



## Rethinking transitional justice in Colombia: legal architecture, structural tensions and the challenge of its integration as public policy (1991-2024)

<sup>1</sup>Carlos Alberto Aponte García \*, <sup>2</sup>Raul Andres Tabarquino, <sup>3</sup>Edwin Arango Espinal

<sup>1</sup> Ph.D. candidate in Government, Public Policy, and Public Administration at Universidad del Valle, Assistant Professor at Universidad del Valle. <https://orcid.org/0000-0002-0039-1772>

<sup>2</sup> Doctoral Thesis Director. Full Professor at Universidad del Valle. <https://orcid.org/0000-0002-7866-1875>

<sup>3</sup> Doctoral Thesis Co-director. Associate Professor at Universidad del Valle. <https://orcid.org/0000-0002-2231-3513>

**ABSTRACT:** This article examines the legal evolution and institutional challenges of transitional justice in Colombia from 1991 to 2024, within the broader framework of the State's efforts to build a sustainable peace. Grounded in a theoretical approach that conceives transitional justice as a normative public policy duty, the study critically analyzes the normative fragmentation, weak implementation, and lack of inter-institutional coordination of the transitional justice mechanisms adopted in Colombia. It identifies three key normative phases, describes five structural tensions (centralism, punitive bias, legal dispersion, funding deficits, and socio-economic omission), and proposes a in multilevel governance and territorial inclusion. The article concludes that despite important constitutional and legislative progress, Colombia has yet to consolidate a coherent and sustainable public policy of transitional justice, and its future success depends on broader institutional articulation, social inclusion, and long-term programmatic vision.

**Keywords:** transitional justice; public policy; governance; international humanitarian law; conflict victims.

**Received:** 09 May 2025

**Received:** 24 May 2025

**Accepted:** 19 July 2025

### 1. Introduction

The irruption of Revolution 4.0 in contemporary armed conflicts has generated a structural transformation in the scenarios of war and has posed unprecedented challenges to International Humanitarian Law (IHL) (Enns et al., 2022) , this revolution, characterized by the development and deployment of emerging technologies such as Autonomous Weapon Systems (AWS), artificial intelligence (AI) applied to the use of force, and the growing militarization of cyberspace, has overflowed the traditional normative categories, straining fundamental principles such as distinction, proportionality and precaution, therefore, a critical and multidimensional review of the current legal scaffolding becomes indispensable, both for its interpretation and for its eventual normative reform.

Since the enactment of the 1991 Political Constitution, Colombia has attempted to move from internal armed conflict to peace scenarios through transitional justice mechanisms aimed at truth, justice, reparation and non-repetition (Londoño & Idarraga, 2024). This process has been mediated by a broad but fragmented normative architecture, which reflects both the international commitments acquired by the State and the internal dynamics of political negotiation, social pressure and victims' demands (Uprimny & Saffon, 2008). Although Article 22 of the Magna Carta enshrines peace as a fundamental right and duty of the State, and multiple legal instruments have been adopted-such as Law 975 of 2005, Law 1448 of 2011, the Legislative Acts of 2012 and 2017, and the Comprehensive System of Truth, Justice, Reparation and Non-Repetition (SIVJRNR)-these mechanisms have lacked a systemic articulation that would allow their

consolidation as a comprehensive, coherent and transformative public policy (Rúa, 2021). Instead, there is a coexistence of successive transitional models, designed according to specific conjunctures, which have accentuated institutional tensions, operational limitations and challenges of social legitimacy.

This article aims to characterize the legal framework of transitional justice in Colombia from 1991 to 2024, analyzing its normative phases, main structural tensions and difficulties for its effective implementation as a State public policy. Based on a documentary and critical analysis of normative sources, constitutional jurisprudence, specialized literature and comparative experiences, it is argued that the Colombian model has evolved as an adaptive mixture of transitional devices, without managing to consolidate a comprehensive approach based on collaborative governance, decentralization and socioeconomic justice.

The article is structured in five sections: first, the theoretical-conceptual framework that underpins the relationship between transitional justice, public policy and governance is presented; second, the normative evolution of the Colombian model in three major phases (1991-2005, 2005-2016 and 2016-2024) is described; third, the structural tensions and challenges of the system are examined; then, the institutional, economic and implementation gaps are discussed from a critical perspective; and finally, conclusions and recommendations for the design of a public policy for transitional justice with a transformative, differential and territorial approach are formulated.

## **1. Methodology**

This article is positioned in an idealist-rationalist epistemology (Romero-Sánchez et al., 2025; Aponte García et al., 2025), which is based on the recognition that legal knowledge is neither neutral nor universal, but is historically configured through power relations, normative conflicts and disputes over the meaning of justice. From this perspective, it is assumed that legal and political knowledge about transitional justice in Colombia between 1991 and 2024 is a social and historical construction, dependent on the contexts of violence, institutional reform and collective memory. As pointed out by De Berríos and Briceño de Gómez (2009), legal knowledge is the result of processes of rational and critical interpretation, in which the cognizing subject actively participates in the reconfiguration of normative meanings.

