

MANUAL ON



RESTORATIVE TRANSITIONAL JUSTICE

Special Jurisdiction for Peace



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Making Peace Possible



MANUAL ON RESTORATIVE TRANSITIONAL JUSTICE

in the
Special Jurisdiction for Peace

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Presidency of the SJP

Executive Secretariat of the SJ

ROBERTO CARLOS VIDAL LÓPEZ

President

BELKIS FLORENTINA IZQUIERDO TORRES
Vicepresident

HARVEY DANILO SUÁREZ
Executive Secretary

JORGE IVÁN POSADA DUQUE
Communications Sub-director

Coordination and editing
ARIEL SÁNCHEZ MEERTENS
Chief of the Advisory Office of Restorative Justice

ANA MARÍA MONDRAGÓN DUQUE
Assistant Magistrate - First Instance Chamber in Cases of
Acknowledgment of Truth and Responsibility

GABRIEL ROJAS ANDRADE
Director for Restorative Justice Colombia - United States
Institute of Peace USIP

Translation
Interpreting Colombia S.A.S.

Proofreading
MARÍA DE LOS ÁNGELES REYES MESA
JAVIER MORALES CIFUENTES
Communications Sub-directorate

Design and layout
ANDRÉS PRIETO RICO
Communications Sub-directorate

Cover illustration
ALEJANDRA VÉLEZ GIRALDO
Communications Sub-directorate

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UNITED STATES INSTITUTE OF PEACE USIP
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TABLE OF CONTENTS

Introduction.....	8
Why is a Transitional Restorative Justice manual necessary?	8
Objectives.....	8
Guidelines	9
Methodology	10
Structure.....	10
What is the Special Jurisdiction for Peace and how does it work?.....	12
Comprehensive System for Peace:.....	12
SJP Mechanisms	14
Types of sanctions in the SJP.....	15
Dialogic principle.....	16
Pro-victim principle.....	16
Conditionality Regime.....	17
SJP Structure.....	19
Macro-cases of the SJP.....	24
Chapter I - What is Transitional Restorative Justice?.....	26
Background information on restorative justice	29
Background information on transitional justice.	32
Transitional Restorative Justice in the JEP	37
Pillars of Transitional Restorative Justice in the JEP	47
1.Reconciliation and peace:.....	48
2.Restoration of dignity:	48
3.Participation of victims, perpetrators, and the community:.....	49
4.Acknowledgment:.....	49

5.Reintegration and reincorporation of the perpetrators to civilian life:..	50	6.Methodology coordination:.....	125
6.Preparation and progression:	50	7.Follow-up to the agreements and commitments made during the proceedings:.....	125
7.Differential , intersectional, and territorial approaches:.....	51	8.Ad intra and inter-institutional coordination:	127
8.Collective approach to harm, reparation, and restoration:	54	9.Role of the judiciary:.....	127
Communicating to Restore - Communications Strategy for Transitional Restorative Justice.....	59	10.Differential approaches:	128
Elements of the communicative process:.....	61	Recommendations for strengthening the restorative aspect of certain overarching procedures within the JEP	130
How can communication help in the restoration process?.....	62	Victim accreditation.....	130
1.Communicating to Humanize:.....	63	Collective Accreditation and Ethnic Collective Accreditation	134
2.Communication as an agent of diversity:	67	Notification.....	137
3.Communicating to create memory:.....	63	Ethnically and culturally relevant notification.....	139
Chapter II- What is the Restorative System?.....	70	Interjurisdictional collaboration and intercultural dialogue	142
Scope and focus of the Restorative Lines:.....	72	Proceedings for the dialogic construction of truth.....	145
Actors in the JEP's restorative transitional process	80	Activities, Work, and Actions with Reparative-Restorative content (TOAR).	149
Victims	82	Precautionary measures.....	156
Perpetrators.....	84	Recommendations to strengthen the restorative aspect of certain procedures within the chambers and sections of the JEP.....	162
Key differences between contributing to truth and acknowledging responsibility:.....	87	Voluntary accounts.....	162
Communities.....	94	Comments on voluntary accounts	165
Institutional actors.....	98	Acknowledgment Hearing.....	167
Chapter III - How is Transitional Restorative Justice applied in JEP procedures and actions?	114	Chamber for Acknowledgment of Truth Verification Hearing.....	171
Overarching recommendations.....	102	Monitoring and verification of special sanctions	174
1.Guarantee safe conditions:.....	117	Ensure that commitments are clear, concrete, and scheduled, while also recognizing the value of the contribution to truth and reparation efforts.	176
2.Logistical aspects:.....	117	Regime of Conditionality Follow-Up Hearings.....	179
3.Pedagogy:.....	119	Single Hearings to Contribute to the Full Truth.....	181
4.Preparation processes with victims and perpetrators:.....	120	Restorative Hearing.....	183
5.Psycholegal, psychosocial, and psychospiritual support for victims and perpetrators:.....	122	Chapter IV - How to evaluate and monitor restorative processes	186

Criteria for the construction of restorative justice indicators in the JEP	191
Formative assessment	191
Summative assessment	193
Impact Assessment	194
Indicators for measuring the restorative content of TOARs	197
Final considerations	204
Transitional Restorative Justice in the JEP:	204
Transitional Restorative Justice as a process:	205
Transitional Restorative Justice as a framework for collective reparation and restoration:	205
Transitional Restorative Justice as a set of procedures:	206
Transitional Restorative Justice as a driver of measurable transformations:	206
Acronym index:	208
Index of figures:	209
Index of tables:	209

INTRODUCTION

Why is a Restorative Transitional Justice manual necessary?

This document, entitled *Manual on Transitional Restorative Justice in the Special Jurisdiction for Peace* (SJP)—hereinafter, the Manual—aims to explain how restorative justice works and is implemented within the specific framework of the transitional objectives that guide the work of the SJP in Colombia. The Manual is designed to be an informative tool and a practical guide that provides guidelines to facilitate the comprehensive participation of various key actors in some of the restorative procedures implemented by the SJP.

These actors include victims of the armed conflict, defendants (i.e., those who participated directly or indirectly in the conflict and who are hoping to benefit from transitional justice), communities affected by the conflict, and the judicial representation of these groups. The active and meaningful inclusion of these parties is critical to ensure that the Restorative Transitional Justice process meets its objectives of truth, justice, reparation, and non-repetition, thus helping to build stable and lasting peace in Colombia.

Objectives

The Manual's objectives are: 1) to establish the conceptual framework for the SJP's Restorative Transitional Justice system; 2) to describe the roles of the different actors involved in the SJP's jurisdictional procedures in order to facilitate their participation; 3) to strengthen the practical implementation of Restorative Transitional Justice in some of the Jurisdiction's procedures; and, finally, 4) to propose indicators to evaluate and monitor Restorative Transitional Justice practices in the SJP in order to measure their implementation.

Guidelines

This Manual has been created as a guideline and does not in any way replace, alter, or modify the constitutional, legal, or judicial norms that regulate the SJP's procedures, including Laws 1957 of 2019, 1922 of 2018, and 1820 of 2016, the constitutional jurisprudence, or the Jurisdiction's legal framework. The Manual reflects current regulations and jurisprudence, at national and international levels, complemented by the SJP's current transitional judicial practice. In this sense, the Manual aims to enhance the guidelines provided in other tools created by the Jurisdiction, including the *Manual for Victims' Participation in the Special Jurisdiction for Peace*.¹

Although several standards and documents already address methodological and conceptual approaches to restorative justice in Colombia, such as the Office of the Prosecutor General's *Restorative Justice Manual*, the SJP has prepared its own manual on Restorative Transitional Justice. This effort is justified because the Jurisdiction operates within a specific regulatory framework, with objectives, participants, and procedures that complement and expand upon those used in the ordinary criminal justice system.

In this regard, the Manual also emphasizes the importance of ensuring the rights of those involved in its procedures and decisions. This approach is essential in order to provide comprehensive legal certainty in all of the SJP's transitional processes, which are part of the Comprehensive System for Peace (SIP for its acronym in Spanish) established after the Final Agreement to End the Armed Conflict and Build a Stable and Lasting Peace (AFP, for its acronym in Spanish, or Final Peace Agreement), signed in 2016 by the Colombian State and the former Farc-EP.

¹ Special Jurisdiction for Peace. *Manual for Victims' Participation in the Special Jurisdiction for Peace*. (2020). Available at: <https://www.SJP.gov.co/Infografias/participacion/manualparticipacion.pdf>.

Methodology

The guidelines proposed in the Manual are based on a study of the SJP's regulatory and jurisprudential processes in relation to advances in the fields of transitional justice and restorative justice. An analysis of primary and secondary sources (SJP manuals, focus groups with various actors from the Restorative System, and interviews) was also conducted. This translates into a practical approach, where the conceptual explanation helps establish guidelines to maximize the restorative element of some of the processes carried out in the SJP. To this end, previous decisions made by the various chambers and judicial panels of the SJP were considered, as well as the guidelines provided by different agencies within the Jurisdiction. The Manual includes the *Bank of Best Practices* as an annex, which is already implemented by the SJP and provides recommendations for the various actors participating in some of the Jurisdiction's proceedings.

Structure

The Manual consists of an introduction and four chapters. The introduction is called **What is the Special Jurisdiction for Peace?** and was included specifically for those who are not familiar with the Jurisdiction. It explains its objectives, structure, and key principles.

Chapter I addresses the foundations of Restorative Transitional Justice in the SJP based on its legislation and fundamental principles and establishes eighth pillars to guide its implementation.

Chapter II describes the institutional arrangement made by the SJP to include a *Restorative System* in the Jurisdiction and conducts a detailed analysis of the different actors involved, as well as their roles within the Jurisdiction's proceedings.

