expanded their presence and co-opted state institutions, especially at the local level. By 1997 and 1998, there was a process of unification of the paramilitary groups, initially under the umbrella of the United Self-Defense Groups of Cordoba and Uraba (ACCU) and later on under the auspices of the United Self-Defense Groups of Colombia (AUC). By 1999, this confederation of paramilitary groups was already an irregular army, based on offensive strategies and capable of controlling different territories. These paramilitary groups carried out a process of expansion by means of bloody practices consisting of massacres of community members, selective murders of social leaders, disappearances of political opponents, and mass displacement of the civilian population. This expansion also meant paramilitary leaders worked to penetrate first local state institutions then some regional and national state agencies. This strategy of expansion and appropriation of local institutions was also complemented through their self representation as political actors. They constructed a new narrative that emphasized the 'counterinsurgent' nature of their actions. According to this narrative, they were former victims of guerrilla groups who were forced to organize themselves as self-defense groups, take arms, and defend their families and properties from the guerrillas' attacks. According to the paramilitary members, the process of paramilitary unification was a reaction taken in direct response to the offensive that the FARC led during the 1990s. This narrative started to influence public opinion from the moment Carlos Castaño,the leader of the paramilitary movement, entered the public arena in 2000.

By 2002, Colombians were becoming increasingly frustrated with the peace process and the ongoing violence of the FARC and the ELN. Alvaro Uribe, the candidate who had most strongly opposed the peace process with the FARC and the establishment of a demobilization zone, won the presidential elections in 2002. Uribe was able to reach a strong level of public support by campaigning on a platform of 'democratic security.' The new government elaborated a discourse and practices based on the pursuit of security and the war on terror. That is, Uribe's administration started shaping a new language which reframed the political situation. Moving away from a perspective which

understood the situation as a political conflict, Uribe's government maintained it was not a political conflict at all but rather a matter of 'terrorist threats' and 'terrorists attacks.' The new classification system dismissed possibilities for understanding the history and complexity of the Colombian conflict and reduced the understanding of violence to a simple binary classification of 'friends' and 'enemies.' For the new government, there were only two possibilities: either you supported the government policies or you were aligned with the 'terrorists.' In this discourse of security and the war on terror, the political other was rendered void of any motivation aside from causing harm. From this perspective, political negotiation was not possible. The only way to overcome the situation of violence was by using force against the terrorists. Liberal legal thought which conceived rebellion as a 'political crime' and the guerrilla groups as 'political enemies' did not fit into the new scheme of things. The only way to overcome the situation of violence was for the state to recover the monopoly on force in the national territory. For the Uribe government, a hypothetical negotiation would only be acceptable with a commitment of ceasefire and demobilization. Based on this new discourse, the government took measures through the use of exceptional powers to introduced constitutional amendments which would provide the army and security forces with more resources and legal competences. These reforms invested the army with more functions and capacities. They also allowed the government to create an informant network and design a program for peasant soldiers. The government also increased the public budget on security and demanded outcomes in the counterinsurgent war (Rojas y Meltzer, 2005). The practices of war intensified and the positions of the government's supporters and its critics became even more polarized. Despite the fact that the policies against the FARC brought about a general feeling of security and reduced some indicators of violence, they also opened the path to affect human rights. In fact, the massive captures widened and human rights and social activists found themselves increasingly persecuted and demonized. In this context of extreme political polarization, the government explored the possibility of initiating a peace process with the paramilitary groups.

3. The Peace Process with the Paramilitary Groups: Political Needs and the Manipulation of the Legal Discourse

The peace process with the paramilitary groups was not conceived as one of transitional justice process that attempted to deal with claims of truth, justice and reparation. Instead, it was aimed at deescalating violence by demobilizing the powerful armed paramilitary groups. This process was conceived as one of disarmament, demobilization and reintegration (DDR). It was a top down initiative in which there was no substantial participation of grassroots organizations, communities or victims affected by the crimes those groups perpetrated. When Uribe took office in August 2002, he appointed a committee with the mandate to explore the possibility of a peace process with the paramilitary groups. The exploratory committee focused on the peace negotiations but did not mention address the situations of the victims (Henao, 2009: 28-29). By July 2003, after a period of informal talks with the United Self-Defense Groups of Colombia (AUC), Uribe's government officially started peace talks with the paramilitary groups in San Jose de Ralito, a zone controlled by the AUC. These conversations were restricted to the paramilitary commanders and the Colombian government whose interests were represented primarily by Peace Commissioner Luis Carlos Restrepo.

It quickly became apparent the two parties had different expectations about the negotiations. For the government, it was necessary to break with the assumption that had prevailed in previous peace agreements in which the guerrilla groups were deemed political criminals. Having adopted a discourse of security and the war on terror, the government decided all armed groups, both guerrillas and paramilitary, should receive the same legal treatment. As a result, the government attempted to reframe the category of 'political crime' based on the membership in an armed group, regardless of that group's political motivations. According to this perspective, the state government should not restrictively grant amnesties and pardons only to leftwing guerrilla groups. However, the government also considered a negotiation in the middle of the conflict, such as the prior experience with the FARC, inadmissible. Uribe's administration demanded a unilateral ceasefire and expected all parties to agree to demobilize their troops. Finally, for the government, the negotiations with the paramilitary groups were not 'political negotiations' but rather negotiations to access politics. The government was aware the paramilitary groups did not have a solid political platform but instead were attempting to protect their interests by accessing the institutional political arena (Restrepo, 2005). Conversely to the government's perspective, the paramilitary groups wanted to be considered political enemies so that they might receive legal incentives such as amnesties and pardons. According to their narrative of counterinsurgency, the paramilitary groups demanded a legal framework consistent with two main goals. First, since they did not consider themselves criminals, the paramilitary groups believed they did not deserve any punishment. Second, they did not want to be extradited to the United States. The paramilitary commanders attempted to be considered political criminals, receive amnesties and then, with the idea that, after the peace process, they would establish a new political party. While the government aimed at demobilizing the paramilitary groups, the AUC attempted to legalize their situation in Colombia, preserve their properties, avoid extradition and protect their interests.

However, as the negotiations progressed, the political agenda was set aside as discussions turned toward the legal framework being used and possible incentives for demobilization. The government proposed a shift towards a more flexible legal frame. The president himself suggested they explore the idea of restorative justice and draw on the lessons of the Good Friday Agreement in Northern Ireland (Diaz, 2008: 201). The government drafted a bill called the Alternative Punishment Draft, which granted incentives for the demobilization of paramilitary members. The Uribe government and their political allies in Congress drew on the rhetoric of exceptionality (**Is this a technical term? It needs to be explained) and restorative justice to create mechanisms of reconciliation and forgiveness rather than accountability and truth. It is important to observe the paradoxical situation of the Colombian government. On one hand, it had created a discourse to reframe guerrilla groups not as political enemies but instead as 'terrorists.' On the other hand, it manipulated the language of restorative justice to promote a top down program of reconciliation and pardons for the paramilitary groups.

4. Human Rights Transnational Advocacy Networks

With a majority of congress members part of the government coalition, it seemed they would pass a legal framework that fit the interests of the paramilitary groups while

meeting the government's goals of de-escalating violence, demobilizing armed groups and reaching a peace agreement. To achieve those goals, the government was faced with two options: following the suggestion of the Peace Commissioner, they could transform the concept of a political criminal, or, they could draw on the rhetoric of restorative justice as was suggested in the Alternative Punishment Draft. As it turned out, unexpected events helped shape the law making process. Transnational advocacy networks integrated by domestic and transnational human rights NGOs, victims' organizations and the courts have exerted institutional and social resistance against what they called the "project of impunity" that came out of the peace process with the paramilitary groups.