The research is framed within the hermeneutic-critical paradigm (Aponte-García et al., 2025), considering that the legal and political phenomena linked to transitional justice require to be understood from the analysis of discourses, norms and institutional structures that reflect dynamics of legitimacy, exclusion and power. A qualitative approach of a documentary and interpretative nature is adopted, which allows for an in-depth examination of the normative evolution and institutional configurations of transitional justice over three decades in Colombia. This approach enables a comprehensive and critical reading of legal, doctrinal and empirical sources, articulating analytical categories derived from law, social sciences and peace studies.

In the development of this work, an exhaustive systematic review was conducted to relocate and update the state of the art, following the methodological guidelines proposed by Martínez et al. (2024), as well as the theoretical framework based on the contributions of Salcedo et al. (2024). This review focused on a rigorous analysis of the main conceptual categories, with the aim of establishing their scope, limitations, research applications, and theoretical articulations in contemporary contexts. The relocation of these components made it possible to reconfigure the epistemological foundations of the study, aligning them with the stated objectives and strengthening the coherence between the theoretical foundation and the methodological approach. Through this process, a critical and updated perspective on the selected categories of analysis was constructed, thus consolidating a solid interpretative framework for understanding research dynamics within the addressed field.

The methodological design corresponds to a non-experimental and cross-sectional study (Salcedo et al., 2022), focused on the systematic and comparative analysis of legal and academic sources. The strategy employed is based on the construction of a temporal matrix divided into three phases: (i) 1991-2005 (constitutional transition and first developments), (ii) 2005-2016 (Justice and Peace Law and its implementation) and (iii) 2016-2024 (Final Agreement and Comprehensive System of Truth, Justice,

Reparation and Non-Repetition). This division allows us to observe substantial normative changes, political and institutional tensions, and structural debates on truth, justice and reparation.

The selection of sources included, in the first place, the analysis of national normative instruments, the Political Constitution, statutory and ordinary laws, legislative acts, decrees with force of law, regulatory norms and constitutional jurisprudence. Secondly, academic texts and indexed scientific articles addressing issues such as transitional justice, governance, international humanitarian law, reparation, memory and peacebuilding were reviewed. Finally, institutional reports prepared by the Special Jurisdiction for Peace (JEP), the Commission for the Clarification of the Truth (CEV), the Unit for the Search for Missing Persons (UBPD), as well as documents from multilateral organizations and specialized academic networks, such as the Transitional Justice Network of the University of Essex, were incorporated.

The analysis was structured on the basis of a categorization matrix that made it possible to identify common normative elements, institutional gaps and structural tensions, articulating the findings around five critical dimensions: normativity, implementation, institutionality, territoriality and sustainability. The validity of the study is guaranteed by the triangulation of sources and approaches, the traceability between findings and evidence, and the rigorous use of interpretative criteria in accordance with the methodological standards of the social and legal sciences.

The validity of the research is guaranteed through methodological triangulation, traceability between findings and evidence, and the rigorous use of interpretative criteria in accordance with the methodological standards of the social and legal sciences (Victoria Ochoa et al., 2023). The analysis was developed inductively and contextually, recognizing the structural tensions between domestic law, international standards and the demands of the victims in a prolonged context of violence and negotiation. This strategy made it possible to build a situated, critical and propositional knowledge, aimed at understanding the limitations, progress and challenges of the legal framework of transitional justice in Colombia.

## **2. Theoretical-conceptual framework**

### **2.1 Public policy as an instrument and duty of the State**

Traditionally, public policy has been understood as a technical instrument through which the State intervenes in society to solve public problems, efficiently allocate resources and promote collective welfare (Muller, 2006; Roth, 2008). However, this functional conception has evolved towards a normative-axiological perspective that recognizes public policies as an expression of the State's duty to guarantee rights, social justice and equity (Aguilar, 2019).

This duality between instrument and duty is particularly relevant in post-conflict transition contexts, where the design and implementation of state actions requires not only technical effectiveness, but also democratic legitimacy and ethical commitment (Aponte & Sanchez, 2024). In the Colombian case, the 1991 Constitution enshrines a social rule of law model based on citizen participation, decentralization and respect for human rights, which makes it necessary to conceive transitional justice as a comprehensive public policy aimed at repairing, transforming and preventing new violence.

From this perspective, public policies in transitional contexts must incorporate principles of inclusion, accountability and distributive justice, overcoming centralist or technocratic logics, and moving towards collaborative and multi-scale models of governance (Durose & Rummery, 2006).

### **2.2. Organizational and legal approaches to transitional justice**

Transitional justice is defined as the set of judicial and non-judicial mechanisms that allow societies to confront legacies of mass violence, guaranteeing the rights to truth, justice, reparation and non-repetition (Teitel, 2003; Ambos, 2010). From an organizational approach, these mechanisms do not operate in an institutional vacuum, but require a functional architecture that articulates state agencies, civil society organizations, international entities and victim communities (Sánchez & Naranjo, 2023). In Colombia, this perspective is crucial to analyze how successive transitional justice models have been implemented, from Law 975 to the JEP and the SIVJRNR, without a systemic integration that articulates them as part of a

coherent public policy. Each of these models has responded to particular political moments and negotiations, generating a mixture of mechanisms without programmatic continuity or long-term institutional projection (Corcione et al., 2021).

This fragmentation, added to the centralization of decisions and weak inter-institutional coordination, has limited the State's capacity to implement a comprehensive, sustainable and legitimate transitional justice strategy, aligned with the standards of international human rights law (IHRL) and international humanitarian law (IHL). (Vera, 2023).