Chapter III delves into the practical implementation of Restorative Transitional Justice, describing how it is put into practice in some of the SJP's procedures and actions.



Finally, **Chapter IV** focuses on the evaluation and monitoring of Restorative Transitional Justice measures, proposing indicators to measure their implementation within the SJP framework.

The **Bank of Best Practices in Restorative Transitional Justice in the SJP** is included as an **annex**, which compiles experiences implementing Restorative Transitional Justice in the Jurisdiction's different agencies. Similarly, six **final considerations** are presented to summarize what is stated in the four chapters of the Manual.

Chapter I addresses the foundations of Restorative Transitional Justice in the SJP based on its legislation and fundamental principles and establishes eighth pillars to guide.

What is the Special Jurisdiction for Peace and how does it work?

The SJP is the justice component of the SIP, created by the 2016 Final Peace Agreement. Its main objective is to investigate, prosecute, and punish serious human rights violations and serious breaches of International Humanitarian Law committed during the armed conflict in Colombia.

The SJP was created to offer truth to victims, satisfy their right to justice, and contribute to the reparations process, in addition to guaranteeing legal certainty to those who have committed crimes in the context of the armed conflict. Its work focuses on investigating, prosecuting, and punishing the most serious and representative crimes committed during the armed conflict before December 1, 2016, particularly by former Farc-EP combatants, State agents members of armed forces, other State agents, and civilian third parties. Regarding the latter two actors, the Constitutional Court clarified that their participation in the SJP is voluntary.²

The SJP introduces an innovative approach to achieving truth and justice, contributing to reparations, and to guaranteeing non-repetition through different participation mechanisms for defendants, and types of sanctions adapted to their degree of collaboration and acknowledgment of responsibility.

Comprehensive System for Peace:³

The Comprehensive System for Peace (SIP) was created by Item 5 of the Final Peace Agreement and is composed of: (i) the Com-

² Constitutional Court of Colombia, Plenary Chamber, Ruling C-080 of 2018, P.J. Antonio José Lizárraga Ocamo; and Ruling C-674 of 2017.

³ Government of the Republic of Colombia and Farc-EP. Final Agreement to End the Armed Conflict and Build a Stable and Lasting Peace, Item No. 5. Agreement Regarding Victims of the Conflict. (2016). Available at: <https://www.SJP.gov.co/Documents/Acuerdo%20Final/Acuerdo%20Final%20Firmado.pdf>

mission for the Clarification of Truth, Coexistence, and Non-Repetition (CEV for its acronym in Spanish);⁴ (ii) the Unit for the Search of Persons presumed as Disappeared (UBPD for its acronym in Spanish); (iii) the Special Jurisdiction for Peace; and (iv) the comprehensive reparation measures for peacebuilding and guarantees of non-repetition.⁵

The purpose of the System is to consolidate a transitional or temporary institutional space that can satisfy the rights of the victims of the armed conflict and contribute to national reconciliation.

The entities within the System collaborate in a complementary and coordinated manner, employing territorial, differential, and gender-based approaches. The System is supported by restorative and reparative measures that address victims' needs and dignity to satisfy their right to truth, justice, reparations, and non-repetition, and to seek acknowledgment of responsibility from those who participated in the internal armed conflict.

⁴ In June 2022, after three years of work, the CEV presented its Final Report, which included 67 recommendations to "clarify the conflict, dignify the victims, achieve coexistence in the territories, and establish paths of non-repetition." The report includes information on acts of violence from around 15,000 interviews, testimonies of more than 28,000 victims, and more than 1,000 reports from different organizations. Its recommendations considered more than 10,000 proposals from different sectors. See: Paula Andrea Valencia Cortés and Paola Molano Ayala. *Para que la verdad no muera: retos para monitorear las recomendaciones de la CEV* [So that the truth does not die: challenges in monitoring the CEV recommendations]. (2023). Available at: <https://www.dejusticia.org/para-que-la-verdad-no-muera-retos-para-monitorear-las-recomendaciones-de-la-cev>

⁵ By virtue of transitory article 18 of Legislative Act No. 01 of 2017, within the framework of the Comprehensive System for Peace, the State will guarantee the right to reparation for victims of serious human rights violations and breaches of International Humanitarian Law who have suffered individual or collective harm during the armed conflict. Reparation shall be guaranteed by the State in a comprehensive, adequate, differentiated, and effective manner, prioritizing the distribution of reparation measures among the victims, taking the context of victims of the armed conflict into account, seeking equality in access to and the distribution of available resources, and giving preference to those subject to special constitutional protection.

SJP Mechanisms⁶

The SJP has outlined two main mechanisms based on the acknowledgment of responsibility of those appearing before the court:

Path of Acknowledgment of Truth and Responsibility: Designed for those who voluntarily admit responsibility for war crimes and serious human rights violations. This mechanism encourages an early contribution to the truth and comprehensive reparations for victims, offering special sanctions focused on contributions to reparations and non-repetition.⁷

Path of No Acknowledgment of Responsibility: For those who do not acknowledge their responsibility, there will be a trial. If they are defeated at the trial hearing, ordinary or alternative sanctions are imposed, depending on when responsibility is acknowledged and contributions to the truth are made. Ordinary sanctions are retributive and include prison sentences, while alternative sanctions offer an opportunity for late acknowledgment, with less severe deprivations of liberty.⁸

⁶ Government of the Republic of Colombia and Farc-EP. Final Agreement to End the Armed Conflict and Build a Stable and Lasting Peace, Item No. 5. Agreement Regarding Victims of the Conflict. (2016). Available at: <https://www.SJP.gov.co/Documents/Acuerdo%20Final/Acuerdo%20Final%20Firmado.pdf>

⁷ Congress of the Republic of Colombia, Law 1922 of 2018, Adopting procedural rules for the Special Jurisdiction for Peace, O.G.: 50.659 of July 18, 2018, Book Two, Title One, Chapter One.

⁸ Congress of the Republic of Colombia, Law 1922 of 2018, Adopting procedural rules for the Special Jurisdiction for Peace, O.G.: 50.659 of July 18, 2018, Book Two, Title One, Chapter Two.

Types of sanctions in the SJP⁹

Special Sanctions: Applicable to those who acknowledge their responsibility early. These are actions designed to help repair the harm caused and build peace from a restorative and retributive perspective, where the latter focuses on limiting the exercise of rights, but not on a prison sentence per se.¹⁰ They may include, but are not limited to:

- Demining and clearing territories of anti-personnel mines and unexploded ordnance.
- Search and dignified delivery of missing persons' bodies.
- Participation in infrastructure projects for community reparation.
- Support for illicit crop substitution programs.
- Participation in reforestation and environmental protection projects.
- Contribution to historical memory initiatives.

Alternative Sanctions: For those who delay acknowledging their responsibility. 5 to 8 year deprivations of liberty in conditions that ensure contributions to victims' reparations and non-repetition.

Ordinary Sanctions: They are imposed on those who are found guilty without having acknowledged their responsibility, with 15 to 20 year prison sentences¹¹.

⁹ Special Jurisdiction for Peace, Tribunal for Peace, First Instance Chamber for Cases of Acknowledgment of Truth and Responsibility. Guidelines on Special Sanctions and Activities, Works, and Actions with Reparative-Restorative content. (2020). Available at: <https://www.SJP.gov.co/Sala-de-Prensa/SiteAssets/Paginas/Conozca-Los-lineamientos-en-materia-de-sanci%C3%B3n-propias-y-Trabajos%2C-Obras-y-Actividades-con-contenido-Reparador---Restaurador/28042020%20VF%20Lineamientos%20Tours%20y%20SP.pdf>

¹⁰ Cf. Clara Sandoval et al. *The Challenges of Implementing Special Sanctions (Sanciones Propias) in Colombia and Providing Retribution, Reparation, Participation, and Reincorporation*. *Journal of Human Rights Practice*, Vol. 14, No. 2 (2022), pp. 478-501.

¹¹ Congress of the Republic of Colombia. Law 1957 of 2019: Statutory Authority of the Administration of Justice in the Special Jurisdiction for Peace, O.G.: 50.976 of June 6, 2019, Article 26; Constitutional Court of Colombia, Plenary Chamber, Ruling C-080 of 2018, P.J. Antonio José Lizarazo Ocampo. It is important to mention that the special sanctions have restorative and retributive elements, the latter

Dialogic principle¹²

The SJP strives to create spaces of participation to promote dialogue, deliberation, and collective construction between: i) the victims and their organizations and representatives; ii) the victims and the SJP; and (iii) the victims and defendants. These spaces facilitate the activation of communicative processes and active listening among the actors, favoring the dialogic construction of truth, the administration of justice, the contribution to reparation, and the guarantee of non-repetition. These spaces for dialogue do not prevent the victims from raising objections, and participation in these processes is voluntary for both the victims and defendants appearing before the SJP¹³.

In the dialogic procedure, the SJP mediates and guarantees action without harm. In each case, the principles of impartiality, due process, procedural economy (least possible attrition on judicial activity), speed, efficiency, effectiveness, and due motivation are respected and guaranteed.

Pro-victim principle¹⁴

If there are any concerns regarding the interpretation and application of transitional justice, the SJP opts for the interpretation

referring to a restriction of freedoms and rights of the sanctioned persons for the duration of the sentence.

¹² Congress of the Republic of Colombia, Law 1922 of 2018, Adopting procedural rules for the Special Jurisdiction for Peace, O.G.: 50.659 of July 18, 2018, Article 1, paragraph b.

