

Strengthening Colombia's Transitional Justice Process by Engaging Women

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For over 40 years, violence in Colombia has pitted the government against several guerilla groups including the Revolutionary Armed Forces of Colombia (FARC), National Liberation Army (ELN), 19th of April Movement (M-19), and the Confederation of United Auto-Defenses of Colombia (AUC). In 2002, almost all paramilitary groups constituting the AUC negotiated a peace agreement with President Alvaro Uribe's government. Between August 2002 and May 2007, more than 44,000 former combatants demobilized. The AUC collectively disarmed. Thousands of FARC troops also demobilized.¹

The 2005 Justice and Peace Law (Ley de Justicia y Paz, 975/2005) mandated implementation of a reintegration process for former combatants and offered a framework for ensuring justice and reconciliation; victims were promised reparations, while former combatants were offered incentives to abandon violence.

The government established the National Commission for Reparation and Reconciliation (CNRR)² and gave it eight years to complete work. The CNRR's overall mission is to help ensure that all victims of the armed conflict have access to truth, justice, and full reparations as well as guarantees against future harm so as to promote peaceful coexistence and reconciliation. In carrying out its mandate, the CNRR seeks to ensure the success of national and local reintegration efforts in demobilizing guerillas and paramilitaries as well as transitional justice efforts in promoting victims' rights, reparations, and reconciliation. The 13 commissioners represent key State agencies, government institutions, civil society, and victims.

The CNRR is a transitional justice mechanism effectively structured for involving women and addressing their priorities and needs. Beginning in 2005, The Institute for Inclusive Security worked intensively with commissioners, commission staff, government representatives, and various civil society organizations to facilitate and aid the CNRR in addressing gender in its operations. Mainstreaming gender involved advocacy for particular women to serve as commissioners, support for the creation of a gender unit within the commission, close collaboration with women's civil society organizations, capacity building for prosecutors and magistrates, and technical assistance to commissioners and staff.



Julissa Mantilla from UNIFEM, Deputy Minister of Justice Guillermo Reyes, CNRR Commissioner Ana Teresa Bernal and Senator Juan Fernando Cristo speak at REDEPAZ-organized convention with Colombian women to discuss issues related to reconciliation and reparations.



More than 200 women from all over Colombia gather at a conference organized by REDEPAZ to learn about CNRR's reintegration and reconciliation initiatives.

Ensuring the Participation of Women as Commission Members

A first critical step towards making certain the CNRR addressed the needs of women, was to ensure women were fairly represented as commissioners; as of fall 2010, three are women.

More relevant, however, was the choice of specific women. It is not rare for women to be appointed to decision-making bodies who are ill-equipped to truly represent women's priorities and needs. Following extensive advocacy, President Uribe appointed as commissioners Patricia Buriticá and Ana Teresa Bernal, Women Waging Peace Network members (a network managed by Inclusive Security of more than 1,000 women peacemakers from conflict areas around the world). The two leaders brought a wealth of experience to the transitional justice process. Buriticá founded and led Women's Alliance for Peace Initiatives (IMP) involving thousands of Afro-Colombian and indigenous women, union activists, human rights advocates, academics, students, and professional women. Bernal is the national coordinator of Red Nacional de Iniciativas Ciudadanas por la Paz y contra la Guerra (REDEPAZ, National Network of Citizen's Initiatives for Peace and Against War), an enormous civil society umbrella organization.

While Buriticá and Bernal initially faced resistance, they successfully ensured that deliberations consistently reflected the perspectives of the women's movement. Their advocacy resulted in the creation of policies, guidelines, manuals, and operating procedures that enabled the CNRR to address the unique needs of women, especially victims.

Guaranteeing Close Collaboration with Women's Civil Society Organizations

Buriticá's and Bernal's appointments as commissioners initially generated strong opposition and caused divisions within the Colombian women's movement. Several organizations refused or were very reluctant to work with the CNRR since they could not endorse key provisions of the Justice and Peace Law, especially those granting amnesty to paramilitaries. Some women's groups opposed any initiative, collaboration, or dialogue with the Uribe government.