The human rights networks are not unique to Colombia. These networks started growing in Latin America in the midst of the Cold War as a response to the national security policies and abuses committed by dictatorships. The solidarity of transnational agencies and donors also made possible the foundation and sustainability of the human rights NGOs and their networks.[1] The case of Colombia was not an exception. Despite the fact there was not a dictatorship, the political system was considered a restricted democracy that reduced spaces of citizen participation and social inclusion. During the second half of the 20th century, various governments ruled much of the time operating under a state of emergency. Abuses of executive power allowed the government to widen the purview of security forces and to introduce tougher regulations and punishments. At the same time, the legal framework reduced and restricted civil and political rights and mechanisms of protection for human rights (Uprimny, 2001; Garcia-Villegas, 2001). Under these conditions, activists founded the first human rights NGOs to protect legal opponents and grassroots community members. The NGOs represented a variegated set of political perspectives and aims but shared a common concern about the worsening situation of human rights in Colombia.[2] During the 1970s and the 1980s, different NGOs emerged on the scene such as the Solidarity Committee with Political Prisoners (1973), the Permanent Committee for Human Rights Protection (1979), the Lawyers Collective Jose Alvear Restrepo CAJAR (1980), the Andean Commission of Jurists Colombian Branch (currently known as the Colombian Commission of Jurists) (1988) among others. These NGOs denounced human rights violations, provided legal assistance to political opponents, introduced the language of international human rights standards and claimed protection from the state government.

During the 1980s and 1990s, the human rights NGOs expanded their activities in response to increasing human rights violations and the negative impact of violence on society. These groups built up alliances with transnational NGOs such as Amnesty International, Human Rights Watch, CEJIL, and WOLA and with international organizations such as the United Nations Human Rights Commission and the Inter American Human Rights system. According to some human rights activists, they saw this strategic network as a way to protect themselves from the death threats and risks they were facing. There was a feeling of solidarity but they realized they could not survive doing human rights activism by themselves in this context.[3]

[1] Interview with a member of the NGO 'Viva la Ciudadania.'
[2] Interviews with members of different human rights NGOs, such as CCJ, CAJAR and CINEP.
[3] Ibid.

However, the human rights network has not achieved the level of coordination as the Peruvian 'Coordinadora de Derechos Humanos', for instance (Root, 2009). Instead, in Colombia, there have been various spaces of collaboration and various organizational networks. Some of these networks were based on donor funding while other networks emerged in order to coordinate international actions such as the 'International Work Group' and the Coordination Colombia Europa Estados Unidos (CCEUS). The purpose of the CCEUS was to unify the voices of the NGOs in presenting their case to the international community, especially before the United Nations Human Rights Commission. This network worked to put the Colombian case on the international agenda, gain international visibility, and introduce mechanisms for monitoring the situation of human rights in the country.[4] A sign of their success, in 1997, the UN started a program in Colombia, sending a representative of the United Nations High Commissioner for Human Rights.

The networks also express different goals. For instance, while the CCEUS is mainly focused on civil and political rights, the Colombian Platform of Human Rights, Democracy and Development is more focused on social and economic rights. This platform brings together more than 150 domestic NGOs and works mainly in the national sphere. By the time Alvaro Uribe took office in August 2002 and implemented his security policies, there were already some dynamic and very active human rights networks. The emergence of a discourse of security and the war on terror alerted human rights networks to the potential social consequences of those policies. From the very beginning of Uribe's administration, relations between the government and the human rights NGOs were contentious. In the following chapters, I will explain the role those networks have played in framing mechanisms of transitional justice, specifically attending to the law making process of the 'Justice and Peace law' and the strategies they used to protect victims' rights to truth, justice and reparation.

5. Activism and Transnational Political Leverage

During the past decades, human rights NGOs have adopted a strategy of political mobilization to build political leverage in the transnational and international arena. By the end of the 1990s, it was possible to observe a process of internationalization in the Colombian political conflict. On one hand, the Pastrana government (1998-2002) started the Plan Colombia, a cooperative program which saw the United States providing funding for the war on drugs and to support new national security policies. On the other hand, the government also promoted a dialogue with European countries in order to fund social programs. A meeting in London in 2003 involving Alvaro Uribe's government was a turning point in relations between Colombian civil society and the international community[5]. In the beginning, participants at the London Summit attempted to address general aspects of cooperation programs in Colombia. The Summit was supposed to gather state delegations rather than civil organizations. However, the human rights NGOs in Colombia were concerned how international funding might be used in relation to the peace talks under way back home with the paramilitary groups. As a result, NGOs started lobbying to take part in the conference and express their perspective. . By the time of the

[4] Interview with some members of the CCJ.
[5] Interview with Antonio Madariaga, director of 'Viva la Ciudadania.'

summit, two representatives of the NGOs were allowed to speak before the international community.[6]

The London Summit did not result in an agreement on international cooperation for Colombia. However, summit members drafted a declaration, also known as the London Declaration, which proved influential. The international community acknowledged and supported the participation of civil organizations in the process of defining international cooperation programs. In the beginning, NGO members expected a stronger statement against the Uribe government and his policies on security, especially considering there were demonstrations in different European cities against Uribe's policies. However, the declaration recommending the government improve the human rights situation and acknowledge the political conflict and humanitarian crisis was written in a very diplomatic tone. It wasn't until later that human rights activists began to see what a political achievement this declaration was as it opened space for civil society participation and showed the international concern for the political situation of the country.[7]

After the London Summit, the NGOs decided to organize themselves to follow up with the London Declaration recommendations. In doing so, they set forth a new platform called the Social Organizations Alliance. The Alliance, which gathers more than 150 NGOs from all over the country, became the main representative of the social organizations before the international community to discuss international cooperation programs. In itself, this platform made it possible to gain coherence and improve the level of communication within the international communities. It also allowed the NGOs to gain political leverage and influence the content of cooperation programs, especially those relating to human rights.

Regarding the peace process with the paramilitary groups and the debates about the legal frame for demobilization, the platform that emerged after the London Summit turned out to be highly influential. By the end of 2004, the Social Organizations Alliance and the Group of the 24 (G-24), the group of countries that took part in the London Summit, promoted a new meeting in order to assess the accomplishments of the London Declaration. The new summit took place in Cartagena in February 2005. One of the purposes of the meeting was to discuss the response of the Colombian government to the representative of the United Nations High Commissioner Office for Human Rights (UNHCHR).[8] It was clear the international community was concerned about the legal framework the government was supporting and the lack of inclusion of human rights standards. The international community assumed the topic of truth, justice and reparation should be one of the main components for international cooperation programs.

6. The Alternative Punishment Draft and the Introduction of the Language of Truth, Justice and Reparation

The human rights networks mobilized to influence international cooperation programs and public policies on human rights. However, they also played an important

[6] Interviews with members of different human rights NGOs and International Embassies.
[7] Ibid.
[8] Ibid.

role in the configuration of the legal frame emerging after the peace process with the paramilitary groups. The transnational and domestic human rights NGOs deployed different information politics tactics (Keck and Sikkink, 1998), organizing academic conferences and meetings, and promoting public debate about the topics of transitional justice and human rights standards. The human rights NGOs and some universities brought international experts and activists to the discussion to share their experiences. The language of transitional justice, international human rights law and truth, justice and reconciliation seemed to penetrate the political and social sphere. However, this process of vernacularization (Merry, 2006) of transitional justice and victims' rights did not imply a consensus about the content or meaning of that language. Following Uprimny and Saffon's argument (2009), different social and political actors "used and abused" the new language. The human rights TANs attempted not only to introduce the language of transitional justice but also to strive for a thicker, more robust version of victims' rights. Meanwhile, the government and congress seemed to accept the new language as long as it did not affect the peace process with the paramilitary groups. In this part, I will explain the debates surrounding the first bill Uribe's government introduced to the National Congress.

Between 2004 and 2005, contesting what they called a project of impunity and legalization of paramilitary groups, different transnational and domestic NGOs took advantage of the debates in congress about the bills introduced by the government. At the beginning of Uribe's administration, the government introduced a bill to the National Congress in order to extend an existing legal framework used during previous peace processes. This legal framework would be favorable to the roughly 20,000 paramilitary members as long as they were not indicted or convicted for gross human rights violations. The problem the government and paramilitary commanders faced during the peace negotiations, however, was that this legal framework did not address gross violations of human rights (FS: 23). In August 2003, the national government, through the Minister of Internal Affaires, Fernando Londoño Hoyos, introduced a new bill to the congress called Alternative Punishment Draft. It was paradoxical that a government which represented a discourse of security introduced a bill whose motivations drew on critical perspectives in criminology such as abolitionism and restorative justice. According to the bill, the paramilitary commanders who were sentenced for committing gross violations of human rights might be granted an alternative punishment. This alternative punishment consisted of different restrictions, barring such individuals from bearing arms or running for public office. Importantly, it did not impose any prison sentence or create any obligation to confess their actions.