¹³ For comments on the dialogic process see: Gustavo Emilio Cote Barco. *El carácter dialógico del proceso con reconocimiento de responsabilidad ante la Jurisdicción Especial para la Paz: Retos del derecho penal en contextos de justicia transicional.* [The dialogical nature of the process with acknowledgment of responsibility before the Special Jurisdiction for Peace: Challenges of criminal law in transitional justice contexts.] Rev. Universitas, Vol. 69, (2020), p. 1 to 30. Available at: <https://revistas.javeriana.edu.co/index.php/vnijuri/article/view/29007>

¹⁴ Congress of the Republic of Colombia, Law 1922 of 2018, Adopting procedural rules for the Special Jurisdiction for Peace, O.G.: 50.659 of July 18, 2018, Article 1, paragraph b; Special Jurisdiction for Peace, Tribunal for Peace, Appellate Section, Order TP-SA No. 19 of August 21, 2019, Subject: David Char Navas, para. 6.3.. Available at: <https://www.SJP.gov.co/Sala-de-Prensa/Documents/Auto%20TP-SA%202019%20de%202018%20-%20CHAR.pdf>

that provides the most dignity and comprehensive participation of the victims and that protects and guarantees their rights to truth, justice, and reparation.

Conditionality Regime¹⁵

The Conditionality Regime is a key piece in the transitional justice framework in Colombia, especially regarding the SJP and the Comprehensive System for Peace (SIP). This regime establishes a series of obligations and commitments that must be assumed by former Farc-EP combatants, State agents members of armed forces, State agents who are not members of armed forces, and other defendants before the SJP, in order to access specific judicial benefits, such as alternative sentences to prison or amnesties, depending on their participation in the Colombian armed conflict.

The main requirements of the Conditionality Regime include the defendants commitment to actively contribute to truth, justice, victims' reparations, and the guarantee of non-repetition. This implies direct participation in mechanisms for clarifying the truth, collaboration in the judicial process, contributions to victims' reparations, and effective commitments to non-repetition of criminal conducts.

The SJP closely supervises compliance with these conditions and has the authority to verify whether the defendants are effectively complying with their commitments. The SJP acts not only as a court of justice, but also as a guarantor in the reparation processes and guarantees that non-repetition is effectively implemented.

In the event of non-compliance with these conditions, the benefits granted within the framework of transitional justice can

¹⁵ Congress of the Republic of Colombia. Law 1957 of 2019: Statutory Authority of the Administration of Justice in the Special Jurisdiction for Peace, O.G.: 50.976 of June 6, 2019, Article 14.



The SJP has three Justice Chambers, made up of 18 judges.

be revoked, which could result in the loss of amnesties or alternatives to prison and, in serious cases, could even imply expulsion from the SJP. This measure aims to ensure that there is a real and effective commitment to the principles of truth, justice, reparation, and non-repetition, and that the peace process is constructive and sustainable in the long term.

This conditionality structure is critical to the success of the peace process in Colombia, as it aims to balance the need for justice and reparations for victims with the reintegration of former combatants. In addition, the benefits obtained by the defendants include conditional release, the termination of judicial persecution, and non-extradition guarantee.

In the event of a breach of the Conditionality Regime, the judicial panel or chamber handling the case shall initiate a study of the incident. If the former combatant is appearing in different judicial panels or chambers simultaneously, the study of non-compliance will be carried out by the judicial agency that

has the power to definitively issue a ruling on his or her legal situation¹⁶.

SJP Structure¹⁷

The SJP has three Justice Chambers, made up of 18 judges, divided as follows:

¹⁶ In this regard, the Appeals Chamber of the Tribunal for Peace stated: "The Appeals Chamber has made it clear that the Conditionality Regime has dual aspects: "on the one hand, the verification of possible non-compliance with a view to adopting the necessary decisions in relation to the loss of benefits—the negative aspect—and, on the other hand, the anticipation of the current or future work of the various SJP entities in order to issue rulings on the definitive legal situations of the defendants through sanctions or alternatives to sanctions—the proactive aspect." See: Special Jurisdiction for Peace, Tribunal for Peace, Appeals Chamber, Interpretative S TP-SA-SENIT No. 4 of April 26, 2023, para. 51. Available at: https://jurinfo.SJP.gov.co/normograma/compilacion/sddlj-jedpj-tplp_seccion_apelacion_sentencias_interpretativas.html

¹⁷ Government of the Republic of Colombia and Farc-EP. Final Agreement to End the Armed Conflict and Build a Stable and Lasting Peace, Item No. 5. Agreement Regarding Victims of the Conflict. (2016). Available at: <https://www.SJP.gov.co/Documents/Acuerdo%20Final/Acuerdo%20Final%20Firmado.pdf>

Judicial Panel for Acknowledgment of Truth, Responsibility, and Determination of Facts and Conducts (SRVR for its acronym in Spanish):

Based on selection and prioritization criteria, it opens the macro-cases investigated by the SJP related to the most serious and representative crimes committed during the conflict¹⁸. It receives, contrasts, and compares reports on events related to the conflict submitted by social and victims' organizations, and by State entities. It receives individual and collective accounts from defendants, organizes hearings for victims' observations, issues judicial decrees on facts and conducts, and convenes hearings for the public acknowledgment of responsibility. It submits the prioritized cases' Final Indictment to the Tribunal for Peace to issue a sentence.

Judicial Panel for Amnesty or Pardon (SAI for its acronym in Spanish):

It grants amnesty or pardon¹⁹ to those who have been prosecuted or convicted of crimes stipulated as eligible for amnesty, which means crimes that do not constitute war crimes or crimes against humanity. It grants temporary and conditional release to defendants from the former Farc-EP appearing before the SJP

¹⁸ Special Jurisdiction for Peace, Judicial Panels, Judicial Panel for the Acknowledgment of Truth, Responsibility, and Determination of Facts and Conducts. Criteria and methodology for prioritizing cases and situations in the Judicial Panel for the Acknowledgment of Truth, Responsibility, and Determination of Facts and Conducts. (2018). Available at: <https://www.SJP.gov.co/Documents/CriteriosYMetodologiaDePriorizacion.pdf>

¹⁹ In this regard, they indicate several articles of Law 1820 of 2016: Article 15: "De jure amnesty. Amnesty is granted for those who have committed the political crimes of rebellion, insurrection, riot, conspiracy and sedition, usurpation and illegal retention of command, and any related crimes in accordance with this law," Article 21. "Judicial Panel for Amnesty or Pardon (SAI). In all cases that are not subject to de jure amnesty, the decision to grant amnesties or pardons will depend on the Judicial Panel for Amnesty or Pardon of the Special Jurisdiction for Peace. In application of the principle of favorability regulated in this law and the provisions of article 6.5 of Additional Protocol II to the Geneva Conventions of 1949, the judicial panel will apply the amnesty or pardon in accordance with the provisions of this law and the agreement that created the Special Jurisdiction for Peace. In any case, the request for amnesty must be resolved within a period not exceeding three (3) months from the date it was requested from the court, provided that the former combatant has laid down arms, in accordance with the provisions of Article 18." See: Congress of the Republic of Colombia, Law 1820 of 2016, By means of which provisions are issued on amnesty, pardon, and special penal treatment and other provisions, O.G.: 50.102 of December 30, 2016.

and remits them to the Judicial Panel for Acknowledgment of Truth and Responsibility. It applies special legal treatments to those referred by the Judicial Panel for Acknowledgment of Truth and Responsibility.

Judicial Panel for Determination of Legal Situations (SDSJ for its acronym in Spanish):

It defines the legal situations (waiver of criminal prosecution or other form of early termination of proceedings) for those defendants who do not carry maximum responsibility but who did participate in the commission of crimes that are not eligible for amnesty in the context of the armed conflict. It defines the legal status of members of the state armed forces who have committed acts directly or indirectly related to the armed conflict. It grants and supervises conditional and early release. It defines the legal situation of third parties who voluntarily submit to the SJP (State agents other than members of armed forces and civilians). The procedure is discontinued in cases of social protest.

Special Tribunal for Peace

The Special Tribunal for Peace is composed of 20 judges and includes the following chambers:

First Instance Chamber for Cases of Acknowledgment of Truth and Responsibility (SeRVR for its acronym in Spanish):

It makes dialogic rulings, pronounces sentences, and imposes special sanctions on defendants who acknowledge responsibility and provide truth.

First Instance Chamber in Cases of Absence of Acknowledgment of Truth and Responsibility (SAR or SARVR for its acronym in Spanish):

It performs adversarial trials when there is no acknowledgment of re-

sponsibility. It issues acquittals or convictions. It orders and monitors precautionary measures to protect places, information or persons at risk during the judicial process. If a conviction is handed down, it imposes alternative or ordinary sanctions, as appropriate.

Review Chamber (SR for its acronym in Spanish):

Exceptionally, it reviews the resolutions or sentences issued by the ordinary justice system and resolves the writs for protection. It studies the requests for guarantees of non-extradition set forth in the Final Peace Agreement, carries out a probity review of the definitive transitional benefits, and the supervision and review of the provisional benefits.

From a restorative transitional perspective, the Review Section has several important roles:

- **Guarantee the protection of defendants' and victims' rights:** The Review Chamber reviews court decisions to ensure that the procedural rights of all parties involved are respected. This includes verifying that established procedures have been followed and that victims' needs and concerns have been taken into account.
- **Promote comprehensive reparations:** The review of judicial decisions by the Review Chamber also aims to ensure that the adopted measures contribute to the comprehensive reparation of victims. This may involve modifying sanctions or adopting additional reparation measures that take each victim's specific needs into account.
- **Encourage coherence and consistency:** Another important function of the Review Chamber is to ensure coherence and consistency in the application of Restorative Transitional Justice. This involves reviewing the decisions adopted by the ordinary justice system to ensure that the principles and rules established in the Comprehensive System for Peace are applied consistently.