Inclusive Security mediated extensively to encourage dialogue and compromise, suggesting that the CNRR offered important and innovative ways to support inclusion of women in transitional justice. To defuse tension, Inclusive Security conducted numerous individual meetings to allow women from all factions to express their views. While several key organizations, such as Ruta Pacifica de Mujeres, never endorsed the CNRR's work, many others recognized the opportunity to improve commission efforts. As a result, in 2007, several networks, organizations, and individuals formed the working group "Women and gender, for truth, justice, reparations and reconciliation." In April 2008, the working group published a comprehensive set of recommendations with suggestions for how to ensure women's access to justice, protection, reparations, reintegration, and reconciliation.³ Specific recommendations were offered to the Historical Memory Commission for finding ways to incorporate recollections of women when chronicling the history of the armed conflict. As a result, Maria Emma Wills, Women Waging Peace Network member, has led several innovative efforts to record the oral history of women in communities most affected by violence.

Creating a Unit to Ensure Attention to Gender

Creation of the Transversal Unit for Gender and Specific Populations (“the gender unit”) was critical in ensuring the CNRR’s gender sensitivity. Formed in 2006 with the support of Commission Chair Eduardo Pizarro and Commissioners Buriticá and Bernal, the unit mainstreams gender in all CNRR activities. It also oversees gender-sensitive efforts to coordinate with and address the needs of Afro-Colombians, indigenous communities, and other vulnerable groups. Gunhild Schwitalla, a German national, led the gender unit from its creation until July 2008. Colombian Alma Viviana Perez Gomez, a Women Waging Peace Network member, has led the unit since February 2011.

The gender unit: ensured outreach to civil society, especially women’s organizations, sensitized decision makers to address women’s priorities and needs, and created guidance on gender-sensitive reparations and transitional justice processes that fed into and is reflected in a draft Victim’s Law to establish the National System of Comprehensive Care and Reparation for Victims.

Outreach was undertaken in a number of ways. From 2006 to 2008, the gender unit convened several consultations and organized regional workshops on gender and transitional justice. The gender unit also focused attention on women victims of sexual violence⁴ and created a manual on documenting cases of it. In regions most affected by violence, such as Antioquia and Valle del Cauca, the unit convened special public hearings only for women. Hearings covered a range of issues including reparations, access to land and property rights, and reconciliation.

The gender unit trained staff of regional offices as they were being established and ensured that some personnel in those offices had experience addressing women’s rights. It also made sure that most offices had a gender focal point. Additionally, the gender unit crafted indicators for monitoring and evaluating the effectiveness of CNRR efforts. The gender unit provides technical assistance to regional staff on an ongoing basis.

The unit, which supports all substantive areas of CNRR work, continues to ensure the participation of a broad range of women leaders and women’s organizations in its consultations and events across the country. It also helps women victims obtain justice and reparations.

Building Capacity to Ensure a Gender-Sensitive Transitional Justice Process

Capacity building focused on the judges and prosecutors overseeing implementation of the Justice and Peace Law was crucial in operationalizing attention to gender issues and women in the transitional justice process. In May 2007, Inclusive Security helped facilitate a two-day workshop the CNRR organized for about 20 prosecutors from the Justice and Peace Unit of the attorney general’s office (which is charged with implementing judicial aspects of transitional justice), women civil society leaders, and CNRR members and staff. It was the first time representatives of all of these groups met in one place, opening new channels of communication among government institutions, the justice system, and civil society.

Participants worked in small groups and drew from their collective expertise in designing strategies to ensure women access to justice and reparations. Recommendations included suggestions for collecting forensic and psychological evidence and for safeguarding data on victims of sexual violence. As a result, the CNRR produced guidance on conducting interviews with victims of sexual violence to make sure attention is given to the sensitivities involved in collecting evidence in these types of cases. The gathering was followed up by a series of meetings, workshops, and events promoting the view that gender-based violence is an integral part, not a by-product, of the conflict, as is often assumed. Inclusive Security worked under CNRR leadership to repeat the effort with magistrates of Colombia’s Supreme Court and their staff at a subsequent October 2007 workshop in Bogotá.⁵



Prosecutors charged with investigating crimes based on Justice and Peace Law work with women leaders from CNRR and civil society to develop recommendations on ensuring a gender sensitive approach to their inquiries.