### 2.3. Socioeconomic dimension of transitional justice

In recent years, specialized literature has emphasized the importance of incorporating the socioeconomic dimension in transitional justice processes, going beyond approaches focused exclusively on judicial, symbolic or retributive measures. Recent research, such as that of Weiffen and Battistuzzi (2025) and the Transitional Justice Network of the University of Essex (2024), agree that structural inequalities, poverty, land dispossession and social exclusion are persistent factors that not only fuel cycles of violence, but also limit the possibilities of lasting reconciliation in post-conflict contexts.

In the Colombian case, the disproportionate impact of the armed conflict on rural communities, ethnic peoples and displaced populations highlights the need to articulate transitional justice with distributive justice approaches. The historical concentration of land ownership, structural obstacles to agrarian restitution and institutional difficulties in the implementation of collective reparation measures reflect the urgency of designing mechanisms that address the root causes of the armed conflict (Sánchez & Naranjo-Velasco, 2023).

From this perspective, transitional justice with a transformative vocation must go beyond individual or symbolic reparations, integrating structural reforms in the political, economic and social spheres. These transformations must be aimed at guaranteeing conditions of equity, sustainability and effective realization of rights, as a basis for a stable and lasting peace. This need for structural modification is supported by the recent proliferation of a "transformative justice" approach that seeks to generate substantive justice through the reconfiguration of social, economic and political structures (Aponte & Sanchez, 2024). In the absence of this structural dimension, transitional processes run the risk of becoming formal responses, detached from the dynamics of exclusion and dispossession that gave rise to the conflict.

### 3. Normative evolution of the legal framework for transitional justice in Colombia (1991-2024)

The normative development of transitional justice in Colombia has followed a progressive but fragmented trajectory, reflecting both changes in domestic political will and pressures from international law and victims' demands.

Phase	Key events	Representative norms	Approach to justice
1991-2005	Promulgation of the Constitution; Law on Public Order; Partial demobilization programs	Constitution of 1991; Law 418 of 1997; Law 782 of 2002	Retributive and reintegrative (incipient)
2005-2016	Demobilization of paramilitary groups; implementation of the Justice and Peace Law; emergence of	Law 975 of 2005; Law 1448 of 2011.	Limited retributive with reparation elements

	the Victims Law.		
2016-2024	Signing of the Final Agreement; creation of the Comprehensive System of Truth, Justice, Reparation and Non-Repetition.	Legislative Act 01 of 2017; Law 1922 of 2018; Decree 588 of 2017.	Integral (restorative, restorative, restorative and participatory).

Table 1. Normative phases of transitional justice in Colombia (1991-2024).

The 1991 Constitution laid the groundwork for a guarantor approach to justice by enshrining peace as a fundamental right (art. 22), along with principles of human dignity, citizen participation, decentralization and fundamental rights. Although during this stage the armed conflict remained active and no transitional mechanisms were adopted as such, legislative approaches were initiated, such as Law 418 of 1997, which authorized the Executive to negotiate with illegal armed groups. However, these efforts lacked structural articulation and a rights-based approach (Figueroa, 2019).

Law 975 of 2005, known as the Justice and Peace Law, was the first formal attempt to institutionalize transitional justice mechanisms in the context of the demobilization of the AUC (Llano and Aponte, 2024). Although it recognized the rights of the victims and contemplated truth, justice and reparation measures, it had serious shortcomings: subordination to the ordinary criminal system, lack of an independent truth commission, and absence of real guarantees of comprehensive reparation. As Ramelli Arteaga (2020) points out, from a moral and legal point of view, this norm did not surpass the threshold of legitimacy required by international human rights law.

Substantive reforms were adopted during the government of Juan Manuel Santos. Law 1448 of 2011 (Victims and Land Restitution Law) recognized victims as subjects of rights and established differentiated reparation mechanisms, including agrarian restitution. Subsequently, Legislative Act 01 of 2012 (Legal Framework for Peace) allowed for transitional criminal mechanisms with a constitutional basis, enabling differentiated treatment and prioritization of cases.

During this period, the Comprehensive System for Truth, Justice, Reparation and Non- Repetition (SIVJRNR) also began to be outlined, anticipating the institutional architecture that would be consolidated after the Final Agreement with the FARC-EP. The 2016 Final Agreement between the Government and the FARC-EP marked a political and legal milestone in the country's recent history. Its implementation gave rise to a third phase characterized by the creation of new specialized institutions, Legislative Act 01 of 2016 enabled the "fast track" procedure to normatively develop the Agreement. Statutory laws and decrees with force of law: regulated the Truth Clarification Commission, the Unit for the Search for Disappeared Persons and other components of the SIVJRNR.

Despite these advances, implementation has faced significant obstacles: institutional resistance, operational delays, budgetary limitations and the absence of a coordinated strategy from the Executive (Shivangi, 2025). Although a State Policy on Transitional Justice was announced in 2024, its normative and programmatic development remains incipient, maintaining a dissociation between the legal architecture and the consolidation of a comprehensive and sustainable public policy.

