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Postconflict in Colombia (6). Military and police transition: five challenges

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The Colombian case breaks all previous patterns and will surely become a model for overcoming non-international armed conflicts in the 21st century, which cannot be categorized as civil wars. [Español](#) [Português](#)



Special forces soldiers march in a military parade. Fernando Vergara / AP/Press Association Images. All rights reserved.

Colombia is currently setting up a new, innovative and unique system of justice for its transition, based on two precepts: first, the enforcement of a constitutional framework (a legal-political framework for peace), and second, the dialogue with the main armed group, the Revolutionary Armed Forces of Colombia - People's Army (FARC), outside the existing law of the country (negotiating table horizontality).

Bearing in mind the first precept and out of due respect for the Constitution and the Law, the Colombian government has argued from the outset that the armed forces will not be subject to negotiation in Havana. And so it has been, and has been ratified by the two Army Generals sitting at the table as plenipotentiary negotiators. In fact, the recent agreement on justice in Havana had a unilateral component, for the ministers of justice and defense signed a document, in the parade field of the José María Córdova Military School of Cadets in Bogotá, containing the government's commitment to "circumstantial justice" for state agents – that is, including members of the security forces.

The symbolism of the act carried out at the military school is strategic for the institutional and collective memory of the armed forces in the last fifty-two years. The more so, because it took place on the day of the promotion to major general of the current commander of the Colombian Army, charged with the task of undertaking the greatest transformation of the force that has been instrumental in the war, and will undoubtedly be crucial as well in the building of peace. This transformation is not due to immediate contributing factors, but is rather the result of a specific policy that stems from 2006, when the strategic directives for the engagement guidelines for the armed forces, the Comprehensive Policy on Human Rights and International Humanitarian Law, and the professional organization of operational legal advisers, began to be developed.

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There are many challenges regarding the security sector and the security system - depending on whether you follow the UN or the OECD position on military transitions – which have to do with the understanding and the scale of the institutional reforms in the Ministry of Defense, the military and the police. Here we shall try to address five of these challenges, namely: 1. Understanding the difference between the performance of the Colombian Armed Forces and that of the armed forces in other countries where there have been expressions of structural violence as a result of authoritarianism or civil war; 2. Understanding the processes of institutional transformation and their evolution, and balancing them with the recommendations from the Commission on Clarifying the Truth; 3. Understanding from international experiences the failures in military and police transitions and their effects on security; 4. Analysing the international standards in non-repetition guarantees that may be applicable to the military and police transition in Colombia; 5. Redefining the roles, the functions and the mission of the armed forces and the police in a complex multi-criminality context.

1. Creating an educational strategy on violence in Colombia, the role of the armed forces, and the difference with other experiences in overcoming the past

The case of Colombian violence differs from that in the Southern Cone, Central America, Eastern Europe, Africa and Asia, in situations which led to political transitions towards democracy, whether by overcoming authoritarian regimes or overcoming civil war in the classical sense. While the Colombian experience does not differ in terms of the gravity of many of the facts, it does differ significantly as regards the components that have defended the state, the different governments, and even some members of the international community.

Colombia is a country with respectable, century-old institutions, a functioning democracy, and recognition of the armed forces by the people, both in urban and in rural areas. This is what key polls (Gallup, 2015) and serious studies by the University of the Andes and the Barometer of the Americas (Barometer, 2015) indicate. However, many sectors consider that the Colombian case fits within international and regional experience, which generates the strategic challenge of having to demonstrate at all levels and places that it is just not so.

In these days of celebration of the fifteenth anniversary of the Plan Colombia, we are precisely reminded of the enormous difficulty to convince the US Congress at the time that the Colombian case was not the same as those occurring elsewhere in the continent at times of democratic breakdown, and

how this feat was achieved. A stronger pedagogy is needed to show the world why transition in Colombia is unique, why transition standards that have been adequate in other latitudes cannot be applied to the Colombian Armed Forces, and why these military and police forces have had a strategic propitiating role in ending the armed conflict.