From the outset, the political debates reflected a growing political polarization about the Alternative Punishment Draft within and outside the National Congress. Initially, the debates within the National Congress focused on the convenience of the DDR process, however, some Congress members introduced concerns about ethical and international human rights standards (FS:24). Likewise, different social organizations raised their voices against the bill. NGOs such as the International Crisis Group, ASFADES, the Colombian Commission of Jurists, and the Manuel Cepeda Vargas Foundation, manifest their discontent (FS:28). One of the reactions that captured the attention of public opinion was a statement by the representative of the United Nations

High Commissioner Office for Human Rights (UNHCOHR) that the bill did not guarantee the victims' rights of truth, justice and reparation (Gaceta 669: 203; FS: 28).

The level of political polarization was reflected in two different political perspectives. On one hand, the government and paramilitary groups advocated a legal frame that maximized the pursuit of peaceful coexistence and reconciliation. This perspective did not demand accountability for gross violations of human rights. On the other hand, some human rights NGOs demanded a legal frame that included a high level of retribution for all the perpetrators of human rights violations. An example which illustrates the level of polarization and tensions between the political needs and the legal and ethical values was the government's reaction to the UNHCOHR representative's statement. According to the Minister of Internal Affairs, Fernando Londoño, the statement was a manifestation of an orthodoxy that restricted the possibilities of reaching peace in Colombia. The paramilitary commanders also wrote a press release saying they were not opposed to the rights of truth, justice and reparation, but that those rights also ought to be respected for those who were taking part in the peace process (FS:30).

The peace process with the paramilitary groups slowly moved from the negotiation table to the National Congress. In doing so, it shifted from the closed space of political negotiation between the government and the paramilitary commanders, to a public forum which made it possible, to some extent, to include other voices and perspectives. The new scenario, however, was not highly promising in terms of the quality or the transparency of the debate for a number of reasons. First, the majority of congress members were also part of the government coalition. Second, it was now becoming evident some Congress members not only sympathized with the paramilitary groups' rhetoric, but they were also linked to those organizations.[9] Nevertheless, the National Congress was, to some extent, a space for public debate about the peace process and the need to protect victims' rights. During the first semester of 2004, the congressional Peace Committee set forth a cycle of hearings in order to discuss the phenomenon of paramilitary groups in Colombia. By April, the Peace Committee had scheduled hearings to listen to the opinions and perspectives of international experts on human rights. Representatives from different NGOs and international organizations, such as the UNHCOHR representative, Michael Fruhling, and the director of Americas Division of Human Rights Watch, Jose Manuel Vivanco, took part in the hearings. Both of these experts insisted on taking seriously the rights of truth, justice and reparation. Vivanco also maintained that, according to the Human Rights Law, a peace agreement that does not consider the victims' rights is inadmissible. He also brought up decisions taken by the Inter American Human Rights Court in which amnesties were deemed inadmissible in cases of gross violations of human rights. For Vivanco, the government bill would entail impunity and contradict universal principles on human rights (FS: 47).

Once the sessions formally started in April 2004, Congress accumulated all the bills related to the topic of the peace process, yet, in practical terms, the discussion focused primarily on the Alternative Punishment Draft. As Congressional debates continued, Congress members introduced modifications to the original draft such as provisions that included victims' rights. The amendments also included the creation of a

[9] By the end of 2008, 59 congress members and more than 300 functionaries in the country were indicted because or their alliances with paramilitary groups. See www.verdadabierta.com.

special court and a specific unit in the office of attorney general tasked with working toward truth, justice and reparation (FS: 48). The Congress also introduced more requirements to grant incentives [** for what?] and established an alternative punishment, a prison sentence from 5 to 10 years. The introduction of these changes provoked a negative reaction among the paramilitary commanders who insisted they did not deserve any accountability or prison punishment. By June 2004, the government and its Congress allies decided to withdraw the bill and put off the discussion of the legal framework until the following term.

7. The Struggles Between "Thin" and "Thick" Versions of Truth, Justice and Reparation

By the second half of 2004, the National Congress had not formally debated any of the bills related to the peace process or victims' rights. During this time, the tensions among different actors intensified in the political arena. The human rights transnational advocacy networks continued to show their discontent with the Alternative Punishment Draft and raised awareness about the ethical and legal constraints on the peace negotiations. Different NGOs and scholars promoted public discussions, organized academic conferences and started publishing books about international experiences of transitional justice and international human rights law standards. The NGOs did not have a coordinated and planned strategy to overcome the hegemonic support within the National Congress for the Alternative Punishment Draft. Instead, the NGOs deployed a varied set of autonomous and dispersed strategies of political mobilization such as lobbying and information politics. Some NGOs, such as the CAJAR and the recently-created MOVICE, built coalitions with some Congress members, particularly Piedad Cordoba, to introduce a progressive bill of truth, justice and reparation. Other NGOs, such as the Social Foundation (FS), preferred to exert influence on Congress members by means of organizing discussion forums with international and national experts about these topics. Other NGOs, such us the IMP, tried to influence the majority coalition in order to at least ensure minimum protections for victims' rights. Finally, the CCJ and the Social Foundation monitored all the sessions and discussions to keep the TAN informed about the evolution of the debates and keep records that would support any constitutional action against the Congressional law.[10]

During this period, certain events exacerbated the tensions between the parties and intensified their polarization. One events that sparked political debate was the invitation of some paramilitary commanders to speak before the House of Representatives in July 2004 (FS: 67-68). Two representatives, both conspicuous supporters of the paramilitary counterinsurgent narrative, invited the paramilitary commanders to voice their concerns about the legal framework. This visit sparked much controversy and human rights activists, the international community and the victims manifested their discontent. The same day the paramilitary commanders were giving their speech before the House of Representatives, victims' family members showed up in the balconies of the House with pictures of those who had been murdered by the paramilitaries. Others demonstrated in front of the Congress building. Some Congress members, such as Gustavo Petro, Rafael Pardo and Gina Parody, also expressed their discontent (FS:69). In addition, some Democrat Senators from the United States sent a letter to President Uribe. In it, they

[10] Interviews with different human rights NGOs members.

expressed concerns about the Colombian government's reluctance to follow the recommendations made by the UNHCOHR representative. They were also worried about the weakness the government was showing in the peace negotiation with the paramilitary groups. President Uribe answered the letter, insisting on the advantages of the peace process and the exceptional characteristics of the links between paramilitary groups and armed forces members (FS: 70). Over the following months, other responses to the peace process with the paramilitary groups emerged. Human rights NGOs documented various cases of murders and violations of the cease-fire agreement. Some grassroots organizations, NGOs and the UNHCOHR representative demanded the end of violence against the indigenous population (FS: 70). In addition, Senator Gustavo Petro, a member of the left-wing party Polo Democratico Alternativo, led a debate in Congress to denounce the linkages between the state security forces and the paramilitary groups.

By the end of 2004, numerous international and domestic actors had demanded the enactment of a legal framework to facilitate the process of demobilization. For instance, the OAS, the Inter American Commission of Human Rights, and some European governments considered it critical to enact a new legal framework as long as it was respectful of victims' rights (FS: 74). It became evident a legal framework was required to transform the political conflict, however, the content should not be restricted to the pursuit of peaceful coexistence but also provide a response to the social and ethical demands of justice. Within Congress, nine bills reflected the different perspectives of the political spectrum. Out of those nine bills, Congress only concentrated on two of them (FS: 74), the government's new version of the Alternative Punishment Draft, also known as the "Government Bill," and a bill supported by a coalition of liberal and left-wing senators, also known as the "Pardo-Parody Bill." Pressure from the human rights TAN and the international community became more explicit within the space of the Cartagena Summit in February 2005. By that time, relations between the government and the NGOs were deteriorating and had become distant.[11] Responding to this situation, the Alliance of Organizations and the G-24 promoted a meeting to advance the commitments of the London Declaration. For the Alliance of Organizations, one of the main concerns was the current situation of human rights. The international community was also concerned about the government's response to the UN recommendations regarding the Alternative Punishment Draft. For the Cartagena Summit, the government announced it would show the international community a new bill that guaranteed the respect of international standards of victims' rights. In reality, according to the human rights activists, the new version adopted the same structure and the main ideas of the Pardo-Parody Bill. This shift was generally well received by the international community and the human rights TAN.[12]

However, the government's shift toward the inclusion of a thicker version of victims' rights did not last long. In March 2005, the government introduced another new bill, one which differed from the one it had shown to the international community. There was a divide within the government that also affected communication with the National Congress. On one hand, Senator Armando Benedetti, a member of the government coalition, drafted a bill that included the provisions suggested by the High Commissioner of Peace, Luis Carlos Restrepo. This bill included generous provisions and expanded the

[11] Interview with Antonio Madariaga, Viva la Ciudadania.
[12] Interviews with different Human Rights activists.

condition of political criminal for those who were part of a paramilitary group. The pursuit of this bill was to provide amnesties and pardons to demobilized paramilitary members. On the other hand, the Minister of Internal Affairs introduced a revised version of the Alternative Punishment Draft different from the one the government had introduced to the international community in the Cartagena Summit (FS:137).