Assessing the Overall Impact

The multipronged approach to ensuring attention to gender and women's needs by the Colombian transitional justice system has paid dividends. A 2007 US Agency for International Development study reports that close to 90 percent of the claimants who have accessed the benefits provided by Justice and Peace Law are women.⁶ When implementation of the Justice and Peace Law began, 19 cases of sexual violence had been officially reported; today well over 500 cases are being considered.

Efforts to ensure attention to gender and women in the transitional justice system had other associated benefits. They addressed the needs and priorities of victims and brought to the fore crimes like rape, which often are underreported and the victims undercompensated. Additionally, the effort encouraged consultation and interaction with a wide range of civil society actors including women's groups but also comprising unions, indigenous people's organizations, Afro-Colombians, human rights groups, academics, and others.

Facing the Challenges Today

A draft Victim's Law is currently being considered in Colombia after extended drafting, discussion, and negotiation. It proposes a national system and an institutional structure to ensure support, reparations, and land restitution for victims to be implemented under the authority of the Colombian vice president, the highest national authority for human rights policy. The draft law contains several provisions on providing justice for victims of sexual violence, as well as psychosocial support generally and for sexual violence victims in particular.

Once the bill is passed, it will be critical to build on the CNRR to ensure similar attention to women and gender in implementing the Victim's Law. The challenges will include ensuring equal access for men and women to the services and benefits to be put in place, guaranteeing attention to sexual and gender-based violence, and maintaining victims' involvement in discussions of reparations and women's representation in implementing agencies and committees. Similarly, as the draft law provides for consultation with the indigenous and Afro-Colombian populations in preparing a regulatory decree on reparations and restitution to these communities, it will be important to ensure that women participate in any consultations related to that agenda and benefit from any efforts to address those communities in implementing the law.

Replicating Success

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| Key to Success: Start early—seek attention to gender and women as early as possible in the process, preferably as transitional justice is being conceptualized and designed. | → | Recommendation: Explore introducing a legal requirement for women's representation in any agreements, laws, or statutes establishing a governing body. |
| | → | Recommendation: Seek explicit reference to the importance of attention to gender and women's priorities in all documentation related to the mission, structure, and operations of the transitional justice effort. |
| | → | Recommendation: Insert explicit references to crimes, such as sexual violence, that would be a particular priority for women and would require a unique set of processes and procedures to effectively address. |

- Key to Success:** Ensure women are a meaningful share of those named to any commissions or bodies set up to oversee the transitional justice process.
- **Recommendation:** Advocate early and repeatedly for women's inclusion on all decision-making bodies.
 - **Recommendation:** Seek a legal requirement for women's inclusion on any governing bodies as well as any committees created to oversee follow up or evaluation.
 - **Recommendation:** Identify and propose women to serve. Consider their professional background, experience, political profile, and interest. Also take into account the extent to which they already are aware of and attentive to gender and women's priorities and needs. Preferably, women selected would have the support of civil society networks, including human rights and peacebuilding organizations.
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- Key to Success:** Provide support to female members of formal bodies.
- **Recommendation:** Help women leaders build their networks and sets of relationships with other women leaders. Support confidence building among the female commission members and staff, as well as outreach to women leaders in government and non-governmental organizations related to transitional justice processes.
 - **Recommendation:** Provide women commissioners technical support to ensure attention to women within the transitional justice process. Specifically, provide examples from around the world of how women contribute and can be positively and negatively affected by transitional justice processes.
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- Key to Success:** Create mechanisms for formal members of transitional justice commissions to interact with and receive input from civil society organizations.
- **Recommendation:** Organize meetings for commissioners to speak with representatives of a range of women's organizations; hold hearings for women.
 - **Recommendation:** Ensure outreach targets victims' groups, women's organizations, and human rights institutions to familiarize these groups with key elements of the transitional justice process.
 - **Recommendation:** Schedule meetings for commissioners with male and female academic experts and research institution representatives to discuss transitional justice.
 - **Recommendation:** Help civil society organizations formulate specific recommendations for engendering the transitional justice process before meetings with commissioners.
 - **Recommendation:** Use an impartial external actor to facilitate the relationship between women leading formal commissions and women's civil society organizations.

Key to Success: Create a gender unit within a commission, even if women are well represented on the commission.