- **Decide on special sanctions in lieu of ordinary sentences:** In addition to reviewing judicial decisions, the Review Chamber has the authority to decide to substitute special sanctions in lieu of ordinary sentences. This aspect is fundamental in the context of Restorative Transitional Justice, as it allows sanctions to be adapted to the particular circumstances of the defendants and promotes their effective re-integration into society.

Appeals Chamber (SA for its acronym in Spanish):

It is the final instance of the Special Tribunal for Peace. It decides on the requests to revoke, confirm, or modify the judgments and decisions of the Judicial Panels and Chambers of the SJP.

Investigation and Prosecution Unit (UIA for its acronym in Spanish):

The SJP's Investigation and Prosecution Unit is in charge of investigations and criminal prosecutions when individual or collective alleged defendants of serious violations of human rights or breaches of International Humanitarian Law do not acknowledge truth or responsibility.

The Unit is the SJP's governing body on judicial police matters and collaborates with the ongoing documentation and prosecution of war crimes and crimes against humanity carried out by the different Judicial Panels and Chambers of the Special Jurisdiction for Peace.

Executive Secretariat (SE for its acronym in Spanish):

The SJP's Executive Secretariat is responsible for the entity's management and its legal representation, through the administration, management, and execution of the resources belonging to the Special Jurisdiction for Peace.

It is also in charge of missionary tasks through which it makes the mechanisms of access to justice available to the subjects of rights. In this sense, it is responsible for: i) managing the Autonomous Counseling and Defense System (SAAD for its acronym in Spanish) in its counseling and representation components to victims and counseling and legal defense for defendants; ii) coordinating interinstitutional actions to guarantee victims' and defendants' access to justice, participation, defense, appearance, judicial representation, security, and compliance with transitional justice; iii) developing the path for citizens to access assistance; iv) promoting the differential, territorial, and gender approaches, as well as an intersectional perspective, and implementing mechanisms and administrative measures for coordination with the Special Indigenous Jurisdiction (JEI for its acronym in Spanish).

Macro-cases of the SJP²⁰

The SJP works on 11 thematic and territorial macro-cases in order to investigate, judge, and punish those responsible for the most serious crimes committed during the Colombian armed conflict. Victims are actively involved in the process and defendants are held accountable.

The 11 macro-cases are:

- 01.** Taking of hostages and other serious deprivations of liberty committed by Farc-EP.
- 02.** It prioritizes the territorial situation of the municipalities of Ricaurte, Tumaco and Barbacoas in the department of Nariño.
- 03.** Killings and enforced disappearances presented as combat casualties by State agents.
- 04.** It prioritizes the territorial situation in the Urabá region

²⁰ Information on the macro-cases currently pending in the Special Jurisdiction for Peace can be found at: <https://www.SJP.gov.co/Paginas/casos.aspx>

(in El Carmen del Darién, Riosucio, Unguía, and Acandí in Chocó; and in Turbo, Apartadó, Carepa, Chigorodó, Mutatá, and Dabeiba in Antioquia).

- 05.** It prioritizes the territorial situation in northern Cauca and southern Valle del Cauca (in Santander de Quilichao, Suárez, Buenos Aires, Morales, Caloto, Corinto, Toribío, Caldono, Jambaló, Miranda, Padilla, and Puerto Tejada in Cauca; and in Palmira, Pradera, Florida, Candelaria, and Jamundí in Valle del Cauca).
- 06.** Victimization of members of the Patriotic Union (UP) political party.
- 07.** Recruitment and use of children during the armed conflict.
- 08.** Crimes committed by members of armed forces, other State agents, or in association with paramilitary groups, or civilian third parties, during the armed conflict.
- 09.** Crimes not eligible for amnesty committed against Ethnic Peoples and Territories during the armed conflict.
- 10.** Crimes not eligible for amnesty committed by the former Farc-EP during the armed conflict.
- 11.** It investigates gender-based violence, including sexual and reproductive violence, and other crimes committed out of prejudice, hatred and discrimination based on gender, sex, sexual identity and diversity during the armed conflict.

This chapter described the SJP's aim to investigate, prosecute, and punish serious violations of human rights and International Humanitarian Law (IHL), emphasizing its commitment to the victims' rights to justice, truth, reparation, and non-repetition in the context of the armed conflict in Colombia. Its organizational structure was presented, as well as the paths for participation and the types of sanctions it can impose. In the next chapter, the general notions of Restorative Transitional Justice within the SJP will be addressed.

CHAPTER I



What is Restorative Transitional Justice?

This chapter explains the foundations of Restorative Transitional Justice in the SJP. First, it addresses the application of restorative justice in ordinary contexts and then its adaptation to transitional contexts. It examines how these principles are integrated into the SJP's regulatory and jurisprudential framework. In addition, the SJP proposes seven pillars of Restorative Transitional Justice, which include reconciliation and peace, participation, acknowledgment of responsibility, reincorporation or reintegration, progression, differential approaches and the intersectional perspective, and the collective approach to the reparation of harm.

The SJP integrates both transitional justice and restorative justice into its decisions and procedures.²¹ This implies that its actions are directed not only towards establishing a stable and lasting peace, but also towards holding the responsible parties accountable for serious crimes, contributing to the reparation of the harm caused, and ensuring the satisfaction of the rights of the victims affected by the armed conflict in Colombia. It also seeks the reincorporation or reintegration of those responsible for crimes, as well as the restoration of communities' social fabric. In short, the SJP is not limited to being only transitional or exclusively restorative; both dimensions comprehensively guide its actions.

In this sense, the SJP's fundamental challenge is to ensure that the integration of transitional justice and restorative justice is coherent and meets the specific challenges involved in prosecuting the magnitude of crimes committed in an armed

²¹ Transitory Article 1 of Legislative Act 01 of 2017 states that: "[t]he Comprehensive System for Peace will place special emphasis on restorative and reparative measures, aiming to achieve justice not only through retributive sanctions. One of the SJP's guiding paradigms will be the application of restorative justice that preferably seeks the restoration of the harm caused and the reparation of the victims affected by the conflict, especially to put an end to the social exclusion that has caused this victimization. Restorative justice prioritizes victims' needs and dignity and is applied with a comprehensive approach that guarantees justice, truth, and non-repetition of violence." See: Congress of the Republic of Colombia, Legislative Act No. 01 of 2017, by means of which a title is created for transitional provisions in the Constitution to end the armed conflict and build a stable and lasting peace, and other provisions are issued, O.G.: 50.196 of April 4, 2017.



Restorative justice requires an approach that incorporates the comprehensive participation of all parties involved in the conflict, contribution to the reparation of harm.

conflict that has led to millions of victims, as well as thousands of defendants, over decades of confrontation. The objective of this combination is to complement the benefits offered by transitional justice with accountability for the crimes, contribution to the reparation of harm, reconstruction of the social fabric, and the reintegration of the parties into the community, which are focuses of restorative justice.

In a transitional environment, restorative justice requires an approach that incorporates the comprehensive participation of all parties involved in the conflict, contribution to the reparation of harm, acknowledgment of responsibility, and the reintegration of those who committed crimes into civilian life. All this is done with the primary objective of promoting peace and reconciliation in Colombia, as it is stipulated in the Final Peace Agreement²².

²² Paragraph 4 of Transitory Article 1, introduced by Legislative Act 01 of

Before delving into the relationship between restorative justice and transitional justice in the SJP, based on its regulatory and jurisprudential processes, it is important to understand restorative justice in ordinary contexts in order to clarify its principles and objectives. In this sense, the following section focuses on defining restorative justice and its application in the transitional context in which the SJP operates.

Background information on restorative justice

Restorative justice offers an alternative to the punitive approach of traditional criminal justice. Instead of focusing on punishing, with the help of a mediator, it seeks to **repair the harm caused**, involve the **victims** and the **community**, and acknowledge the responsibility of the person who committed the **crime**²³. Some restorative justice mechanisms aim, for example, to create a sense of shame in the defendants so that they acknowledge their responsibility and can voluntarily **reintegrate** into the community affected by their actions²⁴.

Restorative justice practices aim to ensure a process in which the parties involved in a particular conflict come together to **collectively resolve how to address the consequences of the crime**, both personally and as a community, in order to be able to move on. In this sense, the reparation of harm through participation, deliberation, and communication in order to resolve

²¹ 2017, highlights how the System is based on recognizing victims as subjects of rights, as well as on the principle of satisfying victims' rights to truth, justice, reparation, and non-repetition. Likewise, Transitory Article 13 of Legislative Act 01 of 2017 states that: "[t]he sanctions imposed by the SJP will essentially aim to satisfy victims' rights and build peace. They must seek to have a greater restorative and reparative function in terms of the harm caused, always in relation to the degree of acknowledgment of truth and responsibility." See: Congress of the Republic of Colombia, Legislative Act No. 01 of 2017, by means of which a title is created for transitional provisions in the Constitution to end the armed conflict and build a stable and lasting peace, and other provisions are issued, O.G.: 50.196 of April 4, 2017.

²³ United Nations, Economic and Social Council, Commission on Crime Prevention and Criminal Justice, Report of the Secretary-General: Restorative justice. (2002). Available at: <https://www.unodc.org/pdf/crime/commissions/11com-m/5add1s.pdf>; Rodrigo Uprimny Yépes and María Paula Saffon Sanín, *Justicia transicional y justicia restaurativa: tensiones y complementariedades [Transitional Justice and Restorative Justice: Tensions and Complementarities]*, in "¿Justicia transicional sin transición?: verdad, justicia y reparación para Colombia". [Transitional Justice without Transition?: Truth, Justice and Reparation for Colombia.] Eds. Rodrigo Uprimny Yépes, María Paula Saffon Sanín, Catalina Botero Marino, Esteban Restrepo Saldarriaga, Bogotá D.C., Center for the Study of Law, Justice, and Society - Defusticia, (2006), pp. 109-138.