In Congress, Senator Mario Uribe integrated the two bills, one supported by the Ministry of Internal Affairs and the other supported by the High Commissioner of Peace. The new version kept the incentives for demobilization. Regarding the disclosure of truth, it did not require full confession but rather allowed for a voluntary declaration. Regarding accountability, the bill set forth an alternative punishment of between 5 and 8 years imprisonment, including the time they spent in the negotiation camp. Finally, the bill attempted to create a reparation fund to be made up of demobilized properties. The bill restricted reparation, making it a responsibility of the demobilized paramilitary members (FS: 138). Unlike the Government Bill, the Pardo-Parody Bill was the outcome of a coalition between different political sectors, such as the liberal party, former members of the government coalition and members of the leftwing party. In general terms, it attempted to create stronger mechanisms of accountability and recognition for victims' rights. First, it required full confession for the demobilized paramilitaries and imposed sanctions against those who totally or partially omitted information in the confession of their crimes. Regarding retribution, the Congress members who led the bill lowered the standards and established an alternative punishment of prison between 5 and 8 years. Finally, regarding reparation, the bill created a reparation fund that would pool not only by the properties of the demobilized paramilitaries but also those of the government (FS: 141).

New social reactions emerged. Paramilitary commanders manifested their discontent with the government initiative and asked the government and the senators to withdraw it. According to the paramilitary commanders, the bill failed to meet their requests such as the stipulation that no extraditions and no prosecution in international trials would be pursued. Ernesto Baez, one of the commanders, wrote a press release saying the AUC was willing to promote a referendum in the case their requests were not included in the new legal framework (FS: 142). At the same time, the international community also manifested the discontent with the government's bill. For instance, the UNHCOHR representative highlighted that the bill the government introduced to the National Congress was different from the one presented to the international community at the Cartagena Summit. In addition, the International Criminal Court Prosecutor also raised his concerns about the investigations of members of armed groups in Colombia (FS: 142 y 143).

Between March and April 2005, the Senate and House of Representative commissions scheduled joint sessions to expedite the debates. The sessions focused mainly on the government's bill and approved it without major modifications. However, the commissions rejected the provision that expanded the category of political criminal to the members of paramilitary groups. The plenary sessions at the House of Representatives and the Senate which took place by the end of April also approved the bill. Here, some congress members attempted to revive provisions rejected by the commissions. Up to this point, the interests and perspectives promoted by the government prevailed in Congress. On one hand, the language proscribed the reference to an armed

conflict and the recognition of international humanitarian law. On the other hand, there was an interest in representing the AUC members as political criminals who deserved to be granted amnesties and pardons.

The bill passed without major resistance in June 2005. Once this Peace and Justice Law was passed, different reactions emerged in the political arena. Diverse transnational and domestic human rights organizations , such as Human Rights Watch, Amnesty International, the United Nations, the Colombian Commission of Jurists, the National Movement of State Crimes (MOVICE), and Viva la Ciudadania, among others, raised their voices in discontent. Meanwhile, the government started a national and international campaign to explain the advantages of the peace process and the legal framework recently enacted (FS: 186).

8. Strategic Litigations and Human Rights

Some of the actions of political mobilization, such as establishing transnational advocacy networks, doing information politics and attempt to get political influence over the National Congress, allowed human rights NGOs and victims' organizations to gain political leverage. As they gained support from the international community, they were able to introduce ideas about victims' rights into the political arena. However, these organizations understood the strategies of political mobilization had limitations and that the National Congress was not the most promising venue to promote a progressive perspective of victims' rights protection. Given the circumstances, it seemed the Courts offered the possibilities to challenge the constitutionality of the Justice and Peace Law and struggle to introduce thicker conceptions of human rights standards. However, the legal field is not a space of homogeneity and consensus, especially considering a context of political polarization. Instead, to some extent, the legal field reproduced the political tensions between the perceived political needs of peaceful coexistence and the ethical and legal imperatives of justice. The legal field has been a space in which the TAN could deploy different strategies to challenge the force of political actors and the project of impunity.

During the past decades, human rights NGOs in Colombia have developed and refined the use of a legal toolkit in order to contest power and protect human rights. For the human rights NGOs, strategic litigation is the outcome of years of experience and activism. Strategic litigation is a form of legal action that implies the selection of the most efficient mechanisms among a wide range of international and national legal instruments in order to achieve the best possible political and legal outcomes. According to the human rights lawyers, their legal strategies attempt to fulfill the following goals: 1) To transform the domestic legal framework by introducing international standards of human rights; 2) To bolster the efficacy of those mechanisms of human rights protection; 3) To ensure the justice system reveals the truth about human rights violations and convicts and sentences the perpetrators of human rights violations, and finally ; 4) To get the justice system and the state government to make reparations to the families of victims.

In addition to the strategic litigation goals, human rights activists highlight two main characteristics of this strategy. The first characteristic is its *adaptability* to a wide range of circumstances. There can be no definitive legal path because each case is different and requires a unique strategy. Over the past decades, there have been judicial

reforms which have created different kinds of special trials. As a consequence, activists need to be prepared for those legal and institutional changes. A second characteristic of strategic litigation in human rights is related to the *selectivity* of the cases. Strategic litigation is, by definition, limited in scope. It acknowledges the impossibility of representing all the victims. For human rights lawyers, more important than representing a large number of individuals is the possibility the case could become a precedent for future cases so the political and legal impacts of litigation must be taken into consideration.[13] To explore the uses of such strategic litigation actions by human rights NGOs, I will highlight three of the main forms in which it is employed. The first form is the use of *public actions*, especially public actions against Congressional laws and government decrees. This form of litigation attempts to protect the constitutional order and respect international standards on human rights. When a Congressional law is challenged, these cases are decided by the Constitutional Court. The State Council rules when a government decree is challenged. In legal practice in Colombia, it is well known that the Constitutional Court has played a leading role promoting progressive legal perspectives based on new constitutional theories. Conversely, the State Council, at least some of its sections, is known for its conservative approach to law, being strongly influenced by the French tradition in administrative law. This differentiation is relevant in practical terms. Human rights lawyers know a case before the State Council will take longer and the outcome will be based on a more conservative approach. A second form of strategic litigation is the representation of victims of human rights violations in *emblematic cases.* This form of litigation involves the participation of different jurisdictions, such as ordinary and administrative courts. Because of the characteristics of the victims and the social impact of the conflict, such cases do not represent just an individual, but rather, an emblematic cause. This form of litigation attempts to set a social and legal precedent for future cases. The third form of strategic litigation is the selection of cases to bring before the Inter American System of Human Rights. According to this system, when the domestic mechanisms in a country are insufficient to protect human rights, it is possible to bring the case to the Inter American Human Rights Commission in Washington. Later, if the case is not solved in the IAHR Commission, it might go to the IAHR Court in San Jose de Costa Rica. In fact, some NGOs, such as the CCJ and the CAJAR, have played a critical role bringing relevant cases to the Inter American Human Rights system. Based on this form of strategic litigation, the IAHR Court found the Colombian state accountable for human rights violations such as the formation of paramilitary groups, linkages between paramilitary groups and the army forces, and failure to protect citizens and communities. These decisions are particularly relevant because of their political and legal impact. They are binding to the Colombian state and become part of the internal Colombian legal system. They have a political impact to the extent sanctions become an instrument of public shaming before the international community for failing to fulfill international obligations to protect human rights.

