

The Colombian Special Jurisdiction for Peace, a Transitional Justice Mechanism That Prioritizes Reconciliation over Punishment: A Content Analysis of the Colombian Peace Agreement

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Abstract : Tribunals for the prosecution of crimes against humanity have been implemented in recent history via international intervention or imposed by one side of the conflict, as in the cases of Rwanda, Iraq, Argentina, and Chile. However, the creation of a criminal tribunal as the result of a peace agreement between formerly warring parties has been unique to the Colombian peace process. As such, the Colombian Jurisdiction for Peace (SJP), or JEP for its Spanish acronym, is viewed as a site of social contestation where actors shape its design and implementation. This study contributes to the literature of transitional justice by analyzing how the framing of the creation of the Colombian tribunal reveals the parties' interests. The analysis frames the interests of the power-brokers, i.e., the government and the Revolutionary Armed Forces of Colombia (FARC), and the victims in light of the tribunal's functions. The purpose of this analysis is to understand how the interests of the parties are embedded in the designing of the SJP. This paper argues that the creation of the SJP rests on restorative justice, for which the victim, not the perpetrator, is at the center of prosecution. The SJP's approach to justice moves from prosecution as punishment to prosecution as sanctions. SJP's alternative sanctions focused on truth, reparation, and restoration are designed to humanize both the victim and the perpetrator in order to achieve reconciliation. The findings also show that requiring the perpetrator to perform labor to repair the victim as an alternative form of sanction aims to foster relations of reintegration and social learning between victims and perpetrators.

Keywords : transitional justice mechanisms, criminal tribunals, Colombia, Colombian Jurisdiction for Peace, JEP

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