#### 4. Structural tensions and challenges of the Colombian transitional justice model

Despite the notable normative and institutional progress in the area of transitional justice, the Colombian case shows the persistence of structural tensions that hinder its consolidation as a comprehensive public

policy. (Aponte & Sanchez, 2024) These tensions compromise the effectiveness, legitimacy and sustainability of the system, and can be grouped into five critical dimensions:

#### **4.1. Institutional centralism versus effective decentralization**

The centralized design of the SIVJRNR, with its main bodies (such as the JEP) concentrated in Bogotá, contrasts with the need for territorialized implementation, especially in regions historically affected by the armed conflict. The limited articulation with local authorities, ethnic communities and social organizations has restricted the social appropriation of the transitional process and weakened its territorial legitimacy (Atehortúa, 2022).

#### **4.2. Retributive versus restorative justice**

The coexistence of retributive and restorative approaches has generated tensions in the application of sanctions to ex-combatants and members of the security forces. While sectors demand prison sentences as a guarantee of justice, others defend the centrality of restorative mechanisms aimed at truth, reconciliation and symbolic reparation. This normative ambiguity regarding the sanctions of the SIVJRNR has fueled legal and political debates, affecting the coherence of the model. In the words of Sarkin and Pereira (2023), although the SJP implemented a mixed approach, this model has been criticized as "lenient, politically motivated, and insufficiently rigorous," which highlights the tensions and challenges in the application of sanctions (p. 130).

#### **4.3. Regulatory fragmentation versus the need for systemic integration**

The coexistence of isolated laws and policies -such as the Victims Law, land policies, human rights and the search for the disappeared- is evidence of a fragmentation that prevents the development of a unified public policy for transitional justice. The recent formulation of a State policy (2024) is a positive step, but it still lacks an operational structure, intersectoral articulation and budgetary sustainability. As Aponte-García and Sánchez-Arteaga (2024) point out, these initiatives "have been implemented in silos," which hinders their coherence and sustainability (p. 505). Moreover, as Jakobsen (2024) highlights, without coordinated intersectoral apparatuses, Colombia runs the risk of replicating a fragmented design that undermines the transformative potential of its peace initiatives (p. 435).

#### **4.4. Recognition of rights versus effective capacity to guarantee them**

There is a significant gap between the rights recognized in the legal framework (comprehensive reparation, restitution, guarantees of non-repetition) and the institutional and financial capacity to make them effective (Marín Yusti et al., 2020). Chronic underfunding, poor traceability in land restitution and lack of coordination among executing entities have limited real access to reparations for millions of victims. In Colombia, for 12 years more than 65% of restitution claims were denied due to bureaucratic deficiencies, lack of institutional capacity and insufficient resources, evidencing how administrative fragmentation and underfunding have severely hampered effective access to restitution and comprehensive reparation (Sánchez & Naranjo, 2023).

#### **4.5. Legal transition versus structural transformation**

The predominant legal approach has limited the understanding of transitional justice as a comprehensive process that must address the structural causes of the conflict, including inequality, dispossession, and socioeconomic exclusion (Aponte & Sanchez 2024; Aponte et al., 2019). Without agrarian, fiscal, and productive reforms, transitional justice risks becoming a formalistic response disconnected from the social transformation required for lasting peace.

These tensions highlight the need to rethink the Colombian model from a multiscale transitional governance approach that articulates the legal, political, territorial and socioeconomic dimensions of the transition to peace. As Jakobsen (2023) emphasizes, governance "from above" needs to be accompanied by effective articulation with municipal governments, ethnic authorities and civil society, so that policies are territorially anchored and produce sustainable results.

## **5. Discussion**

The analysis of the legal and institutional framework of transitional justice in Colombia reveals a robust but fragmented normative architecture that has responded reactively to the dynamics of the armed conflict and to moments of political negotiation, without consolidating a structured, sustainable and transformative public policy.

### **5.1. Towards a systemic articulation of transitional justice**

The trajectory of the Colombian model reveals a succession of transitional, judicial, administrative and restorative mechanisms that have been superimposed without a logic of systemic integration. This "adaptive mix" has responded to the demands of the moment, but has lacked a long-term strategic vision. The lack of articulation between the different instruments has hindered institutional coordination and the generation of synergies between mechanisms of justice, reparation, truth and guarantees of non-repetition. According to Aponte-García and Sánchez-Arteaga (2024), the system "lacks systemic integration and does not generate synergies between justice, reparation, truth and non-repetition" (p. 503), which evidences the structural limitations of the current approach to transitional justice in Colombia.

### **5.2. Constitutionalization of the duty of peace versus weakness in implementation**

Although Colombia has been a pioneer in constitutionalizing peace as a right and state duty, and has endowed several transitional mechanisms with constitutional status (Legislative Acts 01 of 2012 and 2017), this normative strength has not translated into implementation capacity. Institutional weakness, lack of sustained funding and scarce territorial articulation have generated a disconnect between the legal framework and its actual effectiveness. As Jakobsen (2023) points out, "despite the constitutionalization of peace and the formal institutionalization of transitional justice mechanisms, persistent gaps in institutional capacity, funding and coordination have significantly limited their implementation," undermining the transformative potential of the Peace Agreement (p. 423).