The Constitutional Action against the Peace and Justice Law

Once the Peace and Justice Law was enacted, human rights NGOs, such as the CAJAR, the MOVICE, and the CCJ, filed actions before the Constitutional Court. The

[13] Interviews with members of the CAJAR and the CCJ.

Constitutional Court accumulated the files and selected the one presented by the CCJ as the leading file. The CCJ lawyers had taken longer to carefully elaborate the arguments and face the challenges that entailed this action. For the lawyers, the goal was to strike down the regulation or, at least, to get the Court to limit the privileges and incentives of the demobilized paramilitaries and widen the scope of victims' rights. Doing so meant responding to different challenges. First, the constitutional action was especially challenging because the constitutional flaws of the law were not explicit or obvious. Some of the contents of the Justice and Peace Law, such as the incentive for the demobilized paramilitaries and the brief terms for the judicial proceedings, might be considered a manifestation of the ordinary exercise of the regulatory competence of the Congress. The unconstitutionality of the law rested on its contradiction of constitutional principles. This fact demanded a careful process of argumentation and required lawyers to take on a pedagogic role in order to illustrate how the application of the law might affect victims' rights. Second, in order to protect victims' rights of truth, justice and reparation, the lawyers thought they should not restrict the debate to the contradiction between constitutional norms and the Justice and Peace Law. They had to show that according to the constitution it was necessary to include the international human rights law standards. From this perspective, the lawyers supported their arguments by drawing on different sources of international human rights law, such as international treaties approved and signed by the Colombian state, Inter American Human Rights Court decisions, and comparative law. Finally, the lawyers took advantage of the documentation generated as that the CCJ had followed the debates and proceedings that led to the enactment of the Justice and Peace Law. This rigorous documentation made it possible to introduce clear evidence about the irregular revival of the provisions that recognized the category of political criminals to the paramilitary groups. In addition to the arguments provided by the lawyers who filed the constitutional action against the Justice and Peace Law, different transnational human rights NGOs presented amicus curie briefs. Some NGOs, such as the International Center for Transitional Justice (ICTJ), the International Commission of Jurists, the Human Rights Committee, and the International Confederations of Free Trade Unions (CIOSL), provided solid arguments based on international law and comparative experiences of transitional justice.

After several months of speculation and debate, the Constitutional Court upheld the Justice and Peace Law. The decision rested on the Court's determination that the law represented an intermediate path in a context of political polarization (Theidon and Laplante, 2007). The Constitutional Court did not accept the argument that the alternative punishment was a masked amnesty and that the whole regulation was a system of impunity. However, the Court did strike down some of the core provisions of the law. The Court drew on the claimant's arguments that international human rights treaties, decisions, and standards concerning victims' rights were binding for the Colombian state. For the Court, the constitutional problem was a tension between two values protected by the constitution: the pursuit of peaceful coexistence and, on the other hand, the rights of truth, justice and reparation. For the Court, none of these values were absolute and exclusive. In order to guarantee the coexistence of both the pursuit of peace and the protection of victims' rights, it was necessary to balance them. The Court accepted that it was legitimate and constitutional to introduce measures reducing punishment in order to facilitate the demobilization of paramilitary forces. However,

there was no reason to neglect the recognition and protection of victims' rights. The Court struck down the provision that expanded the category of political criminals to paramilitary groups and restricted some incentives granted to the demobilized paramilitary members. The Court also widened the victims' rights and requested full confession of paramilitary crimes.

The Court's decision had an immediate social and political impact. As soon as the decision was publicly known, a new crisis emerged between the demobilized paramilitaries and the government. For the paramilitary commanders, it was the end of the peace process. The government and the demobilized commanders met with legal advisers in order to analyze and then come up with a way out to resolve the situation. Statements were also issued blaming the Constitutional Court and human rights NGOs for the failure of the peace process and portraying them as enemies of the pursuit of peace. In order to protect the Constitutional Court from the political reaction, the human rights TAN also took part in the debate providing support to the Constitutional Court. Here, they emphasized how the decision was not a political conflict between the government and the Court but rather a legal conflict between a Congressional law and the Constitution. For human rights NGOs and the international community, it was a promising decision. Although some NGOs expected a more progressive decision in favor of victims' rights, there was a level of relief and satisfaction. The decision represented a radical shift of the legal frame. The Constitutional Court's decision provided new legal tools for victims' rights and it translated the social demand of justice into a language of rights.

However, the use of strategic litigation by means of public actions did not end with the decision of the Constitutional Court. After the decision, the government adopted different decrees in order to allay the concerns of the demobilized paramilitary commanders and lessen the negative effects of the Constitutional Court's decision. The government's legal strategy consisted of using administrative decrees. The advantage of this mechanism lied in the fact that the judicial control of those decisions rested in the State Council. In practical terms, this meant any public action would take longer and resulting decisions would be based on a more conservative approach. Given the circumstances and the new challenges of the Justice and Peace Law, some NGOs decided to join efforts and divide the labor of strategic litigation. The CCJ challenged the administrative decrees enacted by the government before the State Council. At the same time, the NGOs Dejusticia and the Confluence for Peace and Against the War challenged one of the provisions of the Justice and Peace Law related to the reparations of the victims before the Constitutional Court. According to this provision, "the social services provided by the government to the victims…make part of the reparation and rehabilitation programs." The claimants wanted the Court to clarify the concept of reparation and adopt the international standards according to which there is a distinction among three main concepts: public policies, humanitarian aid, and reparations. For the human rights NGOs, the provision of the Justice and Peace Law was a manifestation of the restrictive government's perspective on reparation. According to this view, humanitarian programs might be considered part of the reparation programs for the victims. The Constitutional Court struck down this provision (C-1199, 2009) based on the idea that, according to the international standards on human rights, public policies,

humanitarian aid programs, and reparation programs are different concepts. For the Court, the confusion among these concepts had a negative effect on victims.

Strategic Litigation and Legal Representation of Victims

The use of strategic litigation was not restricted to actions against the Justice and Peace Law and the government decrees that complemented it. The NGOs have also represented victims in emblematic cases. This is not a common practice among all the human rights NGOs. In fact, once the Justice and Peace Law was passed, the human rights NGOs faced a serious debate about whether to represent the victims before the Justice and Peace Courts. More critical human rights NGOs considered saw representing victims before the Justice and Peace Courts would as playing the game of impunity. Conversely, more moderate NGOs provided pragmatic arguments. Some NGOs, such as the CCJ and the CAJAR which had struggled to defend human rights for almost two decades, were more practical in their approach. First, regardless of the opinion about the legal framework created by the Justice and Peace Law, the Justice and Peace trials represented a space in which the demobilized paramilitaries were expected to confess the crimes committed during the past twenty years. Second, only by gaining access to legal processes and the Justice and Peace trials was it possible to know the truth and extend legal mechanisms to protect victims' rights. Finally, in case those mechanisms did not work, it would be much better to criticize the process from the inside than doing so from the outside. In addition to these arguments, some NGOs working with specific population, such as the Initiative of Women for Peace (IMP), struggled to introduce a gender perspective into the legal process and the trials. According to IMP, it was critical to achieve truth, justice and reparation for women because of all the suffering the paramilitary groups caused them. For many women's organizations, rape was not the outcome of individual's decisions but part of an accepted, systematic form of violence.[14]

The strategy of representing emblematic cases is also, to some extent, a means of extending access to justice to victim groups. Here, it is important to note the numerous barriers preventing victims from knowing their rights and making decisions about how to use available legal mechanisms. In order to overcome some of these barriers, human rights NGOs have relied on transnational support and solidarity. In fact, many actions of legal representation are funded mainly by international cooperation programs run by the European Commission and certain foreign embassies (Canada, Switzerland and Spain, among others). Such transnational support funds NGOs, such as the CCJ and the CAJAR, to carry out strategic litigation of emblematic cases. For instance, the CCJ designed a representation program based on identifying ten emblematic cases. The selection considered different criteria such as racial, ethnic and gender diversity, regional basis, and political affiliation to include different groups that have been victimized. To carry out the program, the CCJ hired a group of litigants with extensive experience with human rights work. The IMP has focused mainly on groups of women from different regions of the country. At the beginning of the program, only one lawyer provided the legal representation. The program has since grown and there are currently groups of litigants in each of the cities where the Justice and Peace courts are located.[15]

[14] Interview with a former member of IMP.
[15] Interviews with members of different human rights NGOs.