²⁴ John Braithwaite. *Shame and criminal justice*. Rev. Canadian Journal of Criminology, No. 42, Vol. 3, (2000), p. 282; Anna Myriam Roccatello and Gabriel Rojas. *A Mixed Approach to International Crimes: The Retributive and Restorative Justice Procedures of Colombia's Special Jurisdiction for Peace*, ICTJ Report, (2020), p. 13.

the conflict is one of the main objectives of this way of understanding justice²⁵.

Restorative justice can be understood as a **collective process** to address conflicts, in which case restorative practices could complement conventional criminal justice. On the other hand, it can also be considered for its ability to produce **results**, such as reparation for the harm caused to the victims or as an alternative to prison sentences as punishment for those who committed the crimes²⁶.

From the perspective of restorative justice as a process, it is important to highlight several factors of its implementation within a judicial context. These factors can be summarized as: the neutrality of the authorities mediating the conflict; the trust that victims and communities place in these authorities; respect for the parties; and the opportunity given to them to express their aspirations, opinions, and resources within the process²⁷. Restorative justice also aims to hold the person who committed the crime accountable for their behaviors and the consequences and raise their awareness of their actions, as well as the reasons and conditions that led them to commit the crimes. In this sense, restorative justice condemns criminal behavior. In no way is a matter of impunity, since it requires the defendant to acknowledge his responsibility and seeks the involvement of everyone directly or indirectly involved.

Recognizing victims as individuals with the ability to exercise their rights within judicial processes can radically transform their experience in the justice system. A victim may even perceive that a particular process was fair and legitimate even if the outcome is not as expected, and even if those responsible do not fully participate in

25 Tony F. Marshall. *Restorative Justice: An Overview*. Report by the Home Office Research Development and Statistics Directorate. (1999), p. 37, Available at: http://www.antoniocasella.eu/restorative/Marshall_1999-b.pdf

26 Op. Cit., *Restorative Justice: An Overview*, p. 119 and; Randy E. Barnett. *Restitution: A New Paradigm of Criminal Justice*, *Rev. Ethics*, No. 4, Vol. 87 (1977).

27 Ibid., 124-127.

the dialogue. What is essential is that the institutions, by facilitating this process, encourage a restorative exchange between the defendants, the community, and the victims, so that the victims see that their participation was truly considered throughout the process.

In accordance with this, restorative practices in conflict resolution processes are characterized by a strong emphasis on the **active participation** of all parties involved in the events that shattered civic trust and the **social fabric**. This participation seeks to satisfy the victims' aspiration for the defendants to **acknowledge** the **truth** and their **responsibility**, in which the commission of the crime and its consequences is clearly exposed, and the victims are recognized as such²⁸.

As mentioned, restorative justice goes beyond its procedural aspect. The results of these practices can be translated into restorative actions that focus on the victims' needs and their recognition by the institutions, rather than on punishing the person found responsible. This allows the defendant to take responsibility for the harm caused and for both the victim and the defendant to be reintegrated into the community in a meaningful way.

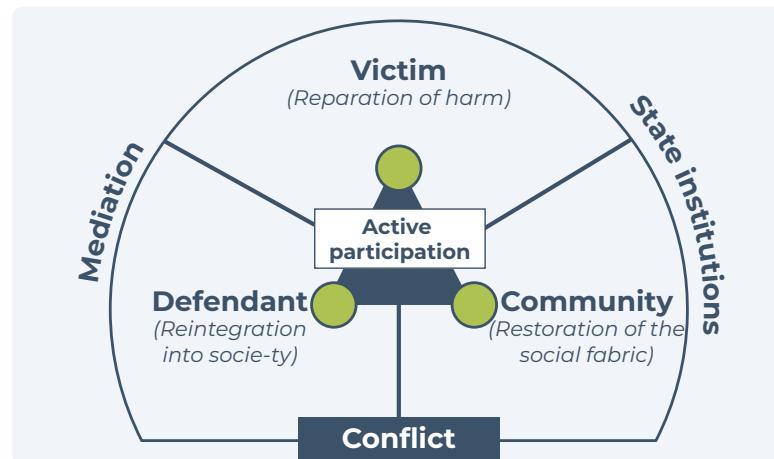
In conclusion, restorative justice in ordinary contexts offers an alternative to the punitive approach of traditional criminal justice, seeking to repair the harm caused and involving victims, the community, and those who committed the crimes in a mediated process (see Figure 1). In ordinary contexts, restorative justice has been used primarily as a requirement to avoid prison sentences, especially in cases of misdemeanors, small communities, and in family settings.

However, its implementation in the context of massive human rights violations and armed conflicts poses significant challenges

28 Gabriel Rojas Andrade and Mateo Merchán Duque. Capítulo 3: *Enfoque restaurativo en lógica macrocriminal: Aproximación conceptual a la justicia restaurativa* [Chapter 3: Restorative Approach in Macrocriminal Logic: Conceptual approach to restorative justice] in: *Investigación Macrocriminal y enfoque restaurativo en la justicia transicional*.. Ed. Tirant Lo Blanch (2023), p. 103-107.

es, especially when transferring this approach to a transitional context marked by serious crimes and the State's obligation to investigate, prosecute, and punish such crimes.

Figure 1. Actors and Objectives of Restorative Justice in Ordinary Contexts



Source: Executive Secretariat, Advisory Office of Restorative Justice, 2024.

The following section will examine the challenges involved in the implementation of restorative justice in transitional contexts, which will allow for a better understanding of the challenges faced by the SJP in the Colombian context. Subsequently, the solutions proposed by the regulatory framework and the SJP's decisions to ensure that restorative justice is effectively applied in the transitional field will be analyzed, in accordance with the provisions provided by the Final Peace Agreement.

Background information on transitional justice.

In the previous section, the components and purposes of restorative justice in ordinary contexts were highlighted. However, this perspective is insufficient to address the objectives and procedures established for the SJP, as outlined in the 2016 Final Peace

Agreement. To understand how restorative justice enriches transitional justice, it is crucial to briefly examine attempts to implement it in international transitional experiences. Then, the Manual will detail how the SJP has incorporated these lessons and established its own parameters for the application of restorative justice in the Colombian transitional context.

Restorative justice and transitional justice are not synonymous and have evolved along paths that have not always been complementary. While restorative justice has been conceived as an alternative to the purely retributive approach of conventional criminal justice, transitional justice has generally emerged as a response to the need to process events that occurred in periods of high violence and facilitate a transition to a more normalized situation that balances the search for justice and peace. As a result, transitional justice processes are often subject to strict demands for investigation and punishment for those responsible for war crimes and crimes against humanity, which initially gives them a retributive nature.²⁹

Despite the above, the restorative approach has been gaining ground in various transitional justice experiences. Restorative experiments in transitional contexts include the Gacaca courts in Rwanda, the Community Reconciliation Process in Timor-Leste, the Fambul Tok in Sierra Leone, the Gotong Royong in Indonesia, and locally adapted traditional practices in Mozambique, Uganda, and Burundi. These approaches, which often adopt and adapt traditional practices with cultural legitimacy, embody a varying mix of restorative characteristics, such as direct engagement of victims and defendants, moments of revelation of truth, offers of material or symbolic reparations, and rituals for cleansing or reacceptance into the community.

At the same time, all these experiences can also be seen as warnings: mandatory and routine participation and inadequate pro-

²⁹ Ruti G. Teitel. *Transitional Justice Genealogy*. *Rev. Harvard Human Rights Journal*, Vol. 16, (2003), pp. 69-94 [Translated into Spanish by the Human Rights Center of the University of Chile]; Op. Cit., *A Mixed Approach to International Crimes: The Retributive and Restorative Justice Procedures of Colombia's Special Jurisdiction for Peace*, p. 6.

tection for victims (Rwanda); limited duration and restriction to low-level offenses, such as property crimes (Timor-Leste); gains for communities at the expense of victims' welfare (Sierra Leone); reliance on traditional or religious authority structures weakened by conflict or on hierarchical and age and gender-exclusive social relations (Uganda, Mozambique); or emotional and practical reconciliation without individual acknowledgment or truth (Indonesia).³⁰

A central dilemma is the problem of scale. The sheer number of victims and defendants requires innovation in designing practices (where possible) that are widely and effectively repeatable, that allow for flexible local adaptation, participation in groups, or are able to be used by communities in the long term. Restorative practices, of course, cannot replace other accountability practices. They are additions and improvements, not replacements, to the established repertoire of accountability measures in transitional frameworks.

Restorative practices can be open even to those subject to criminal sanctions. In these contexts, the search for justice, truth, and reparation is not limited only to the application of legal sanctions, but is also perceived as a way to address the deep suffering caused by the serious crimes committed. From a restorative perspective, these efforts aim to **contribute to the healing of social wounds and promote reconciliation in affected communities.**³¹

Conventional criminal courts in transitional contexts have proven to have a limited impact on truth-seeking and reconciliation. The threat of criminal liability deters defendants from admitting guilt, while victims may feel less inclined to participate because of the

³⁰ Margaret Walker. *Restorative Justice and the Challenge of Defendant Accountability*, in "The Routledge Handbook of Defendant Studies," Eds. Zachary Goldberg and Susanne C. Knittel. Ed. Routledge, (2021).

