

A photograph of a hearing room. In the background, three people are seated at a long table with laptops, with a large banner featuring the letters 'JEP' behind them. In the foreground, the back of a person's head is visible, looking towards the hearing. A small potted plant sits on the floor in the middle ground.

POLICY BRIEF  
2-2025

Unlocking the  
full potential  
of restorative  
justice: Lessons  
for a thicker peace  
in Colombia's  
transitional justice  
framework

Kerry Clamp





## **Author/researcher**

Kerry Clamp

Associate professor of Criminology at the University of Nottingham, UK. She is a leading scholar on restorative justice in transitional settings, known for her monograph *Restorative justice in transition* (2014) and the edited volume *Restorative justice in transitional settings* (2016). Dr. Clamp's co-authored article, "More than words," with professor Jonathan Doak, critically examines the challenges of applying democratic restorative justice in transitional justice frameworks.

kerry.clamp@nottingham.ac.uk

I would like to thank Daniel Wood, David Moore, Fernanda Fonseca Rosenblatt, Jennifer Llewellyn, Juliette Vargas, and Kelly Stockdale for their helpful comments on earlier drafts of this policy brief which is infinitely better because of their feedback. That said, any omissions or errors remain my own.

## **This policy brief was sponsored**

by the German Colombian Peace Institute - CAPAZ

## **Academic edition**

Juliette Vargas Trujillo • Scientific collaborator of the CAPAZ Institute

Stefan Peters • Academic director of the CAPAZ Institute and professor at the Justus-Liebig University Giessen, Germany

## **Editorial coordination**

Nicolás Rojas Sierra

Andrea Neira Cruz

## **Design and layout**

Leonardo Fernández Suárez

## **Cover and back cover image**

JEP meeting for Case 5 in Urabá. Photo: JEP.

Bogotá, Colombia, February 2025

Periodicity: bimonthly

ISSN: 2711-0346

This work is published under a Creative Commons licence Attribution-NonCommercial-ShareAlike 4.0 International (CC BY-NC-SA 4.0)

## **Summary**

This policy brief critically examines the role of the Special Jurisdiction for Peace (JEP) in Colombia as a mechanism for restorative justice within the broader framework of transitional justice established by the 2016 Peace Agreement. The JEP's structure and processes are assessed in relation to promoting social healing, reconciliation, and accountability for macro-criminality. It highlights the institution's operational independence, collaborative efforts, and the meetings between 'accredited victims' and 'appearing parties'. Yet, it also identifies the limitations of the JEP, particularly in its reliance on an adversarial legal framework that may overshadow restorative aims. This policy brief proposes a holistic approach that encompasses three lenses—encounter, reparative, and transformative—suggesting that bridging capital between adversary's, restitution, and the dismantling of oppressive structures are essential for achieving lasting peace. Recommendations are made at conceptual, strategic, and practical levels to enhance the JEP's engagement with communities, foster inclusive dialogue, and address systemic inequalities, in support of a reimagined model of restorative justice that empowers local actors, integrates traditional practices, and fosters long-term societal transformation in Colombia.

## **Keywords:**

Jurisdicción Especial para la Paz; peace; post-conflict; restorative justice; transitional justice

## **How to cite this text**

Clamp, K. (2025). *Unlocking the full potential of restorative justice: Lessons for a thicker peace in Colombia's transitional justice framework* (Policy Brief 2-2025). Instituto Colombo-Alemán para la Paz - CAPAZ.

**R**estorative justice is an evolving concept, initially developed to address interpersonal criminal incidents in democratic settings, often drawing on Indigenous justice practices. It has since been adapted for transitional contexts to aid in the recovery from societal conflict or oppression (Clamp, 2014). Contemporary applications focus on accountability, repairing harm through material or symbolic actions, and fostering reconciliation. While restorative justice has the potential to address harms caused by conflict, its application in transitional contexts is limited by the dominance of retributive justice frameworks.

Restorative justice gained global attention during the South African Truth and Reconciliation Commission (SATRC), where it was positioned as a morally superior alternative to retributive justice. Archbishop Desmond Tutu linked restorative justice with truth, reconciliation, healing, forgiveness, and *ubuntu*<sup>1</sup>. Since then, it has been associated with Rwanda's *Gacaca* courts, the International Criminal Court, Timor-Leste's Community Reconciliation Program, and community initiatives in Northern Ireland and Sierra Leone. Scholars describe restorative justice as a 'mechanism' for truth telling, accountability, reparation, reconciliation, devolving power to communities, enhancing victim participation, addressing colonial abuses, and promoting collective responsibility (see Clamp, 2016).

<sup>1</sup> The philosophy of *ubuntu* (Zulu) or *botho* (Sotho) is said to guide African way of life and may be described as 'spiritual communalism' (Onwuachi 1977; Mokgoro 1998; Tutu 1999; Anderson 2003). According to Shutte (1993: 46) *ubuntu* is a unifying worldview enshrined in the Zulu maxim *umuntu ngumuntu ngabantu*, which means 'a person is a person through other persons'.