### **5.3. Transitional justice as public policy: a pending debt**

Despite the institutional advances achieved in Colombia during the last decade, the country still lacks a comprehensive public policy on transitional justice that coherently articulates strategic objectives, verifiable goals, financial resources, impact indicators and effective mechanisms for citizen participation. This absence has generated a fragmented implementation of transitional mechanisms, characterized by normative dispersion and limited inter-institutional coordination.

Although the enunciation by the Colombian Ministry of Justice and Law of a State policy in the year 2024 is a relevant step, its scope is still limited in view of the structural and territorial challenges that persist. Cadena García, Suárez López and Lopera Mesa (2025) show how the Special Jurisdiction for Peace (JEP) has begun to recognize the territory as a victim of the armed conflict in cases 002 and 005, incorporating an intercultural approach that recognizes diverse legal ontologies. This precedent reinforces the need for transitional justice public policy not to be limited to individual reparations, but to include collective, ethnic and territorial dimensions.

In a complementary manner, Gready et al. (2023), from a comparative international perspective, propose a transformative transitional justice model that integrates four pillars: (i) the rethinking of democracy and the strengthening of marginalized communities, (ii) the overcoming of structural violence, (iii) the implementation of reparation measures with a transformative approach, and (iv) the resolute fight against impunity. From this perspective, transitional justice should not be conceived solely as a mechanism for ending the armed conflict, but as a comprehensive strategy for transforming the State, aimed at consolidating a sustainable, territorialized and inclusive peace.

These recent contributions coincide in pointing out that transitional justice in Colombia cannot depend exclusively on judicial mechanisms, but requires an institutional architecture that guarantees coherence, sustainability and social appropriation. The pending debt, therefore, lies in translating the accumulated

lessons learned into a comprehensive, participatory and transformative public policy that articulates the various components of the system of truth, justice, reparation and non-repetition.

#### **5.4. Socioeconomic dimension: a condition for the sustainability of peace**

The Colombian experience in transitional justice has been marked by a predominant emphasis on judicial mechanisms, institutional mechanisms and symbolic reparation measures. Although these tools are fundamental for clarifying the truth and punishing those responsible, they have been insufficient to address the structural causes of the armed conflict, such as the historical concentration of land, economic inequality, dispossession of property and the systematic exclusion of broad social sectors.

A disconnect between transitional justice and redistributive policies is evident, which represents a critical limitation to its transformative potential. Jakobsen (2024) argues that Colombia, although innovative in institutional mechanisms, has functioned as a "laboratory" of transitional justice that tends to reproduce global formulas without fully confronting the internal socioeconomic dynamics that fuel violence. Along the same lines, the CAPAZ Institute (Gready et al., 2023) proposes that the sustainability of peace requires a transitional justice with a transformative approach, capable of articulating agrarian reforms, social inclusion, economic guarantees and empowerment of affected communities.

The lack of integration between transitional justice mechanisms and structural policies of socioeconomic redistribution not only limits comprehensive reparations, but also perpetuates the conditions of inequality that originated and sustained the conflict. Sosa et al. (2025), the testimonies collected by the Special Jurisdiction for Peace in the framework of Case 03 show that land dispossession and economic exclusion were recurrent factors in the dynamics of victimization, which reinforces the need for any transitional justice model to contemplate structural and sustainable solutions.

The absence of an integral socioeconomic dimension in the design and implementation of transitional justice in Colombia constitutes a political and historical debt. Without this articulation, peace efforts run the risk of becoming palliative measures that, while symbolically important, are ineffective in the face of the reproduction of structural violence.

#### **5.5. Towards multi-scale transitional governance**

One of the main challenges of the Colombian transitional justice model lies in its excessive juridification and the weak articulation between the different levels of the State and civil society. To overcome these limitations, it is necessary to move towards a multi-scale transitional governance approach that recognizes the complexity of peace processes and allows for effective coordination between state, community and social actors at the national, regional and local levels.

This approach requires, in the first place, the strengthening of mechanisms for the effective participation of victims, not only as beneficiaries, but also as active political subjects in peace building. Secondly, it requires decentralizing the implementation of transitional mechanisms, recognizing the strategic role of local authorities, grassroots organizations, ethnic collectives and territorial platforms that have developed capacities for post-conflict management. As Olarte Delgado (2025) warns, true transitional governance must integrate the normative and ontological systems of indigenous peoples and rural communities, within a framework of institutional co-responsibility and legal pluralism.

The Colombian experience, even with its limitations, has generated important lessons on the negative effects of fragmented and centralized designs. As pointed out by Gready et al. (2023), the construction of sustainable peace cannot depend exclusively on national entities or specialized courts, but requires a governance ecosystem that articulates efforts from the bottom up and vice versa. This implies an institutional, political and social transformation that goes beyond formal compliance with the agreements and requires the design of long-term public policies with a territorial, differential and participatory approach.

In this sense, transitional justice should not be reduced to a set of legal devices of a reparatory nature, but should be assumed as an integral component of democratic governance in post-conflict contexts. The consolidation of this vision continues to be a strategic, urgent and still pending task in Colombia, particularly in a scenario of continuing violence, disputes over territorial control and unresolved demands for truth and reparations.