³¹ Elmar Witekamp et al. *How to deal with mass victimization and gross human rights violations*, in *Restorative Justice: Critical Concepts in Criminology, Volume II: Restorative Practices on International Stage*, Eds. Caroline Hoyle, Ed. Routledge, (2010), p. 309; Cf. Martha L. Minow, *Between Vengeance and Forgiveness: Facing History After Genocide and Mass Violence*. (1998).

risk of intimidation. In addition, the focus on forensic evidence in these courts can create a hostile atmosphere that hinders victims' participation and increases the risk of revictimization. These shortcomings often lead to a greater demand for more creative approaches. However, it is important to recognize that an exclusively restorative approach also has its challenges. It has been pointed out that this approach may not bring about the structural changes needed to transform a culture of violence and repression. In addition, in the absence of retributive sanctions, the perception of justice among victims and society, in general, may be low.³²

The intersection between transitional justice strategies and restorative justice principles poses significant challenges, especially with regard to victim participation and the ability to fulfill their rights in material terms. This is due to the large scale of victimization faced in these contexts, which may require the development of methodologies to select representative cases, events, and patterns.

The active participation required by a restorative approach cannot be achieved in high-crime environments if each victim is expected to participate in the processes on an individual basis. This expectation has proven to be a barrier to achieving results in terms of justice, such as the punishment of those responsible for the most serious crimes. In this regard, it is crucial to find ways to ensure the **meaningful and comprehensive participation** of victims in Restorative Transitional Justice processes, including in contexts of **large-scale victimization**,³³ through collective participation.

³² Op. Cit., *A Mixed Approach to International Crimes: The Retributive and Restorative Justice Procedures of Colombia's Special Jurisdiction for Peace*.

³³ Cf. *Special Jurisdiction for Peace, Tribunal for Peace, Interpretative Sentence TP-SA-SENIT No. 001 of April 3, 2019*, para. 111. Available at: <https://jurinfo.SJP.gov>.

Restorative practices can be open even to those subject to criminal sanctions. In these contexts, the search for justice, truth, and reparation is not limited only to the application of legal sanctions.

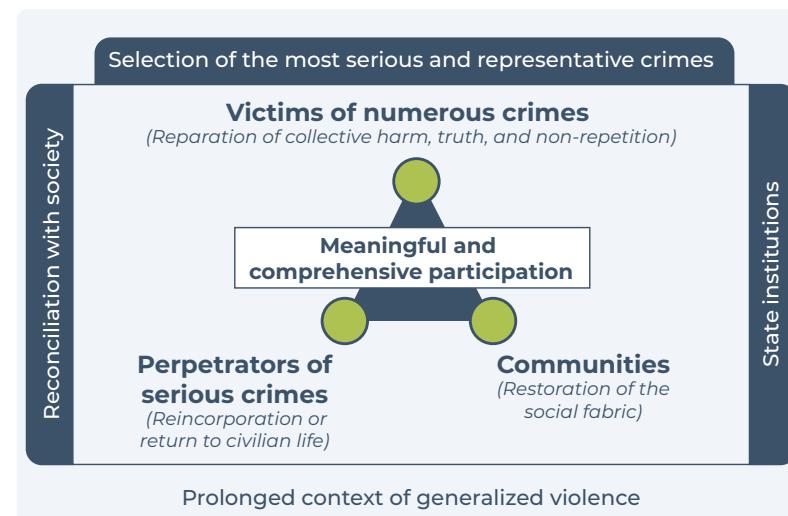
In summary, although they have different origins, restorative justice and transitional justice share the goal of seeking truth and reconciliation in environments plagued by violence (see Figure 2). Although transitional justice began being predominantly retributive, it has gradually integrated restorative elements. Conventional criminal courts in these contexts have had limited impact due to the threat of criminal liability for those who committed the crimes. This affects their contribution to the truth about what happened and produces mistrust in the victims, due to the risk of further harm and the perception of insufficient reparations. This has driven the demand for restorative practices. However, an exclusively restorative approach also faces challenges in cases of large-scale victimization.

The SJP has considered such challenges by including strategies for representativeness and case selection. In addition, it establishes strict conditions that require the defendants to help satisfy the victims' rights to truth, justice, reparation, and non-repetition. These are conditions that must be met in order to grant benefits to those who committed serious crimes, establishing that guaranteeing the representative and comprehensive participation of victims is essential in transitional processes.

The next section will explore the SJP's regulatory and jurisprudential processes, detailing how it integrates restorative justice in its specific transitional context in Colombia and how it establishes mechanisms that also include retributive elements.

co/normograma/compilacion/sddlj-jedpj-tplp_seccion_apelacion_sentencias_interpretativas.html

Figure 2. Actors and Objectives of Restorative Justice in Transitional Contexts



Source: Developed by the author, 2024.
Source: Executive Secretariat, Advisory Office of Restorative Justice, 2024.

Restorative Transitional Justice in the SJP

The previous section explored the tensions inherent in incorporating restorative justice into the realm of transitional justice, and, in particular, the need to implement strategies to achieve collective participation given the large number of victims. This section details how the SJP addresses these tensions within its regulatory and jurisprudential framework, following the provisions of the Final Peace Agreement and its constitutional and legal processes, reflected in the SJP decisions.

The SJP's Office of the General Rapporteur has identified more than 1,000 decisions made by the SJP related to the expression "restorative justice," of which 35 stand out for their substantive content (4 from the Constitutional Court, 30 from SJP's judicial panels and chambers, and a concept from the SJP's Gender Commission). Among these, 10 decisions offer detailed defini-

tions or concepts on restorative justice in a transitional context, providing interpretations and objectives of its application in the Colombian context. Based on the jurisprudence that the SJP's Office of the General Rapporteur developed on restorative justice in the Jurisdiction,³⁴ the relevant content from these decisions are set out below as part of this Manual. Below, these findings will be summarized by describing the seven pillars of Restorative Transitional Justice in the SJP that govern the procedures in all instances of the Jurisdiction.

Restorative justice is one of the guiding and effective principles of the SJP, as well as the function of implementing it within the framework of transitional judicial processes by constitutional and legal mandate. Legislative Act 01 of 2017 states **restorative justice as one of the guiding paradigms of the SJP**, while its Procedural Law (Law 1922 of 2018) highlights the **effectiveness of restorative justice** as one of its principles, whose purpose—according to Article 4 of the Statutory Law (Law 1957 of 2019)—is to prioritize peace while reestablishing relations in society, reparation of the harm caused, and guaranteed rights of future generations.

In this regard, the Constitutional Court, in Ruling C-017 of 2018, which analyzes the decree law by which the Truth Commission is created, states:

Restorative justice looks at the victims, their dignity, their specific harms, needs, their general history of discrimination, and the particular impact violence has had on them. It implies that the State mechanisms of the transition are no longer instituted only in terms of the other actors in the conflict and society in general, but also based on the rights and requirements of the victims. The restorative justice adopted by the SJP is designed as a means of redress for the victims and gains its significance through and for them.³⁵

³⁴ SJP Office of the General Rapporteur. Jurisprudence. Topic: Restorative justice; Subtopic: Restorative element of the SJP procedure.

³⁵ Constitutional Court of Colombia, Plenary Chamber, Ruling C-017 of 2018, P.J. Diana Fajardo

Legislative Act 01 of 2017 establishes that one of the SJP's key guiding principles is the application of restorative justice. The System shall place special emphasis on restorative and reparative measures, recognizing that the search for justice is not limited only to retributive sanctions. This approach regulates how responsibilities are attributed, and sanctions are imposed, a responsibility that falls on the Jurisdiction.

[...] The Comprehensive System for Peace will place special emphasis on restorative and reparative measures, aiming to achieve justice not only through retributive sanctions. One of the SJP's guiding paradigms will be the application of restorative justice that preferably seeks the restoration of the harm caused and the reparation of the victims affected by the conflict, especially to put an end to the social exclusion that has caused this victimization. Restorative justice prioritizes victims' needs and dignity and is applied with a comprehensive approach that guarantees justice, truth, and non-repetition of violence.³⁶

Law 1922 of 2018 establishes that the dialogic construction of the truth between the procedural subjects and intervening parties is the basis for guaranteeing the restorative element in the proceedings before the Jurisdiction:

"Dialogic construction of truth and restorative justice." Within the framework of the principles of restorative justice and victim-centeredness provided for in Title One of this Law, the judicial panels and chambers, when appropriate, may adopt the measures they deem suitable to promote the dialogic construction of the truth among the parties involved in the proceedings and other participants, which promote individual, collective, and territorial alignment and healing as well as the construction of agreements by applying criteria of reasonableness and proportionality in all phases of the proceed-

Rivera, p. 147.

³⁶ Congress of the Republic of Colombia, Legislative Act No. 01 of 2017, by means of which a title is created for transitional provisions in the Constitution to end the armed conflict and build a stable and lasting peace, and other provisions are issued, O.G.: 50.196 of April 4, 2017.

**The Court
explains how
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the SJP.**

ings. In some cases, they may take into account the restorative practices of ethnic justice [...].³⁷

In fact, through Ruling C-080 of 2018, which analyzes the constitutionality of Law 1957 of 2019, the Constitutional Court assesses the nature of the Special Jurisdiction for Peace and classifies it as "essentially restorative." As part of its considerations, the Court explains how restorative and transitional justice complement each other within the framework of the operation of the SJP. In this regard, it points out that constitutional jurisprudence has defined the concept of restorative justice as **reparative justice**.

The Court also clarifies that, in accordance with the

³⁷ L. 1922/18, Art. 27. This includes each of the groups protected in the transitional framework in accordance with the current legal framework—Decree-Laws 4633, 4634, and 4635 of 2011—namely: Indigenous Peoples and communities; Romani people, and Black, Afro-Colombian, Raizal, and Palenquero communities.