According to these litigants, the victims' representation has been a process of education, transformation, and sometimes frustration. For them, the Justice and Peace trials represent unique challenges and difficulties. The human rights NGOs realized it was necessary to promote actions of legal education not only for the victims but also for the functionaries. For victims, legal education was aimed at helping them understand their rights and empower them to use the existing legal tools in order to transform their situation. Regarding the functionaries, as one of the NGO lawyers would tell me, everyone, even the lawyers themselves, was a newcomer to the topics of transitional justice and international standards on victims' rights. As a consequence, some NGOs such as the CCJ and the ICTJ, with the support of cooperation agencies, have employed various tactics, such as offering technical advice, hosting academic conferences and publishing books to educate functionaries and lawyers about these topics.

Lawyers have also struggled with different institutional barriers. According to the litigants, in the beginning, the Attorney General Office restricted the victims' rights the Constitutional Court attempted to protect. By means of administrative directives, the Attorney General Office requested functionaries restrict victims' participation during the trials. Some functionaries considered the human rights litigants as an obstacle to the Peace and Justice trials. Given these circumstances, the lawyers have had to use legal mechanisms to get the Supreme Court to protect victims' rights. Complicating the situation, the paramilitary commanders themselves attempted to reproduce their "heroic" narratives within the judicial forum. Adopting aggressive stances, it seemed some paramilitary commanders were taking control of the hearings through intimidation of the functionaries of the Attorney General Office. Former commanders insisted on the virtue of their cause and the merits of their fight as well as the heroic battles against the guerrilla groups. In the beginning, they were reluctant to acknowledge there were victims and did not show any remorse for their actions. As a result, the space of the hearings was a space of re-victimization for the victims. The family members of many victims who had been disappeared or murdered had to endure the violence of a narrative that labeled them as "guerrilla's informants" or "collaborators" all over again. Litigants, struggling to overcome these manifestations of institutional and symbolic violence, requested the Attorney General's Office take over the hearings and reverse the hierarchical inertia that enabled the paramilitary commanders to control the hearings. Over and over again, litigants struggled for the respect of the Court in such forms as being able to participate in the hearings by asking questions and demanding information.

Based on the legal actions used by the victims' lawyers, the Supreme Court has adopted a number of decisions which have changed the direction of the Justice and Peace trials. First, for the Supreme Court, the exceptional nature of the transitional justice mechanisms of the Justice and Peace trials makes it necessary to introduce new international standards of protection of human rights. According to these standards, the center of the trial is not the defendant but the protection of the victims' rights. Second, according to the Court, the paramilitary groups were criminal organizations, and as such, should be understood through criminal investigations that would take into account the context of criminality and the organizational structure of the groups. However, for the court, the logic of the traditional criminal investigation is insufficient to handle the challenges presented by the paramilitary organizations. The Court also argued the Attorney General's Office should not be restricted to a passive role in the reception of the

paramilitary members' declarations but instead should perform a more active role. Third, the Court has maintained that victims are entitled to take part in the whole judicial process, including the paramilitary members' versions. The Court asked the Attorney General's Office functionaries to remain skeptical about the defendants' versions of events and take into account the victims' versions (CCJ, 2010).

It has been five years since the Justice and Peace Law was enacted and four years since the trials started. To date, only two persons have been sentenced. Fifteen paramilitary commanders have been extradited by the Colombian government to the U.S. to face charges of drug trafficking. The possibility of unveiling the truth remains uncertain. In any case, the human rights NGOs acknowledge this will be a very long journey.

Preliminary Conclusions

This paper attempted to shed light on the role of the human rights TAN and the Courts in the recent Colombian experience of transitional justice. In the midst of a political context characterized by the hegemonic discourse of security and a high level of public support for the Alvaro Uribe administration, the human rights TAN and the Constitutional Court managed to resist the government's attempt to set forth a legal framework based on alternative punishment and very low standards of truth and accountability. The paper also gave accounts of different struggles and strategies which have impacted both the macro-level of the political debates, the institutional design, and the micro-level of institutional practices. On one hand, the TAN deployed strategies of political mobilization, intensifying the alliances with transnational NGOs and the international community in order to gain political leverage in the international arena. Here, the aim was to produce a "boomerang effect" (Keck and Sikkink, 1998), to get the international community to exert pressure on the Colombian government to introduce international human rights law standards on victims' rights. This was especially visible in the context of the London-Cartagena Process but the TAN also played an important role in the domestic political arena, specifically by doing information politics and lobbying before the National Congress. Following Sally Merry's terms (2006), human rights advocates became the translators who vernacularized the language of victims' rights and struggled against the manipulative use of transitional justice. The new discourse of victims' rights also helped make victims visible as new political and social subjects. By means of practices of informative and symbolic politics, the TAN introduced and positioned the language of truth, justice and reparation, and generally, victims' rights, in the political arena. Moreover, there was a moment in which the dialogue with the international community and the domestic political debates intertwined. The international community and domestic NGOs influenced the National Congress to accept, at least formally, the language of truth, justice and reparation. In sum, the tension between the political needs of reconciliation and the moral and legal principles of justice was resolved, though the logic used to do so differed between the political and legal fields. In the political field, the elites who advocated for the pursuit of reconciliation and forgiveness had higher political capital and relied on majoritarian rule. However, the hegemony of the discourse of security in the national arena did not prevent domestic human rights NGOs from gaining important political leverage in the transnational field by means of the TAN and the support of the international community.

The human rights TANs efforts did not restrict the language of transitional justice and victims' rights. Instead, the TAN advocated for a thick version of victims' rights and opposed thin conceptions promoted by the government coalition (McEvoy, 2008). These struggles were fought in part in the political arena of the National Congress but mainly in the legal space of the Courts. Strategic litigation against the Justice and Peace Law and the Constitutional Court decisions brought about a turning point, emphasizing the tension between those who advocated for the political needs of reconciliation and forgiveness and those who claimed higher standards on accountability. The Constitutional Court transformed the terms of the debate and moved it from the zero sum logic that prevailed in the political arena to the legal constructivist view according which there was a tension between principles. But this Court mediation also created a political and social impact; on one hand, it transformed the content of the legal framework and defended a thick version of victims' rights and, on the other hand, it empowered victims by means of transforming their claims by giving them the status of constitutionally protected rights. However, the struggle for a thick version of victims' rights was not restricted to the macro level of institutional design and the enactment of the legal framework. The NGOs also deployed a form of strategic litigation based on emblematic cases. The Justice and Peace trials have been a slow and difficult journey for both the victims and the human rights NGOs. Despite the obstacles, this struggle has opened the way for better protections of victims' rights and has provided an institutional foundation in the search for truth and accountability.

References

Barahona De Brito, Alexandra, Gonzalez Enriquez, Carmen and Aguilar, Paloma. (2001). *The Politics of memory.* Oxford: Oxford University Press.

Barnett, Randy. 2003. "Restitution: a new paradigm of criminal justice". 2003. In Johnstone, Gerry (Ed.) *A Restorative Justice Reader.* Portland: Willan Publishing. 46-56.

Bourdieu, Pierre. 1987. "The force of Law: Toward a sociology of the juridical field. Hastings Law Journal." *The Hastings Law Journal*, 38: 805-853.

Bourdieu, Pierre and Loic Wacquant. 1992. *An Invitation to Reflexive Sociology. Chicago:* University of Chigago Press.

Bourdieu, Pierre and Loic J. D. Wacquant, Samar Farage. 1994. **"**Rethinking the State: Genesis and Structure of the Bureaucratic Field**."** *Sociological Theory*, Vol. 12, No. 1, pp. 1-18.

Booth, James. 2001. "Memories of Justice." *The American Political Science Review*, Vol. 95, No. 4, pp. 777-791.