A common limitation in transitional justice is the narrow focus on meta-narratives or individual cases, often neglecting the broader structural and communal issues that fuel conflict. Typically, transitional justice mechanisms address the most recent conflict between warring factions, but this can inadvertently prolong violence by reinforcing hierarchies that label some groups as victims and others as perpetrators (McEvoy & McConnachie, 2012). The frequent recurrence of conflict underscores the need for more holistic frameworks that involve all stakeholders, bridge the gap between individual and collective experiences, and address a broader range of issues and incidents within their social contexts to prevent future violence (Lundy & McGovern, 2008; Walter, 2010). As Pemberton and Aarten (2017) note: '...although doing justice might often overlap with the business of undoing injustice, these ends might also conflict' (p. 321). In other words, attempts to achieve 'justice' can sometimes exacerbate the very injustices they aim to address.

Thus, the use of restorative justice in deeply entrenched conflicts must extend beyond addressing immediate harms and instead be used to surface the structural and communal issues driving conflict. By fostering dialogue, dismantling oppressive structures, and promoting social justice and equality, restorative justice can heal the past while laying the foundations for a sustainable peaceful future. Yet, such holistic reforms often exceed the scope of transitional justice mechanisms due to the way conflicts and transitions are framed (Llewellyn, 2006). A holistic approach to restorative justice is therefore necessary to reshape relationships within communities, between citizens and the state, and across societal divides to ensure future generations inherit a more peaceful and just society.

To demonstrate how and why this is necessary, this policy brief outlines the theoretical underpinnings of a holistic framework for restorative justice in transitional settings before examining the restorative justice features of the *Jurisdicción Especial para la Paz* (JEP). It then considers the implications of a holistic restorative justice framework for the JEP's approach, followed by concrete recommendations aimed at fostering inclusive dialogue, integrating traditional justice mechanisms, and addressing the structural drivers of conflict.

### A holistic restorative justice framework and its transformative potential for transitional settings

To unlock the full potential of restorative justice in transitional settings, it is essential to transcend the narrow view of it as merely an alternative to conventional criminal justice. Instead, restorative justice should be understood as a theory that redefines how societies address conflict, wrongdoing, and responsibility. By shifting the focus from legal infractions to the harm caused by ruptured social relationships, restorative justice emphasises the need to repair these relationships, to consider both personal and collective responsibility, and to promote social equality (Llewellyn, 2006; 2015).

The potential of restorative justice in transitional contexts lies in its ability to address complex social harms. Henry and Milovanovic's (1994) distinction between 'harms of reduction' (i.e., material loss) and 'harms of repression' (i.e., future loss, such as thwarted aspirations) is particularly relevant in contexts where conflict is rooted in deep-seated structural inequalities. A common limitation in both democratic and transitional justice literature is that restorative justice is often relegated to a supplementary role, deployed when conventional justice models fall short. However, restorative justice should not merely complement or substitute existing systems. It should be seen as a relational theory of justice that seeks to restore relationships and social equality (Llewellyn, 2006). This broader conceptualisation is crucial in transitional settings where societal conflicts are deeply embedded in both individual actions and broader systemic issues. In such contexts, restorative justice redefines justice as an evolving process, rather than a finite response to isolated cases of wrongdoing (Llewellyn, 2015).

Viewed in this way, restorative justice also moves beyond rigid victim-perpetrator categories, recognising the fluidity of these roles in conflict situations. On this basis, there is a requisite shift from focusing on individual cases of harm to considering the wider systemic conditions that perpetuate societal conflict. By focusing not only on individual responsibility but also on the relational and structural aspects of harm, restorative justice offers a more holistic approach to societal repair. This expanded understanding is especially critical when addressing the legacies of conflict and oppression that often leave deep divisions within society. This holistic approach can be understood through three interconnected lenses that reflect different dimensions of the potential of restorative justice in transitional contexts (Clamp, 2014):

1. **Encounter lens:** This lens emphasises the creation of shared spaces for dialogue between those affected by harm in the pursuit of increased trust, and the restoration of social relationships. In transitional settings, this dialogue should not be confined to individual wrongs but also the broader social and communal issues that underpin ongoing conflict. The encounter lens thus encourages a more inclusive form of justice, one that incorporates not only direct victims and offenders but also the broader community that has been affected by the conflict.
2. **Reparative lens:** This lens focuses on the material and symbolic actions that address harm, including financial compensation, public apologies, or other forms of restitution. These actions are crucial in transitional settings, where historical grievances often persist, and the material dimensions of harm—such as land dispossession, economic inequalities, and social exclusion—must be addressed to foster genuine reconciliation and to secure social equality.
3. **Transformative lens:** This forward-looking lens challenges systemic inequalities and conventional definitions of crime and victimhood. It recognises that roles such as 'victim' and 'offender' are not static but are socially constructed categories, reflecting the complexities of individual and societal experiences of harm. As such, this lens requires us to view our institutional, social, and interpersonal relationships much more broadly. By dismantling oppressive structures and addressing root causes of conflict,



the transformative lens seeks to prevent future violence, promote social justice, and reshape the relationships between individuals, communities, and institutions.