State's duty to punish those responsible for the most serious and representative crimes,

the SJP must seek reparation for the victims through restorative projects, without neglecting the sanction for the seriousness of the crimes committed against the victims and against society. Consequently, the sanction will aim not only at reparation and satisfaction for the victim through restorative projects, but also at restoring the balance between victim and defendant [...].³⁸

In a similar vein, the Court, in Ruling C-538 of 2019, through which it analyzes the partial constitutionality of Article 27 of the SJP's Procedural Law, explains that the restorative element of the SJP is coupled with the principle of victim-centeredness, since:

[...] in processes with a restorative approach, victims must be allowed to be involved in dialogic processes with the defendants and society, and that their declarations, their experiences, their own assessment of the harm suffered, as well as the possibilities that they consider to be reparation, among other aspects, are taken seriously in the framework of said relationship and also in the decisions adopted by SJP authorities; otherwise, participation is not effective or given a main role.³⁹

The Jurisdiction itself has developed the constitutional parameters through the decisions issued by different judicial panels and chambers, in accordance with their respective competences. Particular mention should be made of Interpretative Sentence 1 (Senit 1 for its acronym in Spanish) of the Appeals Chamber of the SJP. This ruling makes important clarifications on the restorative component and indicates that the reparation promised by restorative justice must begin with how the judicial process is con-

³⁸ Cf. Constitutional Court of Colombia, Plenary Chamber, Ruling C-080 of 2018, P.J. Antonio José Lizarazo Ocampo.

³⁹ Cf. Constitutional Court of Colombia, Plenary Chamber, Ruling C-538 of 2019, P.J. Diana Fajardo Rivera.

ducted, from the time provisional measures are granted until its culmination. It also highlights that restoration is key dimension across all procedures, both punitive and non-punitive:

However, the restorative approach in Colombian transitional justice is not limited to the competences to impose sanctions. The text of the Constitution does not confine it within those limits. On the contrary, it specifies that among the core responsibilities of the justice component of the System are those of ensuring “the recognition of the victims as citizens with rights,” “the clarification of the truth of the conflict,” the “construction of historical memory,” “ending social exclusion” of the victims, “prioritizing [their] needs and [their] dignity,” “building a stable and lasting peace,” and “adopting decisions that provide full legal certainty to those who participated directly or indirectly in the internal armed conflict.”⁴⁰ No other procedural approach achieves these goals like restorative justice does. It can be assumed that restoration also applies to non-sanctioning procedures for defining legal situations. Congress was aware of this when it enacted Law 1922 of 2018. Hence, in addition to outlining various principles and general references to dialogic justice and restoration, in regulating the common procedure before the SDSJ, it provided the following provision: “The Chamber will promote dialogue to deepen the restorative and transformative approach applied to this process in the SJP in order to strengthen the commitments to truth, reconciliation, reparation, and non-repetition” (Art. 48, par. 2).⁴¹

Restorative Transitional Justice in the SJP is reflected in the decisions regarding the granting of transitional benefits, the promotion of cases, the imposition of sanctions—primarily

⁴⁰ Congress of the Republic of Colombia, Legislative Act No. 01 of 2017, by means of which a title is created for transitional provisions in the Constitution to end the armed conflict and build a stable and lasting peace, and other provisions are issued, O.G.: 50.196 of April 4, 2017, transitory articles 1 and 5.

⁴¹ Cf. Special Jurisdiction for Peace, Tribunal for Peace, Interpretative Sentence TP-SA-SENIT No. 001 of April 3, 2019, para. 160. Available at: https://jurinfo.SJP.gov.co/normograma/compilacion/sdlij-jedpj-tpjp_seccion_apelacion_sentencias_interpretativas.html

the special sanctions—and in the decisions on precautionary measures. In this regard, the Appeals Chamber, through the aforementioned Interpretative Sentence, has outlined some basic conditions for victim participation. For this reason, it has been explained that in the context of macro-crime, restorative justice cannot be achieved if each victim intervenes individually. Hence the relevance of spaces for the collective participation of victims in order to achieve a more comprehensive approach to their needs and those of the communities they are part of:

A mechanism for the collective participation of victims differs from individual participation in its ability to make the judicial process more efficient, bringing together a movement of demands that may have a lot in common and, thus, facilitate the collective representation of the traumatic past. One of the advantages of this type of representation lies in objectively reducing the number of interventions and preventing the repetition of requests, which saves time for the judiciary and the secretariat as well as effort and resources. [...] Capacity issues highlight the need to interpret the legal framework in a way that upholds victims' right to participation and ensures the effectiveness of justice. It does not make sense to allow unlimited interventions, as this opens the door to impunity, since it would negatively impact the system's possibilities to prosecute the crimes under its jurisdiction.⁴²

As seen in the regulatory framework described, the SJP places special emphasis on contributing to the reparation of victims and the restoration of the collective harm caused, aiming to overcome the consequences of the armed conflict. The decisions of the SJP, as well as the rulings of the Constitutional Court, highlight the importance of addressing victims' needs as well as their dignity, promoting measures that favor the reconstruction of the

⁴² Cf. Special Jurisdiction for Peace, Tribunal for Peace, Interpretative Sentence TP-SA-SENIT No. 001 of April 3, 2019, para. 111. Available at: https://jurinfo.SJP.gov.co/normograma/compilacion/sdlij-jedpj-tpjp_seccion_apelacion_sentencias_interpretativas.html

social fabric and lasting peace. Restorative justice in the SJP focuses not only on sanctions, but also on procedural issues such as the dialogic reconstruction of the truth, the recognition of victims, and the promotion of peace and non-repetition, implementing a comprehensive and transformative approach in Colombia's transitional justice model.

The SJP has also delved deeper into the implementation of the restorative approach through its decisions on precautionary measures, highlighting its role in protecting and restoring victims' rights and preserving the social fabric affected by the conflict. A significant milestone in this development is the Order SeARV-AI-011 of November 20, 2019, issued by the First Instance Chamber for Cases of Absence of Acknowledgment of Truth and Responsibility, which sets a precedent in the adoption of restorative precautionary measures. This approach was reiterated in subsequent orders, which highlight the relevance of such measures to **prevent irreparable damage, protect information, places, people, and ensure their active participation in the processes**⁴³. This guideline was ratified by the Appeals Chamber in Order TP-SA 767 of 2021, reaffirming the SJP's ability to conduct restorative activities, emphasizing the Jurisdiction's commitment to the **restoration of harm and comprehensive reparation to victims**, in accordance with its mandate of Restorative Transitional Justice.

The SJP's Judicial Panel for the Acknowledgment of Truth and Responsibility (SRVR) has played a crucial role in making the principles of restorative justice effective, highlighting the importance of creating spaces for dialogue and participation for victims, as well as facilitating defendants' access to the case file. In Order SRVNH-04-01/01-19 of June 10, 2019, this dialogic approach was said to be essential for the SJP process, emphasizing that **restorative justice occurs not only by allowing victims to express their thoughts regarding the defendants' testimonies**,

⁴³ See: Special Jurisdiction for Peace, Tribunal for Peace, First Instance Chamber for Cases of Absence of Acknowledgment of Truth and Responsibility for Facts and Conducts. Orders SeARV-AT-075 of June 10, 2020 and SeARV-AT-140 of July 29, 2021.

but also by ensuring that the defendants have full access to the file for informed participation.

The Judicial Panel of Acknowledgment has emphasized the consequences of non-compliance with restorative commitments, in which expulsion from the Jurisdiction has been used as a measure to prevent recidivism in armed activities, as demonstrated in Order SRVR-264 of December 18, 2019. In addition, in subsequent decisions, such as Order SRVR-019 of January 26, 2021, related to the taking of hostages, the SJP reiterated the importance of **promoting spaces for dialogue that contribute to the victims' grieving process**.

Order SRVR-CDG 208 of December 9, 2021 delves into the dialogic nature of the process, establishing that the hearings to acknowledge truth and responsibility must not only be **public**, but must also incorporate the principle of dialogue under four key premises: adopting various restorative approaches, fostering relationships as a pillar of restorative justice, actively ensuring victims' participation, and having the entire process guided by the SJP as a facilitator. This approach highlights the SJP's commitment to a justice system that not only seeks to repair the harm, but also transforms social relations and helps build a sustainable and lasting peace. It also shows the SJP's commitment to considering a gender-based, differential, and intersectional approach.

Finally, it is worth highlighting Order SRVR-080 of May 28, 2019. In this decision, the Judicial Panel of Acknowledgment marked a turning point by significantly expanding the role of accredited victims, particularly in Case 03, during the voluntary accounts portion of the proceedings. This order stresses that the **dialogue between victims and defendants should not be understood as a single event within the process, but as a series of interactions that enable the gradual development of a dialogue with restorative outcomes. This perspective emphasizes the continuous process of dialogic interaction, highlighting the importance of the active and sustained participation of vic-**

tims in the search for truth and reparation.