Codhes. 2008. *Tapando el sol con las manos. Informe sobre desplazamiento forzado, conflicto armado y derechos humanos, enero-junio de 2008*. Boletín informativo, No. 74, Bogota. www.codhes.org.

Comision Colombiana de Juristas (CCJ) 2007. *Colombia: El espejismo de la justicia y la paz. Balance sobre la aplicación de la ley 975 de 2005.* Bogota, Comision Colombiana de Juristas. 238 pp.

Comision Colombiana de Juristas (CCJ) 2007. *Colombia 2002-2006: Situación de derechos humanos y derecho humanitario.* Bogota. Comision Colombiana de Juristas. www.coljuristas.org.

Comisión Colombiana de Juristas (CCJ) 2010. Colombia: La metáfora del desmantelamiento de los grupos paramilitares. Segundo informe de balance sobre la aplicación de la ley 975 de 2005. CCJ, Bogotá.

Dezalay, Ives and Bryant Garth. 2002. *The Internationalization of Global Palace Wars: Lawyers, Economists, and the Contest to Transform Latin American Status.* University of Chicago Press, Illinois.

Diaz, Catalina. 2007. *Colombia's Bid for Justice and Peace.* Internacional Center for Transnacional Justice. Draft Version.

Diaz, Catalina. 2008. "Challenging Impunity from Below: The Contexted Ownership of Transitional Justice in Colombia." In, McEvoy, Kieran and Lorna McGregor. 2008. *Transitional Justice from Below. Grassroots Activism and the Struggle for Change.* Hart Publishing. Oxford and Portland.

Ewick, Patricia and Susan Silbey. 1995. "Subversive Stories and Hegemonic Tales: Toward a Sociology of Narrative." *Law & Society Review*, Vol. 29, No. 2, pp. 197-226.

Ewick, Patricia and Susan Silbey. 1998. *The Common Place of Law. Stories from Every Day Life.* Chicago. University of Chicago Press.

Ewick, Patricia and Susan Silbey. 2003. "Narrating Social Structure: Stories of Resistance to Legal Authority." American Journal of Sociology. Vol. 108, No. 6, pp. 1328-1372.

FIDH and OMCT.2007. *Colombia Las Tinieblas de la Impunidad: Muerte y persecución a los defensores de derechos humanos.* Federación Internacional de Derechos Humanos y Organización Mundial Contra la Tortura.

Forero, Edgar. 2003. *El Desplazamiento Interno Forzado en Colombia*. Washington, D.C. Kellog Institute, Woodrow Wilson International Center for Scholars, Ideas para la Paz.

Fundacion Social (FS). 2006. *Tramite de la ley de Justicia y Paz.* Fundación Social.

García Villegas, Mauricio. 2001. "Constitucionalismo perverso. Normalidad y anormalidad constitucional en Colombia: 1957-1997". In, Santos, Boaventura and Mauricio García. 2001. *El caleidoscopio de las justicias en Colombia*. Bogota: Colciencias.

García Villegas, Mauricio. 2008. *Jueces sin Estado. La justicia colombiana en zonas de conflicto armado.* Siglo del Hombre, DeJustica y Honrad Adenauer Stiftung.

Garcia Villegas, Mauricio y Cesar Rodríguez Garavito. (Eds.) 2003. *Derecho y Sociedad en America Latina. Un debate sobre los estudios juridicos criticos.* ILSA-Universidad Nacional de Colombia.

Gil Ramirez, Max Yuri. "Los derechos de las victimas en el marco del proceso de negociacion entre el gobierno colombiano y los grupos paramilitares, 2002-2007." Revista Controversia. Bogota. CINEP.

Gomez Isa, Felipe. 2008. *Paramilitary Demobilization in Colombia: Between Peace and Justice*. Fride. Universidad de Deusto.

Gordon, Robert. 1998. "Some Critical Theories about Law and their Critics." In, Kairys, David. 1998. *The Politics of Law. A progressive Critique.* Basic Books.

Goodale, Mark and Sally Engle Merry. (Eds) 2007. The Practice of Human Rights. Tracking Law Between the Global and the Local. Cambridge. Cambridge University Press.

Gramsci, Antonio [1971] (2005). *Selections from the Prison Notebooks*. International Publishers. New York.

Gready, Paul. 2003. "The Politics of Human Rights." *The Third World Quarterly*, Vol. 24. No. 4, pp. 745-757.

Guembe, Maria Jose and Helena Olea. 2006. No justice, no peace: Discussio of a legal framework regarding the demobilization of non-state armed groups in Colombia. In Roht-Arriaza and Javier Marezcurrena. (Eds). 2006. *Transitional Justice in the Twenty-First Century. Beyond Truth versus Justice.* Cambridge. Cambridge University Press.

Gutierrez, Francisco. 2004. "Criminal Rebels? A Discussion of Civil War and Criminality from the Colombian Experience". *Politics & Society,* 32 (2) 257-285.

Hagan, John and Ron Levi. "Crimes of War and the Force of Law." *Social Forces,* Vol. 83, No. 4, pp. 1499-1534.

Henao, Evelio. 2009. *El fin de las AUC. Verdad o ficcion?* Bogota. Intermedio editores.

Holstein, James and Jaber Gubrium. 2002. Active Interviewing. In Winberg,Darin (Eds). Qualitative Research Methods. Malden, MA. Blackwell Publishers.

Hoyos, Guillermo. (Ed). 2007. *Las Victimas en Colombia. Frente a la busqueda de la verdad y la reparacion.* Bogota, Pontificia Universidad Javeriana, Goethe-Institut, Pensar.

Human Rights Watch. 2005. *Colombia: Displaced and Discarded. The Plight of Internally Displaced Persons in Bogota and Cartagena.* Human Rights Watch.

Inverarity, James, Pat Lauderdale and Barry Feld. 1983. *Law and Society. Sociological Perspectives on Criminal Law.* Boston-Toronto. Little, Brown and Company.

Jelin, Elizabeth. 1994. "The Politics of Memory: The Human Rights Movements and the Construction of Democracy in Argentina." *Latin American Perspectives*, Vol. 21, No. 2, Social Movements and Political Changein Latin America: 1, pp. 38-58.

Johnstone, Gerry (Ed.) 2003. *A Restorative Justice Reader.* Portland: Willan Publishing.

Kairys, David (Ed).1998. *The politics of Law: A progressive Critique*. New York: The Perseus Books Group.

Keck, Margaret and Kathryn Sikkink. 1998. *Activists Beyond Borders: Transnational Advocacy Networks in International Politics*. Cornell University Press.

Laplante, Lisa and Kimberly Theidon. 2006. "Transitional Justice in Times of Conflict: Colombia's Ley de Justicia y Paz." *Michigan Journal of International Law.* Vol. 28:49.

Lauderdale, Pat and Michael Cruit. 1993. *The struggle for Control.A Study of Law, Disputes, and Deviance.* New York. State of New Your University Press.

Lauderdale, Pat and Anne Marie Oliverio. 2001. "Preventing or Reinventing Crime?" In, Lauderdale, Pat. 2005. *Political Trials and Indigenous Justice Reader*. ASU. Chapter 6, 1-14.

Lundy, Patricia and Kirsten McConnachie. 2008. "The Role of Community in Participatory Transitional Justice." In, McEvoy, Kieran and Lorna McGregor. 2008. *Transitional Justice from Below. Grassroots Activism and the Struggle for Change.* Hart Publishing. Oxford and Portland.

McAdams, James (Ed). 1997. *Transitional Justice and the Rule of Law in New Democracies.* Notre Dame: University of Notre Dame Press.

McEvoy, Kieran. 2008. "Letting Go of Legalism: Developing a 'Thicker' Version of Transitional Justice." In,McEvoy, Kieran and Lorna McGregor. 2008. *Transitional Justice from Below. Grassroots Activism and the Struggle for Change.* Hart Publishing. Oxford and Portland.

McEvoy, Kieran and Lorna McGregor. 2008. *Transitional Justice from Below. Grassroots Activism and the Struggle for Change.* Hart Publishing. Oxford and Portland.

McGregor, Lorna. "International Law as a 'Tiered Process': Transitional Justice at the Local, National and International Level." In,McEvoy, Kieran and Lorna McGregor. 2008. *Transitional Justice from Below. Grassroots Activism and the Struggle for Change.* Hart Publishing. Oxford and Portland.