Each of these lenses highlights a different aspect of the potential of restorative justice to repair harm and rebuild fractured relationships. However, their practical application in transitional settings requires engagement at multiple levels of society to fully realise its potential (Clamp, 2014):

- **Conceptual level:** State-sponsored mechanisms, such as truth commissions or the JEP, operate at this level to establish inclusive values and normative benchmarks for societal reform. These mechanisms contribute to nation-building by promoting restorative principles, fostering reconciliation, and embedding a new culture of justice rooted in social equality.
- **Strategic level:** Participatory democracy can be strengthened when restorative principles are embedded within institutional frameworks during reform. These initiatives illustrate how restorative justice can stimulate broader societal change, transforming oppressive institutions, and enabling more democratic and inclusive forms of governance. For example, in Northern Ireland and South Africa restorative justice processes and principles were integrated into the reformed youth justice system (see Clamp, 2008).
- **Practical level:** At the grassroots level, restorative justice schemes may develop organically to address gaps left by formal institutions, due to their involvement in past oppression and conflict. In these contexts, state mechanisms lack legitimacy or are viewed with suspicion by local communities. Through these locally developed schemes communities are empowered to manage conflicts, foster local ownership of justice processes, and build social cohesion from the ground up. For example, like the high-profile community-based restorative justice schemes that emerged in republican and loyalist communities in Northern Ireland (see Eriksson, 2009).

Despite its potential, this holistic understanding of restorative justice remains underutilised in transitional justice settings. Although some restorative elements are integrated into transitional justice mechanisms, they tend to remain rooted in

conventional frameworks that prioritise individual accountability and punishment over the restoration of social relationships. The focus on legal processes and the sequencing of these mechanisms restricts the transformative potential of restorative justice, as it remains tethered to familiar notions of justice that are focused on individual culpability rather than on broader societal repair (Llewellyn, 2015).

In transitional settings, restorative justice must be viewed as more than a set of practices designed to complement criminal justice. Instead, it should be embraced as a distinct justice approach capable of addressing both historical grievances and future societal challenges. Effective implementation requires integrating restorative justice principles across national frameworks, criminal justice reform efforts, and grassroots initiatives. This integrated approach is essential for addressing the root causes of conflict, promoting social cohesion, and preventing future violence rather than simply halting conflict temporarily (Harris, 2008; Llewellyn, 2006; Sullivan & Tift, 2001).

In sum, the application of restorative justice in transitional settings must extend beyond its role as a specialised or supplementary response to individual wrongdoing. Rather, it should be understood as a relational, future-oriented justice theory that prioritises restoring equal social relationships, dismantling oppressive structures, and addressing both personal and systemic harm. The challenge lies not merely in sequencing justice processes but in embracing a broader, more inclusive vision of justice that fosters long-term societal healing and transformation.

### The JEP's approach to restorative justice in Colombia

The JEP, established by the 2016 Peace Agreement, plays a key role in Colombia's transitional justice framework. Unlike previous initiatives established under the Justice and Peace Law of 2005, the JEP operates with significant independence, supported by its own administrative and financial structures. This autonomy is crucial for maintaining credibility of the institution and ensuring that large-scale crimes are addressed in accordance with international standards. Despite this operational independence, the JEP collaborates with other bodies, such as the Truth Commission and the Unit for the Search of Persons deemed as



disappeared, to ensure a coordinated approach to addressing the legacy of the conflict. As part of Colombia's Comprehensive System of Truth, Justice, Reparation, and Non-Repetition, the JEP was described by its former President, Eduardo Muñoz (2022), as a model 'based on achieving peace through words... and the dignity of victims through recognition' (p. 9).

The JEP focuses on macro-criminality<sup>2</sup> to reveal structural patterns of violence and the socio-political context that sustained these crimes, aiming to deliver justice and to promote social healing and national reconciliation (Parra-Vera, 2022). The JEP's structure includes three main chambers – the Amnesty and Pardon Chamber, the Chamber for the Definition of Legal Situations, and the Chamber for the Recognition of Truth, Responsibility, and Determination of Facts and Conduct – and a Tribunal for Peace. These chambers and sections of the Tribunal manage different aspects of accountability for different actors in the conflict, from ex-combatants to public security forces, third parties, and civilians.

According to Muñoz (2022, p. 6), the JEP employs both dialogical and adversarial procedures. Dialogue between 'accredited victims' (*víctimas acreditadas*) and 'appearing parties' (*comparecientes*)<sup>3</sup> serves to uncover as much truth as possible about the macro cases under consideration. It is important to note, however, that a focus on macro crimes means that the appearing party and accredited victims will not necessarily be linked by the same offence. This does not necessarily diminish the restorative potential of the interaction, but it does often require specialist training of facilitators and comprehensive preparation of the parties involved (see Christen-Schneider, in press). After the Recognition Chamber establishes the facts and behaviours and determines the individuals 'most responsible' (*los máximos responsables*),

the appearing parties are given the opportunity to admit responsibility. Their level of cooperation and acknowledgment determines the sanctions imposed. If they accept responsibility, a Resolution of Conclusions is issued, which includes a proposal for so-called 'restorative sanctions or penalties' (*sanciones propias*) that do not involve a loss of liberty<sup>4</sup>. This proposal is discussed with the accredited victims and then forwarded to the Recognition Section of the Tribunal for Peace for implementation. If responsibility is not acknowledged initially, but does emerge later in the process, 'alternative sanctions' apply which may include five to eight years of imprisonment. 'Ordinary sanctions', which can include up to twenty years of imprisonment, are reserved for those who deny responsibility and face full adversarial trials.