## **6. Conclusions and public policy recommendations**

### **6.1. Conclusions**

The analysis of the legal framework of transitional justice in Colombia reveals important advances in constitutional and legislative matters, but also a profound normative and institutional fragmentation that has prevented its consolidation as a comprehensive public policy. Based on the above findings, five key conclusions stand out:

- (i) Colombia has developed a normatively dense transitional model, but without systemic articulation, which has limited its operational coherence and territorial impact.
- (ii) Transitional justice has not been conceived or implemented as a structured public policy, with programmatic objectives, follow-up mechanisms or multi-stakeholder participation.
- (iii) Structural tensions persist between institutional centralism and territorial approach; retributive and restorative justice; normative recognition of rights and effective capacity to guarantee them; legal formalism and the need for structural transformation.
- (iv) The socioeconomic dimension of transitional justice has been weakly incorporated, despite the fact that phenomena such as dispossession, exclusion and poverty have been central causes of the conflict.
- (v) It is necessary to move towards a transitional governance approach that overcomes the current fragmentation, articulates multiple actors and levels institutional capacities in the territories most affected by the war.

### **6.2. Public policy recommendations**

The previous analyses lead to the conclusion that Colombia urgently requires a transitional justice public policy that transcends the fragmented, centralist and predominantly legal paradigm that has prevailed in recent decades. In this sense, it is proposed to move towards the design of a national policy with a programmatic and territorial approach, to be formalized through a CONPES document or its equivalent, with clear goals, defined timetables, institutional responsibilities, and explicit alignment with the National Development Plan and international commitments on human rights and transitional justice.

A central element of this policy should be the consolidation of an inter-institutional and multi-scale governance system. This system would allow the articulation of national entities with subnational governments, social organizations and victims' representatives, through a National Coordination Council on Transitional Justice. Such an instance would facilitate the articulation of actions, the monitoring of the implementation of measures and the timely resolution of institutional bottlenecks, all under principles of co-responsibility, differential approach and binding participation.

Operational decentralization is another essential component. For transitional justice to respond to the local realities of the conflict and its impacts, it is essential to transfer competencies, technical capacities and resources to the most affected regions. This must be achieved through concerted regional plans, built in dialogue with the communities, that guarantee the effective participation of ethnic peoples, women, youth and organized victims, recognizing their knowledge, rights and their own normative systems.

Likewise, it is necessary to consolidate the socioeconomic dimension as a structuring axis of the transitional

approach. Measures aimed exclusively at symbolic reparations are insufficient if the material causes of the armed conflict are not addressed. Therefore, public policy must be articulated with agrarian reform programs, equitable access to land, productive inclusion, comprehensive rural development and strengthening of public services in the territories. In this framework, collective reparation and territorial reconstruction projects should be prioritized in the most affected areas, as established in the Final Peace Agreement.

The sustainability of these actions also requires a robust financial architecture. To this end, the creation of an exclusive national fund for transitional justice is proposed, endowed with multi-year sources and subject to mechanisms of social control, public auditing and periodic accountability. This tool would guarantee both the continuity of interventions and transparency in the use of public resources.

Finally, it is essential to establish integrated information, monitoring and evaluation systems that make it possible to trace and geo-reference interventions, as well as to evaluate their results in terms of justice, equity and peacebuilding. A national platform of disaggregated data, with public access and participatory governance, would facilitate evidence-based decision-making and allow for timely adjustments to the strategies implemented.

These recommendations should not be understood as isolated proposals, but as interdependent components of a transformative public policy that recognizes transitional justice not as a transitory episode or as a set of legal measures, but as a long-term strategy for the democratization of the State, the guarantee of victims' rights, and the construction of a sustainable and territorialized peace in Colombia.

**This article is developed within the framework of the doctoral research project entitled "Transitional Justice and Public Policy in Colombia since 1991", as part of the academic requirements of the Doctorate in Government, Public Policy and Public Administration of the Universidad del Valle.**

## References

- [1] Aguilar, L. F. (2019). Las cuestiones actuales de la disciplina de Políticas Públicas. *opera*, 25, 11-25. doi: <https://doi.org/10.18601/16578651.n25.02>.
- [2] Ambos, K. (2010). \*Procedimiento de la Ley de Justicia y Paz (Ley 975 de 2005) y derecho penal internacional\*. Corte Interamericana de Derechos Humanos. <https://www.corteidh.or.cr/tablas/26869.pdf>
- [3] Aponte García, C. A., Martínez Barrios, H. E., Romero-Sánchez, A., Aponte García, M. S., & García Valdés, M. del P. (2025). Governance and regulation of autonomous weapons and cybersecurity (2016–2024): The influence of states, international organizations, and civil society on international humanitarian law. *Contemporary Readings in Law and Social Justice*. <https://doi.org/10.52783/crlsj.537>
- [4] Aponte García, M. S., Romero-Sánchez, A., Aponte García, C. A., Urriago Fontal, J. C., & García Valdés, M. del P. (2025). The impact of Revolution 4.0 on international law and arms regulation (2016–2024). *Review of Contemporary Philosophy*. <https://doi.org/10.52783/rcp.1150>
- [5] Aponte, M., & Sanchez, S. (2024). Globalization, human rights and Colombian armed conflict. *Migration Letters*, 21(S5), 1237–1251. <https://doi.org/10.59670/ml.v21iS6.8109>
- [6] Aponte, M., Llano, J. y Sánchez, G. (2019). Corrupción, control estatal y acuerdo de paz en Colombia. En, J, Llano y N. Velasco (Ed.), *Pos-acuerdo y territorio en las comunidades indígenas, afro y campesinas en el Norte del Cauca* (pp. 101–136). Bogotá, D.C.: Ibáñez/Universidad Libre.
- [7] Aponte-García, M. S., & Sánchez-Arteaga, S. (2024). Transitional Justice in Colombia: A Systematic Literature Review. *Evolutionary Studies In Imaginative Culture*, 8.2(S3), 500–531. <https://doi.org/10.70082/esiculture.vi.1867>
- [8] Atehortúa Arredondo, C. (2022). Forced Internal Displacement in the JEP Framework: A New Possibility for Guaranteeing Rights to Truth and Justice, *RESEARCHING INTERNAL DISPLACEMENT*.