- **Recommendation:** Ensure the office has the authority to provide guidance on ways to ensure women's involvement in the transitional justice process as well as how to address women's priorities and needs during the process.
- **Recommendation:** Help create credibility within the commission for a gender unit by offering technical support, such as aiding the unit in delivering training.
- **Recommendation:** Orient the unit to provide targeted technical support to women in their respective fields. Promote the creation of shared work programs linking the efforts of the gender unit to the work of other units.
- **Recommendation:** Have the gender unit conduct many one-on-one meetings with individual women to make them feel engaged and to allow them to air grievances privately.
- **Recommendation:** Identify a neutral interlocutor to act as a go-between for women's groups at odds with each other.
- **Recommendation:** Provide technical assistance for creating recommendations for ensuring that every stage of the transitional justice process is gender sensitive including the design of forms that need to be completed to access assistance, the systems used to deliver reparations; the structure of programs to provide psychosocial assistance; and the strategies created to document work.
- **Recommendation:** Advocate to ensure that all relevant reports and memoranda produced by the commission reflect a gender perspective.
- **Recommendation:** Complement creation of a gender unit with the naming of gender officers or focal points within other offices overseeing transitional justice, particularly at the regional and local levels.

Key to Success: Provide training on gender and women for all those involved in implementing the transitional justice process.

- **Recommendation:** Design and implement training tailored to the needs of commissioners, prosecutors, judges, and others directly involved.
- **Recommendation:** Train all staff on gender issues to ensure they understand and can effectively implement mandates and activities that ensure gender sensitivity.
- **Recommendation:** Have training participants themselves develop recommendations for ensuring gender sensitivity in the transitional justice process.
- **Recommendation:** Publicize and disseminate widely the recommendations developed during training.
- **Recommendation:** Develop checklists for distribution during training that identify the essential gender-related issues to be considered.

Key to Success: Recruit and work with the media to ensure women are portrayed as agents of peace-building and reconciliation, not just as victims of violence. → **Recommendation:** Facilitate meetings for women leaders of survivor groups with the media to ensure their efforts receive prominent attention.

Key to Success: Watch how the institutional environment evolves; maintain the focus on addressing women's priorities and needs, notwithstanding a changing environment. → **Recommendation:** Try to anticipate changes and proactively maintain the focus on and institutional support for attending to and involving women.

→ **Recommendation:** Maintain a regular schedule for training and activities so that new commissioners and staff can easily join an ongoing process. This will be particularly important when facing transitions such as those that can occur post-elections.

→ **Recommendation:** Seek to introduce language about the need for public involvement and attention to women's needs in relevant legislation or regulations being considered.

→ **Recommendation:** Cultivate allies within decision-making bodies who will reinforce your messages.

(Endnotes)

- 1 Alvarez, Josefina Echevarria. *Doing Gender in the Midst of War: The Example of the Demobilization Process of Paramilitaries in Medellin, Colombia 2003–2007*. Peace Studies Journal, Winter 2009.
- 2 The Commission in Colombia was unique because of its limited, concrete mandate. It does not have a strong truth-seeking mandate, and it focuses on specific issues rather than broader challenges such as prosecuting a head of state or crimes against humanity. The commission has worked through the existing, functioning Colombian judiciary and is a very indigenous institution— a Colombian organization created by Colombians with fairly little foreign involvement.
- 3 Recomendaciones para garantizar los derechos a la verdad, la justicia y la reparación de las mujeres víctimas del conflicto armado en Colombia, Grupo de trabajo “Mujer y género, por la verdad, la justicia, la reparación y la reconciliación,” April 2008.
- 4 Falcon, Julissa Mantilla. *UNIFEM and Transitional Justice: The Peruvian and Colombian Cases*. UN Development Fund for Women, <http://www.unifem.org/attachments/gender_issues/women_war_peace/UNIFEMAndTransitionalJustice_ThePeruvianAndColombianCases.pdf>.
- 5 http://www.huntalternatives.org/download/836_inclusive_security_to_conduct_training_with_supreme_court_magistrates_in_colombia_10_22_07.pdf
- 6 *Gender Assessment USAID/Colombia*, US Agency for International Development, August 2007.



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