Meltzer, Judy. 2004. *Transitional Justice and Reconciliation in Post-Conflict Colombia: Some Considerations for Future Canadian Engagement*. FOCAL. Policy Paper. www.focal.ca

Merry, Sally Engel. 1995. "Resistance and the Cultural Power of Law" *Law & Society Review*, Vol. 29, No. 1, pp. 11-26.

Merry, Sally Engel.1998. "Legal Pluralism" *Law and Society Review,* Vol. 22 No. 4.

Merry, Sally Engel. 2006. "Transnacional Human Rights and Local Activism: Mapping the Middle." *American Anthropologist*, Vol. 108 Issue 1, pp. 38-51.

Merry, Sally Engel and Peggy Levitt. 2008. Law, Human Rights and Social Movements: Exploring the Justice Scaffold. New York University and Wellesley College. Working Paper. 43 pp.

Minow, Martha. 1998. *Between Vengeance and Forgiveness. Facing History after Genocide and Mass Violence.* Boston. Beacon Press.

Minow, Martha. 2002. *Breaking the Cycles of Hatred. Memory, Law and Repair*. Princeton and Oxford. Princeton University Press.

Molano, Alfredo. 1994. *Trochas y Fusiles.* Bogotá: El Ancora Editores.

Nader, Laura and HF Todd. 1978. *Disputing Process-Law in Ten Societies.* New Cork. Columbia University Press.

Nemoga, Ricardo. 2001. "Contexto social y político de la administración de justicia en Colombia". In, Santos, Boaventura and Mauricio García. 2001. *El caleidoscopio de las justicias en Colombia.* Bogota: Colciencias.

Normal, Aletta. 2001. "Reconstructing Nacional Identity and Renegotiating Memory: the work of the TRC." In, Hansen, Thomas Blom, and Finn Stepputat, eds. 2001. *States of Imagination: Ethnographic Exploration of the Postcolonial State*. Durham, NC: Duke University Press.

Oliverio, Annamarie. 1998. *The State of Terror.* State University of New York Press.

Orozco-Abad, Ivan.1992. *Combatientes, Rebeldes y Terroristas: Guerra y Derecho en Colombia.* Bogota. Temis.

Orozco-Abad, Ivan. 2005. *Sobre los limites de la conciencia humanitarian. Dilemas de la paz y la justicia en America Latina.* Bogota. Temis-Universidad de Los Andes.

Orozco-Abad, Ivan. 2009. *Justicia Transicional en tiempos del deber de memoria.* Bogota. Temis-Universidad de Los Andes.

Oxhorn, Philip. 2001. "From Human Rights to Citizenship Rights? Recent Trends in the Study of Latin American Social Movements." *Latin American Research Review*, Vol. 36, No. 3, pp. 163-182.

Parker, Jerry and Pat Lauderdale. 2003. "Political Deviance in Courtroom Settings." Pages 47-71 in *A Political Analysis of Deviance*: New Edition, Pat Lauderdale, ed. Toronto, Canada: de Sitter Publications.

Pecaut, Daniel. 2006. *Cronicas de cuatro decadas de politica colombiana.* Bogota. Editorial Norma.

Plataforma Colombiana de Derechos Humanos, Democracia y Desarrollo PCDHDD. 2005. *Mas alla del embrujo. Tercer ano de gobierno de Alvaro Uribe Velez*. Bogota. PCDHDD.

Prior, Lindsay. 2003. *Using Documents in Social Research*. Sage Publications. London-Thousand Oaks-New Delhi.

Rajagopal, Balakrishnan. 2003. *Internacional Law from Below: Development, Social Movements, and Third World Resistance.* Cambridge. Cambridge University Press.

Rangel, Alfredo (Ed). 2005. *El Poder Paramilitar.* Bogota, Planeta.

Restrepo, Luis Carlos. 2004. "La politica de Seguridad Democratica". In, *Conflicto y Paz en Colombia: Consecuencias y perspectivas para el futuro.* Libros de Cambio, 2004. p. xviii.

Restrepo, Luis Carlos. 2005. *Justicia y Paz. De la negociación a la gracia*. Medellín. ITM

Rojas, Cristina and Judy Meltzer. 2005. *Elusive Peace: international, National and Local Dimensions of Conflict in Colombia.* Polgrave Macmillan.

Roht-Arriaza and Javier Marezcurrena. (Eds). 2006. *Transitional Justice in the Twenty-First Century. Beyond Truth versus Justice.* Cambridge. Cambridge University Press.

Root, Rebecca. 2009. "Through the Window of Opportunity: The Transitional Justice Network in Peru." *Human Rights Quarterly.* No 31, 452-473. Johns Hopkins University Press.

Romero, Mauricio. 2003. *Paramilitares y autodefensas.* 1982-2003. Bogota. IEPRI.

Sanchez, Gonzalo. 2008. "Tiempos de memoria, tiempos de victimas." *Analisis Politico*. Bogota, IEPRI. Universidad Nacional de Colombia.

Santos, Boaventura de Sousa. 1995. *Toward a New Common Sense: Law, Science and Politics in the Paradigmatic Transition.* New York: Routledge.

Santos, Boaventura de Sousa. 2006. "The Heterogeneous State and Legal Pluralism in Mozambique." *Law & Society Review*, Vol. 40, No. 1, pp. 40-76.

Santos, Boaventura de Sousa and Mauricio Garcia. 2001. *El caleidoscopio de las justicias en Colombia.* Bogota: Colciencias, Universidad de Los Andes, Universidad Nacional.

Santos Boaventura and César Rodríguez-Garavito (eds.) 2005. *Law and Globalization from Below: Towards a Cosmopolitan Legality*. Cambridge . Cambridge University Press.

Sarat, Austin. 1990. " "…The Law is all over": Power, Resistance and the Legal Consciousness of the Welfare Poor." *Yale Journal of Law & the Humanities*, 2: 343.

Sarat, Austin and Thomas Kearns (Eds). 2000. Law in the Domains of Culture. Ann Arbor. The University of Michigan Press.

Stanley, Elizabeth. "Evaluating the Truth and Reconciliation Commission." *The Journal of Modern African Studies*, Vol. 39, No. 3, pp. 525-546.

Teitel, Ruti. 2000. *Transnational Justice.* Oxford University Press.

Trubek, David and John Esser. 1989. " 'Critical Empirism' in American Legal Studies: Paradox, Program, or Pandora's Box?" Law and Social Inquiry, Vol 14, No. 1 pp. 3-52.

Uprimny, Rodrigo. 2006. *¿Justicia Transicional sin Transición?* Bogota: Dejusticia.
Uprimny, Rodrigo and Maria Paula Saffon. 2009. 'Usos y abusos de la justicia transicional.' In, Rangel, Alfredo (Ed). *Justicia y Paz. Cual es el precio que debemos pagar?* Bogota. Intermedio editores. English version. 'Uses and Abuses of Transitional Justice." http://dejusticia.org/interna.php?id_tipo_publicacion=2&id_publicacion=352
Valencia, Leon. 2007. "Los Caminos de la Alianza entre los paramilitares y los partidos politicos." En. *Parapolitica. La ruta de la expansion paramilitar y los acuerdos politicos.* Bogota. Intermedio editores y Corporación Nuevo Arco Iris.

Web pages:

www.amnesty.org/web/web.nsf/print/col-summary-eng
www.cinep.org.co
www.colectivodeabogados.org
www.coljuristas.org/justicia/
www.nuevoarcoiris.org.co
www.djs.org.co
www.derechos.org/nizkor/colombia/doc/paz
www.derechos.org/nizkor/colombia/doc/paz/proyley.html
www.derechos.org/nizkor/colombia/doc/cidhcol1.html
www.eltiempo.terra.com.co/judi/2005-10-03/ARTICULO-WEB-_NOTA_INTERIOR-2554156.html
www.ictj.org
www.ilsa.org.co
www.monde-diplomatique.fr/2005/05/CEPEDA_CASTRO/12196
www.monde-diplomatique.fr/2005/10/GUTIERREZ_M_/12835
www.mujeresporlapaz.org
http://www.verdadabierta.com/web3/