Many scholars describe the JEP as employing restorative justice as a guiding paradigm that informs its aims, processes, and outcomes (Mayans Hermida, 2024; Parra-Vera, 2022; Roccatello & Rojas, 2020). Healing for victims, similar to the SATRC, is linked to acknowledgement and vindication through truth-telling. As Muñoz (2022) states, the JEP 'will have a very important restorative effect because the pain of the victims is communicated and dignified through the clarification of the truth' (p. 8). There is no doubt that the JEP has made significant progress in engaging stakeholders compared to other transitional justice mechanisms, yet some limitations remain. The following section will examine the extent to which the model and implementation of the JEP can realise the full potential of restorative justice against the holistic framework provided in the previous section.

### The implications of a holistic restorative framework for the JEP

Across the literature, there is a limited analysis of whether the JEP's participant engagement process and alternative punishments to loss of liberty, in

- 2 Examples of macro-crimes within the JEP include massacres (i.e., large-scale civilian killings linked to territorial control or political aims), forced disappearances (i.e., abductions by state or non-state actors), torture and sexual violence (i.e., as part of broader abuse patterns), forced displacement (i.e., removal of communities from their land), child soldier recruitment (i.e., systematic use of children in conflict), and extrajudicial killings (*falsos positivos* e.g., where civilians were falsely presented as combatant deaths).
- 3 This specific terminology is intentionally used rather than 'defendant' to move away from conventional criminal justice labels (Vargas, personal communication).

- 4 These sanctions involve 'participation in effective reparation programs for displaced peasants, environmental protection and recovery, substitution of illicit crops, literacy and training in school subjects, cleaning and eradication of anti-personnel mines or explosive remnants of war; and construction and repair of infrastructure in rural or urban areas such as schools, highways, health centers, homes, community centers, aqueduct, electrification and connectivity networks' (Muñoz, 2022, p. 9).



exchange for acknowledging responsibility, can be considered 'restorative'. While some may argue that restorative justice programmes within Western criminal justice systems share these elements, their classification as 'restorative' remains contested. Scholars argue such approaches fall short of embodying the deeper, transformative vision of justice that restorative justice aims to achieve, especially in transitional contexts (Clamp & Doak, 2012). As Moore and Vernon (2023) suggest:

The success of a process is not best measured by the 'restorativeness' of who is involved, or by pre-determined administrative stages. Rather, success should be measured by the extent to which the process has set relations right...[which] will differ from one case to another. (p. 10)

Adapting restorative processes to the specific needs of those involved presents a challenge for adversarial justice systems, which are built on fixed procedures and predetermined outcomes. According to Shearing and Johnston (2005), adversarial models equate justice with punishment that serves both instrumental functions (i.e., it is said to deter offenders and others from future wrongdoing) and symbolic functions (i.e., it simultaneously rectifies the imbalance caused by the offence by a) imposing a disadvantage on the wrongdoer and b) publicly condemning their actions). This forms the basis of the 'punishment paradigm', which focuses on assigning blame and punishing past actions.

Restorative justice, in contrast, prioritises meaningful change in future behaviour (as determined by the parties involved) over punishment, viewing criminal behaviour and harm in a relational context. It emphasises that 'effective responses to crime, including crime prevention and reduction, must also be relational' (Llewellyn et al., 2013, p. 285). This should not be confused with improving a relationship between individuals or rebalancing the scales of justice, but rather recognising that there are broader factors that shape behaviour and structures that need to be considered and addressed to prevent future harm. Achieving this requires the involvement of all stakeholders and for any actions to be collectively identified and agreed to by all participants.

While the JEP has incorporated restorative elements into its procedures, its restorative potential is limited in several ways. Firstly, the JEP identifies the individuals to be involved in its processes according to its own criteria, which is not entirely

transparent (see Vega & Parmentier, 2024). Secondly, while the court's procedures allow for dialogue between accredited victims and appearing parties (most recently expanded beyond the principal appearing party), the court's reliance on an adversarial legal framework risks overshadowing restorative aims by focusing too heavily on individual accountability. Finally, the court's structure remains anchored in a framework that prioritises legal process and sequencing, and its emphasis on legal resolution can overshadow the need for a more flexible, relational process that engages communities in healing and conflict resolution. This mirrors criticisms of other 'restorative' transitional justice mechanisms, such as South Africa's Truth and Reconciliation Commission, where symbolic reconciliation did not always translate into substantive justice (Nomoyi & Pretorius, 2001) and public confessions did not simply lead to healing (Hayner, 2011).