[https://researchinginternaldisplacement.org/wp-content/uploads/2022/05/RID-WP22\\_Clara-Atehortua\\_Justice.pdf](https://researchinginternaldisplacement.org/wp-content/uploads/2022/05/RID-WP22_Clara-Atehortua_Justice.pdf)

[9] Cadena García, F. ., Suárez López, B. E. ., y Lopera Mesa, G. P. . (2025). La protección del territorio como víctima del conflicto armado en el marco de la justicia transicional. Un análisis de los casos 002 y 005 de la Jurisdicción Especial para la Paz. *Revista derecho del Estado*, (62), 201–227. <https://doi.org/10.18601/01229893.n62.08>

[10] Carrera Hernández, A. P. (2013). Descentralización y gobiernos locales: 30 años de la experiencia en Latinoamérica. \*Revistas Científicas de la Universidad de Guadalajara\*.

[11] Corcione Nieto, M. A., Fernández Osorio, A. E., and Cabrera-Cabrera, L. J. (2021). Academia, armed conflict, and peace in Colombia: An approach from the geopolitics of knowledge. *Dados*, 64(4). <https://doi.org/10.1590/dados.2021.64.4.247>

[12] Durose, C., & Rummery, K. (2006). Governance and Collaboration: Review article. *Social Policy and Society*, Vol 5/No 2, 315–321. <https://doi.org/10.1017/S147474640500299X>

[13] Figueroa Oviedo, J. (2019). Alcance del derecho a la paz en la constitución política de 1991. *Revista Jurídica Piélagus*, 18(2), 143–163. <https://doi.org/10.25054/16576799.2648>

[14] Gready, P., Gutiérrez Danton, J., Parisi, P., & Robins, S. (2023). Transitional justice as a driver of transformation in Colombia (Policy Brief 6). Instituto Colombo-Alemán para la Paz. [https://www.researchgate.net/publication/372414060\\_Transitional\\_justice\\_as\\_a\\_driver\\_of\\_transformation\\_in\\_Colombia](https://www.researchgate.net/publication/372414060_Transitional_justice_as_a_driver_of_transformation_in_Colombia)

[15] Jakobsen Line Jespersgaard. (2024). Colombia as the ‘Laboratory’ for Transitional Justice: Consolidation and Innovation of Global Formulas, *International Journal of Transitional Justice*, Volume 18, Issue 3, November 2024, Pages 422–438, <https://doi.org/10.1093/ijti/ijae024>

[16] Jurisdicción Especial para la Paz. <https://www.jep.gov.co/Documents/LA%20JEP%20VISTA%20POR%20SUS%20JUEVES.pdf>

[17] Llano Franco, J. V. and Aponte Garcia, M. S. (2024) “Legal anthropology and interdisciplinary perspectives: Ethnic groups and conflict in Northern Cauca, Colombia”, *Sortuz: Oñati Journal of Emergent Socio-Legal Studies*, 14(2), pp. 436–458. Available at: <https://opo.iisj.net/index.php/sortuz/article/view/2006>

[18] Llano Franco, J. V., & Aponte, M. S. (2024). Estado del Arte: Estudios de antropología y sociología jurídica en el Norte del Cauca. *Revista Estudios Socio-Jurídicos*, 26(2), 4.

[19] Londoño Lázaro, M. C., y Idárraga Martínez, A. M. (2024). La justicia transicional como garantía de no repetición: el modelo colombiano puesto a prueba. *Novum Jus*, 18(3), 307–342. <https://doi.org/10.14718/NovumJus.2024.18.3.12>

[20] Maguire M. (2023). Notes from the Field: Lessons Learned from Investigating the Past in Northern Ireland, *International Journal of Transitional Justice*, Volume 17, Issue 3, November 2023, Pages 470–479, <https://doi.org/10.1093/ijti/ijad029>

[21] Maria Stephania Aponte-Garcia, & Sonia Sánchez-Arteaga. (2024). Transitional Justice in Colombia: A Systematic Literature Review. *EVOLUTIONARY STUDIES IN IMAGINATIVE CULTURE*, 500–531. <https://doi.org/10.70082/esiculture.vi.1867>

[22] Marín Yusti, J. P., Ramírez Castillo, C. A., García Giraldo, J. P., De los Ríos Giraldo, J., Romero López, Y. C., Uribe Taborda, A., Piedrahita González, K. J., Aponte García, M. S., Aponte García, C. A., Huertas Díaz, O., Manrique Molina, F. E., & Carvajal Panesso, A. (2020). Derechos humanos, conflicto armado y construcción de paz. UCEVA. <https://doi.org/20.500.12993/1942>

[23] Martínez, H. E., Pumarejo, H. M., Montero, M. J., & Monter, E. (2024). State of the art design: Reflections, meaning, objective, structure and example. *Russian Law Journal*, 12(1).