2. The transformation of the security and defense sectors and the recommendations of a Truth Commission

Perhaps one of the strongest challenges Colombia will have to face in the coming years will be the evaluation of all the changes that have been occurring in the armed forces, mostly in the last decade, regarding extrajudicial truth with a high historical memory content – that is, the victims' narratives delivered in a Truth Commission. If comparative experience is transposed without contextualization, or if international law transplants are taken in with eyes shut, we may come against many a problem in assuming the role of the security forces during the different stages of the armed conflict.

Considering the fact that our transitional justice has been adopting judicial and extrajudicial truth criteria when applying restorative and retributive justice and flexible punitive sanctions, it is clear that the non-repetition guarantee macro strategic scenario will be extrajudicial. Great care will be needed to assess the changes in the security and defense sectors, along with the recommendations of the Truth Commission.

3. Comparative experience shows significant failures in the administration of justice for military and police transition in the regional context

The 2014 Compared Defense Atlas of the Latin American Security and Defense Network (RESDAL), shows that 94% of the military forces in the region are used against traditional and new threats to public safety which were traditionally assumed by the police. In addition to this, 76% of the countries in the region also use their army, air force and navy to fight drug trafficking. The Northern Triangle (Guatemala, Honduras, El Salvador) is the most violent sub-region in the world, with Honduras ranking first in the world's murder rate.

Today, many of these countries and slowly some others in the Southern Cone too, such as Argentina, are progressively militarising again their societies, only three decades after recovering democracy. Colombia, together with the demobilization of the paramilitaries and the emergence of criminal gangs, by the end of the last decade has seen a decline in the perception of public safety and an increase in phenomena that affect the daily lives of citizens. In the light of international experience, could radicalization in some security and defense sector transitions be the cause of the current phenomenon of rampant crime? This is a question that is also a challenge for the nation to respond. I personally believe it is.

4. Are international standards in no-repetition guarantees to be transplanted in Colombia?

Another unique challenge for Colombia as a nation is to understand whether the international legal principles (soft law) for fighting impunity, conceived in other contexts, can be transplanted to Colombia, particularly in relation to military and police reform. Issues such as depuration, the disappearance of special branches (such as military intelligence), the reform of principles of policy and study programs, have to be examined and analyzed very closely, as they could possibly be counterproductive.

For Colombia is the state in the region that has done the most in training soldiers and police in Human Rights and International Humanitarian Law, according to the Ministry of Defense data for November 2014, and is in the lead in operational law, as the American System of Human Rights has recognised. The degradation ensuing from the war and the existence of

elements such as the drug-trafficking financing, the seizure of the state, human trafficking, and trafficking in animal species, among others, cannot lead us to make decisions that could affect security in the post-conflict stage in the medium and the long term. We believe that there are no standards, in general, that can be transplanted to Colombia in this field. The issue, however, is worth studying further.

5. Roles, missions and functions

One of the most interesting challenges in the post, agreement- consolidation stage will be how to define the role, the mission and functions of the armed forces and the police. The bottom line here is when to carry out the separation of the National Police from the Ministry of Defense and how to foster a civilian vision that has not been able to consolidate due to the armed conflict and to the existence of many militarised elements in the police force. In this sense, the real challenge here is not whether the armed forces of the police should be separated - which is something that has caused some difficulties in the past as far as the missions, roles and functions are concerned, but has also certainly determined the operational strategic triumph over the insurgency -, but when. The issue is when, and how, and any error in this could entail many problems international experience warns us against, particularly when a global rethinking of the role of the armed forces in democracy is under way, in the face of security threats never imagined before.

As can be seen, there are too many challenges and too many edges in them to treat them properly in such a brief space. The truth is that there are no magic formulas to solve the problems of structural violence derived from the war in Colombia, where the armed forces have been essential in generating a space for negotiation and for the likely ending of the armed conflict. At the same time, the Colombian Armed Forces have had to face violent phenomena that the Colombian population has deemed much more serious than the armed conflict itself, as evidenced by studies carried out by Forensic Medicine (2015) and the Judicial Investigation Department of the National Police (Dijin) through its crime report published annually since the 1960s.

To a casual observer, even to a trained researcher lacking experience in the field, the Colombian case is similar (in terms of violence indicators) to other cases in the region that originated international standards for fighting impunity. Yet the naked truth is that the Colombian case breaks all previous patterns and will surely become a model for overcoming non-international armed conflicts in the 21st century which cannot, in all cases, be categorized as civil wars.

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