The JEP's legitimacy is further complicated by its status as a state-led institution. Critics argue that transitional justice processes remain dominated by legal and political elites, leaving insufficient space for community-driven justice initiatives. Rigid, externally defined models often fail to address local complexities, making Western legal frameworks seem irrelevant or counterproductive (Findlay, 2000; Millar, 2011). A principle-based approach, as Harbin and Llewellyn (2016) argue, would enable locally responsive practices that reflect community needs and avoid the imposition of external models. Cultural adaptability is key to the legitimacy and effectiveness of restorative justice mechanisms, which must also evolve to accommodate those not ready to engage immediately. This is critical for addressing the root causes of ongoing conflict, which critics argue are often overlooked (Mani, 2014; Millar, 2011). For restorative justice to succeed, it must not only facilitate dialogue but also integrate traditional practices into formal frameworks to enhance community ownership and participation. Without deeper involvement from affected communities, the JEP risks being perceived as a top-down process. To fully realise its potential, the JEP must engage communities more deeply, ensuring that the process reflects local needs and fosters long-term healing. The next section outlines how this might be pursued.





## Developing and realising the full potential of restorative justice in the JEP

To fully unlock the transformative potential of restorative justice in Colombia, the JEP must view its work through the encounter, reparative, and transformative lenses.

### Encounter lens: Facilitating dialogue and restoring relationships

The encounter lens focuses on creating spaces for dialogue that engage victims, offenders, and the wider community. These dialogues aim to rebuild trust and non-violent communication, addressing the destruction of social capital that often accompanies prolonged conflict (Clamp, 2014). Putnam (1993) describes social capital as the ‘features of social organisation, such as trust, norms, and networks that can improve the efficiency of society by facilitating coordinated actions’ (p. 167). Restorative justice has a unique role in rebuilding this capital, which can be understood through Putnam’s distinction between ‘bonding social capital’ (i.e., the relationships within groups) and ‘bridging social capital’ (i.e., the relationships across groups).

Northern Ireland offers a compelling example whereby bonding social capital is strong and bridging social capital is weak. During the conflict, republican and loyalist communities became increasingly isolated, resulting in a withdrawal from public spaces and reduced contact between individuals from those communities (Steenkamp, 2009). Given that the police were regarded with suspicion and actively targeted, this left a policing vacuum resulting in the use of paramilitaries to deal with anti-social and criminal behaviour affecting community life, and to serve as protectors against attack from the other community (see Chapman & Campbell, 2016). As such, bonding social capital can be viewed as a political strategy in this context to respond to inequality by situating the community in opposition to the state and/or another community (Steenkamp, 2009).

Although there have been significant strides in reducing conflict post transition, ten-metre-high peace walls continue to separate communities and sectarian violence still occurs. What is missing is the development of bridging social capital, a crucial requirement for community development and the improvement of inter-ethnic relations post-transition (Steenkamp 2009). Initiatives have been developed to deal with conflict within those communities, but there has been a

lack of engagement between those communities resulting in ongoing suspicion and hatred (see Manktelow, 2007). As Putnam (2000, p. 23) states, while bonding social capital is important for reinforcing a particular self-image and for ‘getting by’, bridging social capital is essential for establishing ‘broader identities and reciprocity’ thus breaking down barriers and allowing people to move forward together despite differences.

In the context of the JEP, its restrictive dialogic processes may similarly inhibit the development of bridging social capital. Without intentional strategies to foster cross-community engagement, efforts may result in a ‘negative peace’ (i.e. the absence of violence) with a continued threat that violence could reignite at any moment. To overcome this, a reconceptualisation of restorative justice within the JEP is necessary, incorporating community empowerment with professional resources to facilitate conflict resolution and strengthen community resilience (Bazemore & McLeod, 2011). This approach has been successful in other post-conflict settings such as the Solomon Islands (see Braithwaite et al., 2010).

### Reparative lens: Addressing harm through material and symbolic restitution

The reparative lens emphasises both material and symbolic restitution as central to reconciliation efforts. While the JEP plays a critical role in delivering justice, it must temper its ambitions by recognising that it is only one element of a broader transformation strategy. Transitional justice requires flexibility and continuous adaptation, especially in integrating broader social justice efforts to address the structural drivers of conflict (Froestad & Shearing, 2007). Empirical studies indicate that communities affected by violent and protracted conflict often prioritise sustainable futures over retrospective justice (Millar, 2011; Pells, 2009; Vinck & Pham, 2008). Thus, the JEP should shift its focus from punitive accountability towards community responsibility, restoration, and resilience (see Harbin & Llewellyn, 2016). Locally driven mechanisms and governance structures that address immediate needs while laying the groundwork for long-term justice are crucial for sustaining the JEP’s relevance beyond the transitional period.

Ultimately, the JEP’s success depends on its ability to foster inclusive and culturally resonant practices that extend beyond symbolic gestures of reconciliation. The existing protocols that govern the JEP’s relationship with Indigenous and





Afro-descendant communities represent a positive step forward. However, the JEP could go further by empowering these communities to define any reparation/restoration measures to be implemented through their own justice systems. By integrating community-led initiatives within formal restitution processes, the JEP can ensure that justice is not only retrospective but also forward-looking, promoting sustainable peace. As Moore and Vernon (2023) emphasise, ‘A restorative worldview is a relational worldview, recognising human connection, empathy, and capacity for coordinated collective action’ (p. 14). To fully realise this vision, there is a need for more collaborative efforts to address the specific needs of individuals, groups, and communities within Colombia, particularly in the context of the JEP’s ongoing work.