<https://doi.org/10.52783/rlj.v12i1.3931>

[24] Muller, P. Las políticas públicas, 3.<sup>a</sup> ed. Universidad Externado de Colombia. <https://publicaciones.uexternado.edu.co/gpd-las-politicas-publicas-3-a-ed-9789587105667.html>

[25] Olarte Delgado, A. M. (2025) "Attempts in Strengthening Indigenous Justice Systems in Colombia Through Transitional Justice", *International Journal for Crime, Justice and Social Democracy*, 14(2), pp. 83-95. doi:10.5204/ijcsd.3905.

[26] Ramelli Arteaga, A. (2020). Comentarios sobre la génesis de las reglas de procedimiento de la Jurisdicción Especial para la Paz. En P. Linares Prieto & D. Rojas Betancourth (Eds.), *\*La JEP vista por sus jueces (2018–2019)\** (pp. 489–502).

[27] Red de Justicia Transicional de la Universidad de Essex. (2024). Socioeconomic dimensions of transitional justice: Conceptual frameworks and emerging practice. Essex TJN. <https://www.essex.ac.uk/research-projects/essex-transitional-justice-network>

[28] Romero-Sánchez, A., Burbano Vallejo, E. L., & Perdomo-Charry, G. (2025). Mediating role of incentives and funding in academic spin-off creation: A PLS-SEM approach. *Cogent Business & Management*, 12(1), 2525501. <https://doi.org/10.1080/23311975.2025.2525501>

[29] Romero-Sánchez, A., Perdomo-Charry, G., & Burbano-Vallejo, E. L. (2025). Factores determinantes en la creación de Spin-Off Académicas: Una perspectiva multiteórica. *Revista De Ciencias Sociales*, 31(1), 162–181. <https://doi.org/10.31876/rcs.v31i1.43496>

[30] Roth Deubel, A. N. (2008). Perspectivas teóricas para el análisis de las políticas públicas: ¿de la razón científica al arte retórico?. *Estudios Políticos*, (33), 67–91. <https://doi.org/10.17533/udea.espo.1943>

[31] Rúa Delgado, C. F. . (2021). Articulación de los sistemas de justicia transicional en Colombia: la paz, la alternatividad penal y las víctimas como ejes fundamentales. *Criterios*, 13(1), 163–202. <https://doi.org/10.21500/20115733.5354>

[32] Sánchez, N. C., y Naranjo Velasco, K. (2023). Institutional Design and Transitional Justice: An Analysis of Colombia's Land Restitution Policy. *Revista derecho del Estado*, (57), 225–258. <https://doi.org/10.18601/01229893.n57.09>

[33] Salcedo, J., Martínez, H., Urriago, J. y Romero, A. (2022). The theoretical framework in research: meaning, functions, structure and example for its design. *Russian Law Journal*, 10, 877-884. <https://doi.org/10.52783/rlj.v10i4.4450>

[34] Sarkin, J. J., & Pereira Lopes, I. (2023). Reaching for both justice and peace in Colombia: Understanding the Special Jurisdiction for Peace's mixed approach (using both retributive and restorative justice) to deal with international crimes. *Contemporary Justice Review*, 26(2), 123–144. <https://doi.org/10.1080/10282580.2023.2258900>

[35] Shivangi Seth. (2025), Global South States and Transitional Justice: Beyond Politicization, *International Journal of Transitional Justice*, 2025; ijaf015, <https://doi.org/10.1093/ijtj/ijaf015>

[36] Sosa, J., Urrego, A., Prieto, C., & Camargo-Díaz, E. J. (2025). Constructing the Truth: Text Mining and Linguistic Networks in Public Hearings of Case 03 of the Special Jurisdiction for Peace (JEP). <https://doi.org/10.48550/arXiv.2504.04325>

[37] Teitel, R. G. (2003). Transitional Justice Genealogy. *Harvard Human Rights Journal*, 16, 69–94.

[38] Uprimny, R., & Saffon, M. P. (2008). Usos y Abusos de la Justicia Transicional en Colombia. *Anuario De Derechos Humanos*, (4). <https://doi.org/10.5354/adh.v0i4.13511>

[39] Vera Lugo, J. P. (2023). Widening the nation-territory gap: Transitional justice, development and spatial state-building in Colombia. *Environment and Planning C: Politics and Space*, 42(2), 287-302.

<https://doi.org/10.1177/23996544231204826>

[40] Victoria Ochoa, D., Aponte García, C., García Valdés, M., Aponte García, M., Romero Sánchez, A. (2023). Normative Statements and Correction Claim in the Logical Comprehension Domain. *Migration Letters*. 20, S9 (Nov. 2023), 653–666. DOI: <https://doi.org/10.59670/ml.v20iS9.4835>

[41] Weiffen, B., & Battistuzzi Penachioni, J. (2025). Interrogating Transitional Justice: The Multiple Meanings of a Concept. *Societies*, 15(5), 123. <https://doi.org/10.3390/soc15050123>