### **Transformative lens: Dismantling oppressive structures and addressing root causes**

The transformative lens broadens the focus from individual instances of harm to the systemic and structural issues that sustain conflict. For the JEP to effectively prevent future violence, it must confront deeply rooted inequalities and historical grievances that perpetuate social divisions. While the JEP aims to promote healing through dialogue, particularly by addressing macro-level cases, it remains unclear how its focus on individuals aligns with its broader goal of addressing systemic issues.

A relevant example of integrating both individual and structural reform comes from the Australian Defence Force’s (ADF) response to internal physical and sexual abuse, harassment, and bullying (Vernon, 2017). In 2013, the ADF established a taskforce to resolve individual complaints and drive institutional reform to prevent these behaviours from recurring. This effort included a national redress scheme offering restorative engagement conferences, reparation, criminal prosecution, and therapeutic support to personnel. Interestingly, only 1% of complainants wished to refer their case to the relevant policing agency. While many victims were interested in a restorative process, they preferred to meet senior ADF representatives rather than those who had abused them. For an intervention to be effective, it must therefore comprehensively address patterned violence or abusive behaviour in addition to any specific incidents. This approach not only addressed individual cases of abuse but also catalysed a cultural shift within the ADF, demonstrating how addressing individual harm alongside systemic change can

create a virtuous cycle of institutional reform and personal recovery (see Moore & Vernon, 2024).

The JEP can learn from progressive developments in restorative justice in democratic settings by placing greater emphasis on structural change alongside individual accountability. Redress schemes that draw collective insights from individual cases and apply them to broader institutional reform offer a valuable model for integrating personal healing with societal transformation (Moore & Vernon, 2024). Since victims often seek both vindication and assurances of non-recurrence (Vernon, 2017), successful interventions must prioritise these goals to effectively break cycles of violence.

### **Recommendations for the JEP to realise the full potential of restorative justice**

To fully realise the potential of restorative justice within Colombia’s JEP, a differentiated, multi-level approach is necessary. These recommendations, framed through the three levels of application, aim to guide the JEP towards more inclusive and sustainable justice processes.

#### **Conceptual level**

1. **Adopt a holistic approach** by:
  - a. establishing mechanisms that situate individual cases in a relational context, ensuring that restorative justice is not overshadowed by punitive aims.
  - b. collaborating with NGOs and state institutions to embed restorative justice principles into broader societal frameworks that address structural injustices.
  - c. developing public-facing materials that articulate the goals and processes of restorative justice to foster societal awareness, understanding, and support among the public beyond the recently launched *Justa-mente* programmes in schools and colleges.

#### **Strategic level**

2. **Foster inclusive dialogue** by:
  - a. creating structured spaces for dialogue that engage diverse community members and build trust across societal divides through training in restorative justice principles.



- b. promoting success stories of reconciliation in the media to strengthen public support for restorative initiatives and encourage a culture of dialogue.
- c. collaborating with local leaders to incorporate culturally specific practices into formal processes, ensuring both legitimacy and relevance of the JEP.
- d. implementing pilot projects to test hybrid justice models, facilitating strategic learning and adaptation across regions.

### Practical level

#### 3. Create sustainable, ongoing local processes by:

- a. engaging with local organisations to lead long-term initiatives for dialogue and reconciliation, empowering communities to manage local conflict through existing local justice processes.
- b. forming leadership councils composed of community leaders and criminal justice representatives to oversee local governance structures integrating restorative principles.
- c. offering training programs for local leaders to embed restorative practices within their communities, fostering ownership and sustainability.

By implementing these actions across conceptual, strategic, and practical levels, the JEP can move beyond its current focus on individual accountability. This holistic restorative justice framework will empower communities, address systemic inequalities, and foster long-term social transformation—ultimately contributing to a thicker peace in Colombia.

### Referencias

- Anderson, A. (2003). *Restorative justice, the African philosophy of ubuntu and the diversion of criminal prosecution*. University of South Africa.
- Bazemore, G., & McLeod, C. (2011). Restorative justice and the future of diversion and informal social control. In E. G. M. Weitekamp & H.-J. Kerner (Eds.), *Restorative justice: Theoretical foundations* (pp. 143-176). Routledge.
- Braithwaite, J., Dinnen, S., Allen, M., Braithwaite, V., & Charlesworth, H. (2010). *Pillars and shadows: Statebuilding as peacebuilding in Solomon Islands*. ANU Press.
- Chapman, T., & Campbell, H. (2016). Working across frontiers in Northern Ireland: The contribution of community-based restorative justice to security and justice in local communities. In K. Clamp (Ed.), *Restorative justice in transitional settings* (pp. 133-151). Routledge.
- Christen-Schneider, C. (in press). *Trauma-informed restorative dialogues: The power of community*. Routledge.
- Clamp, K. (2008). Assessing alternative forms of localised justice in post-conflict societies: Youth justice in Northern Ireland and South Africa. In D. Frenkel & C. Gerner-Beuerle (Eds.), *Selected essays on current legal issues* (pp. 231-246). ATINER.
- Clamp, K. (2014). *Restorative justice in transition*. Routledge.
- Clamp, K. (2016). *Restorative justice in transitional settings*. Routledge.
- Clamp, K., & Doak, J. (2012). More than words: Restorative justice concepts in transitional settings. *International Criminal Law Review*, 12(3), 339-360. <https://doi.org/10.1163/157181212X645797>
- Eriksson, A. (2009). *Justice in transition: Community restorative justice in Northern Ireland*. Routledge.
- Findlay, M. (2000). Decolonising restoration and justice in transitional cultures. In H. Strang & J. Bathwater (Eds.), *Restorative justice: Philosophy to practice* (pp. 239-253). Dartmouth Publishing Company.
- Froestad, J., & Shearing, C. (2007). Conflict resolution in South Africa: A case study. In G. Johnstone & D. Van Ness (Eds.), *Handbook of restorative justice* (pp. 285-296). Willan Publishing.
- Harbin, M., & Llewellyn, J. (2016). Restorative justice in transitions: The problem of “the community” and collective responsibility. In K. Clamp (Ed.), *Restorative justice in transitional settings* (pp. 152-170). Routledge.
- Harris, K. (2008). Transformative justice: The transformation of restorative justice. In D. Sullivan & L. Tift (Eds.), *Handbook of restorative justice: A global perspective* (pp. 555-568). Routledge.



- Hayner, P. (2011). *Unspeakable truths: Transitional justice and the challenge of truth commissions*. Routledge.
- Henry, S., & Milovanovic, D. (1994). The constitution of constitutive criminology: A postmodern approach to criminological theory. In D. Nelken (Ed.), *The futures of criminology* (pp. 127-149). Sage.
- Llewellyn, J. (2006). Restorative justice in transitions and beyond: The justice potential of truth-telling mechanisms for post-peace accord societies. In T. A. Borer (Ed.), *Telling the truths: Truth telling and peace building in post-conflict societies* (pp. 83-113). University of Notre Dame Press.
- Llewellyn, J. (2015, January 9). A restorative approach to peace building. Paper presented at the 'Legal Philosophy between Law and Transnationalism' seminar series, Nathanson Centre, Osgoode Hall Law School, Toronto. <https://tinyurl.com/2a6tt9gp>
- Llewellyn, J. J., Archibald, B. P., Clairmont, D., & Crocker, D. (2013). Imagining success for a restorative approach to justice: Implications for measurement and evaluation. *Dalhousie Law Journal*, 36(2), 281-316.
- Lundy, P., & McGovern, M. (2008). The role of the community in participatory transitional justice. In K. McEvoy & L. McGregor (Eds.), *Transitional justice from below: Grassroots activism and the struggle for change* (pp. 99-120). Hart Publishing.
- Mani, R. (2014). Integral justice for victims. In I. Vanfraechem, A. Pemberton, & F. Ndahinda (Eds.), *Justice for victims: Perspectives on rights, transition and reconciliation* (pp. 183-209). Routledge.
- Manktelow, R. (2007). The needs of victims of the Troubles in Northern Ireland: The social work contribution. *Journal of Social Work*, 7(1), 31-50. <https://doi.org/10.1177/1468017307073726>
- Mayans Hermida, B. (2024). Alternative criminal sanctions for international crimes in transitional contexts: A case study of Colombia [Tesis doctoral, Vrije Universiteit Amsterdam]. <https://doi.org/10.5463/thesis.651>
- McEvoy, K., & McConnachie, K. (2012). Victimology in transitional justice: Victimhood, innocence and hierarchy. *European Journal of Criminology*, 9(5), 527-538. <https://doi.org/10.1177/1477370812454204>
- Millar, G. (2011). Local evaluations of justice through truth-telling in Sierra Leone: Postwar needs and transitional justice. *Human Rights Review*, 12(4), 515-535. <https://doi.org/10.1007/s12142-011-0194-7>
- Mokgoro, Y. (1998). Ubuntu and the law in South Africa. *Buffalo Human Rights Law Review*, 4, 1-6.
- Moore, D., & Vernon, A. (2024). *Setting relations right in restorative practice: Broadening mindsets and skill sets*. Routledge.
- Muñoz, E. (2022, April 26-27). Justice for peace: The restorative model in the Special Jurisdiction for Peace. Paper presented at the *Northern Ireland and Colombia: Lessons from Peace* conference, Yale University, New Haven, CT. <https://tinyurl.com/yck2a4wy>
- Nomoyi, C., & Pretorius, R. (2001). Impact of the dynamics of the Reparations and Rehabilitation Committee of the Truth and Reconciliation Commission on female victims. *Acta Criminologica*, 14(1), 1-10.
- Onwuachi, C. (1977). *African identity and ideology*. Festac '77. African Journal Ltd.
- Parra-Vera, O. (2022). The Special Jurisdiction for Peace and restorative justice: First steps. In K. Ambos & S. Peters (Eds.), *Transitional justice in Colombia: The Special Jurisdiction for Peace* (pp. 135-158). <https://doi.org/10.5771/9783748923534>
- Pells, K. (2009). We've got used to the genocide; it's daily life that's the problem. *Peace Review: A Journal of Social Justice*, 21(3), 339-346. <https://doi.org/10.1080/10402650903099421>
- Pemberton, A., & Aarten, P. (2017). A radical in disguise: Judith Shklar's victimology and restorative justice. In I. Aertsen & B. Pali (Eds.), *Critical restorative justice* (pp. 315-330). Hart.
- Putnam, R. D. (1993). *Making democracy work*. Princeton University Press.
- Putnam, R. D. (2000). *Bowling alone: The collapse and revival of American community*. Simon & Schuster.
- Roccatello, A. M., & Rojas, G. (2020). *A mixed approach to international crimes: The*





- retributive and restorative justice procedures of Colombia's Special Jurisdiction for Peace*. ICTJ Report. <https://tinyurl.com/297q685v>
- Shearing, C., & Johnston, L. (2005). Justice in the risk society. *The Australian and New Zealand Journal of Criminology*, 38(1), 25-38.
- Shutte, A. (1993). *Philosophy for Africa*. UCT Press.
- Steenkamp, C. (2009). *Violence and post-war reconstruction: Managing insecurity in the aftermath of peace accords*. Palgrave Macmillan.
- Sullivan, D., & Tifft, L. (2001). *Restorative justice: Healing the foundations of our everyday lives*. Willow Tree Press.
- Tutu, D. (1999). *No future without forgiveness*. Rider Books.
- Vega, L., & Parmentier, S. (2024). *La justicia restaurativa en los procedimientos de la JEP en Colombia: Conceptos, principios, prácticas y recomendaciones* (Policy Brief 8-2024). Instituto Colombo-Alemán para la Paz – CAPAZ. <https://tinyurl.com/2cpk9ttx>
- Vernon, A. (2017). The ethics of appropriate justice approaches: Lessons from a restorative response to institutional abuse. *Law in Context: A Socio-Legal Journal*, 35(1), 139-158.
- Vinck, P., & Pham, P. (2008). Ownership and participation in transitional justice mechanisms: A sustainable human development perspective from Eastern DRC. *International Journal of Transitional Justice*, 2(3), 398-411. <https://doi.org/10.1093/ijtj/ijn027>
- Walter, B. (2010). Conflict relapse and the sustainability of post-conflict peace. Background paper for the *World Development Report 2011*.

Blank lined paper for writing.





## German Colombian Peace Institute – CAPAZ

The CAPAZ Institute is a platform for German-Colombian cooperation, which encourages the exchange of knowledge and experience on issues concerning peacebuilding. It does so by supporting the creation of networks between universities, research centres, civil society organisations and governmental entities, which are active at territorial level. The consolidation of such networks enables analysis, reflection, and interdisciplinary academic debate on the lessons of the past and the challenges of sustainable peacebuilding. CAPAZ promotes research, teaching and advisory activities, which result in new approaches to the understanding of peace and conflict, transmit knowledge to society, and provide solutions to the multiple challenges of a society in transition.

### CAPAZ Policy Briefs series

The CAPAZ Policy Briefs series seeks to make visible proposals and recommendations formulated by researchers on specific topics related to the challenges of peacebuilding in Colombia, according to the results of their work. This series provides useful tools for the understanding and approaching specific problems faced by societies in transition. It is particularly aimed at those who design, formulate, propose and have the power to make decisions public policies that respond to these issues.

The CAPAZ Policy Briefs series is available to the public free of charge. This work is licensed under a Creative Commons Attribution-NonCommercial-ShareAlike 4.0 International (CC BY-NC-SA 4.0). The copyrights correspond to the authors of the document and any reproduction, in whole or in part, of the policy brief (of its visual tools or of the data it provides) must include an acknowledgement of authorship of the work and its initial publication. Reproduction of this work may only be made for research purposes and for personal use only. For other purposes, the consent of the authors is required.

The CAPAZ Institute cannot be held responsible for any errors or inaccuracies the authors have made in the policy brief, nor for the consequences of its use. The opinions and judgments of the authors are not necessarily shared by the CAPAZ Institute.

## Policy Briefs for the project “Stabilisation of the peace process in Colombia through justice, truth, and the protection of human rights”

The main objective of this initiative is to support the consolidation of the Integral System of Truth, Justice, Reparation and Non-Repetition, based on Colombian-German academic cooperation and in collaboration with the Special Jurisdiction for Peace (JEP) and the Commission for the Clarification of the Truth (CEV). The project also is intended to contribute to the debate on the role of State security forces in the prevention of human rights violations in the context of the post-agreement period, to promote a real, comprehensive and lasting peace. This project is led by CAPAZ Institute. These Policy Briefs are designed to disseminate knowledge on issues of relevance to the mandate of the institutions that make up the Integral System among non-experts in the field of transitional justice.

[www.instituto-capaz.org](http://www.instituto-capaz.org)  
[info@instituto-capaz.org](mailto:info@instituto-capaz.org)  
(+57 1) 342 1803 extensión 29982  
Carrera 8 n.º 7-21  
Claustro de San Agustín  
Bogotá-Colombia