Along these lines, the Judicial Panel for Determination of Legal Situations (SDJS), through Resolution SDSJ-4890 of September 13, 2019, reaffirms the importance of the defendants' commitment to restoring the victims' dignity. This resolution emphasizes the SJP's responsibility not only to facilitate this commitment but also to ensure its effective compliance. The implication is clear: **the SJP is responsible for ensuring that interactions between parties are not only respectful and constructive, but that they also effectively contribute to repairing and restoring the social fabric damaged by the conflict.**

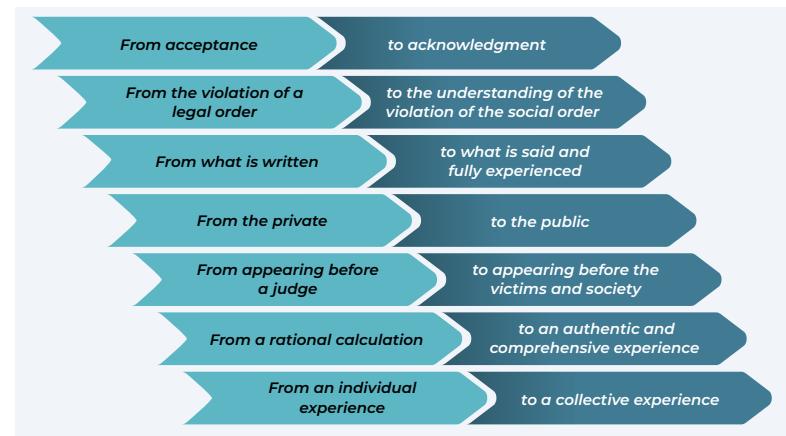
These jurisprudential processes illustrate the SJP's progressive and participatory approach to restorative justice, highlighting the process as a continuous path of dialogue and reparation, in which the dignity of the victims and monitoring of the defendants' commitment are essential to achieving a stable and lasting peace in Colombia.

All this considered, the SJP's Advisory Office of Restorative Justice provides the following indicative definition of Restorative Transitional Justice as a reference for the various instances of the Jurisdiction:

It is a form of participatory, collaborative, and prospective justice that seeks to address the harm and damage caused in the context of the armed conflict, reintegrate the parties into society, and restore the social fabric through processes of acknowledgment and accountability, contributions to comprehensive reparation and the restoration of dignity, as well as measures for prevention, protection, and guarantees of non-repetition.

Restorative Transitional Justice enables the following progressive shifts in comparison with standard criminal justice, emphasizing that these are not replacements, but rather extensions or changes in focus:

Figure 3. Progressive shifts within Restorative Transitional Justice



Source: Executive Secretariat, Advisory Office of Restorative Justice, 2024.⁴⁴

The following section summarizes the findings of this normative and jurisprudential investigation in seven pillars that define Restorative Transitional Justice in the SJP, in accordance with the definition provided above.

Pillars of Restorative Transitional Justice in the SJP

The review carried out up to this point allows us to point out seven key pillars of the SJP's Restorative Transitional Justice, in accordance with the 2016 Final Peace Agreement and its subsequent regulations and jurisprudence:

⁴⁴ In the case of gender-based violence, sexual violence, reproductive violence, and crimes motivated by prejudices related to sexual orientation, identity, and/or diverse gender expressions, within the context of the armed conflict, the shift from the private to the public requires specific treatment, considering the centrality of the right to non-confrontation and the guarantee of anonymity, data protection, and confidentiality. See: Constitutional Court of Colombia, First Revision Chamber, Ruling T-184 of 2017, P.J. María Victoria Calle Correa; Congress of the Republic of Colombia, Law 1257 of 2008, which establishes rules for awareness-raising, prevention, and punishment of forms of violence and discrimination against women, amends the Penal Code, the Criminal Procedure Code, Law 294 of 1996, and other provisions. O.G.: 47.193 of December 4, 2008.

1. Reconciliation and peace:

The SJP's actions seek to foster reconciliation and contribute to peace in Colombia.

2. Restoration of dignity:

The crimes and conduct subject to the process of investigation, prosecution, punishment, symbolic reparation, and restoration by the SJP, which constitute serious international crimes (crimes against humanity and war crimes), have caused significant and lasting harm to the dignity of the victims, communities, and sectors affected by the armed conflict and other related forms of violence. Similarly, these serious crimes have also affected the dignity of those responsible for such conduct; a plethora of individual, family, and collective future plans made by the victims, communities, and the defendants themselves have been cut short and deeply impacted.

In accordance with its constitutional and legal mandate, the SJP aims to consistently and sustainably implement actions that promote mutual and enduring recognition of the dignity of all individuals involved in this Jurisdiction, as rights holders—namely, victims, communities, and defendants. To this end, the SJP applies principles, criteria, and actions that seek to honor the dignity and memory of the victims, their families, communities, organizations, and sectors impacted by the serious crimes under its jurisdiction. In this way, it aims to identify, remember, name, and value the life trajectories and future plans of those who were victims of crimes against humanity and war crimes.

Each victim has a name, an identity, and a life story that must be respected, recognized, and valued. The same applies to the defendants, who receive dignified and respectful treatment, based on the premise that the investigation, prosecution, and punishment of those found criminally responsible by the SJP focus on qualifying the acts and behaviors, not the person themselves. There-

fore, once the defendants take accountability for their actions and contribute to the truth, reparation, and non-repetition, the goal is for them to be able to recreate their personal and family life projects as a result of institutional and social processes of reintegration and reincorporation.

In this approach, the principle of mutual and lasting dignity serves as a structural support for the restorative practices of accompaniment, mediation, and facilitation that make providing psychosocial, psycholegal, and psychospiritual support possible for both victims and defendants. These practices precede and support private and public meetings to share voluntary accounts; precautionary measures for the protection of people, archives, and places; the dignified delivery of missing persons' bodies; the hearings for the acknowledgment of responsibility by the defendants; the processes to define the defendants' legal situation; the restorative projects included in the anticipated Activities, Works, and Actions with Restorative Content (TOAR for its acronym in Spanish); and the imposition and enforcement of special sanctions and actions to contribute to the truth and restoration by applying the conditionality regime.

3. Participation of victims, defendants, and the community:

Restorative justice in the SJP puts the victims and their rights and needs at the center, and promotes their full participation in judicial processes. The SJP facilitates a constructive dialogue between victims, defendants, and the community, recognizing the importance of expressing the victims' experiences in building truth and reparation.

4. Acknowledgment:

The SJP encourages the defendants to acknowledge the crimes, the harm caused, and their responsibility in the commission of crimes in the context of the armed conflict. This acknowledgment is an essential component for the implementation of restorative justice, as it contributes to victims' reparation and the restoration of the social fabric of communities affected by the conflict. It is one of the procedures leading up to the possibility of the parties meeting. The

Judicial Panel for Acknowledgment specified that the expected acknowledgment is of a factual, legal, and restorative nature.⁴⁵

5. Reintegration and reincorporation of the defendants to civilian life:

The SJP facilitates the return of those who committed crimes in the context of the armed conflict to civilian life, promoting not only their social and economic reintegration, but also their personal transformation to become actors of peace. This process is not limited to the physical reintegration of ex-combatants into society, but emphasizes their active participation in initiatives that make a significant contribution to victims' reparations and the restoration of the social fabric damaged by the conflict. By focusing on the reconstruction of individuals' identities from a human rights approach, the SJP seeks to ensure that reincorporation is genuine and sustainable, and that it acts as a pillar to guarantee non-repetition. This commitment is rigorously monitored through a system of conditionality that assesses the effective contribution of defendants to peace and reconciliation, fully integrating differential, gender-based, and intersectional approaches.

6. Preparation and progression:

The SJP's Restorative Transitional Justice not only applies sanctions that include contributions to reparation and restoration but also involves a meaningful and transformative judicial process. In this approach, any restorative intervention carried out by the SJP is conceived as a restorative path in itself, promoting a process of mutual recognition that highlights the complexity of the identities involved, which are dynamic and multifaceted. This process focuses on giving tools to both victims and defendants, facilitating a space for constructive dialogue, active listening, and effective exchanges, which, in turn, fosters a more tangible possibility of change and mutual understanding. The key to this approach is its flexibility, allowing adjustments and changes in direction to be made according to the parties' needs, the context, and the impact of the interactions.



Within this framework, victims take on a leading role, not only through their full participation, but also through the recognition of their leadership and dignity, thus contributing to their healing process. This is of the utmost importance given that the victims are not only demanding the truth, but also recognition of their struggles, as they are experts in their own experiences and processes.

7. Differential, intersectional, and territorial approaches:

Following the Final Peace Agreement, the SJP applies several differential and intersectional approaches in all its actions—from procedures to decisions—in order to address the complexities of discrimination and inequality exacerbated by the armed conflict⁴⁶. By

45 Special Jurisdiction for Peace, Judicial Panels, Judicial Panel for the Acknowledgment of Truth, Responsibility, and Determination of Facts and Conducts, Order No. 027 of February 21, 2022.

46 Congress of the Republic of Colombia, Law 1922 of 2018, Adopting procedural rules for the Special Jurisdiction for Peace, O.G.: 50.659 of July 18, 2018, Article 1, paragraph c.

recognizing the interaction between different forms of discrimination—such as those based on gender, racial ethnicity, age group, and disability—the Jurisdiction focuses on guaranteeing the fundamental rights of equality, non-discrimination, access to justice, truth, reparation, and protection for all persons involved, including victims and defendants.⁴⁷

In addition, the Jurisdiction assumes an intersectional approach, which emphasizes that certain individuals and social groups are subjected to forms of discrimination based on different causes. This means acknowledging that the intersection of structures of inequality creates complex situations that require targeted responses.⁴⁸

This approach emphasizes the importance of understanding and addressing the disproportionate impacts of conflict and the specific vulnerabilities faced by the most marginalized groups and their correlation with pre-existing forms of discrimination. The SJP is committed to promoting inclusive and effective justice, designing and implementing projects that not only repair and restore, but also seek to transform historical structures of exclusion, confronting and challenging discourses and practices that perpetuate discrimination.

The SJP also applies the ethnic-racial approach to all its instances and procedural mechanisms. In this way, it aims to strengthen the organizational capacity of the peoples, guarantee their informed participation in the judicial process for collective and individual victims and defendants belonging to ethnic groups, as well as coordinate with the Special Indigenous Jurisdiction (JEI) and the

authorities of the Black, Afro-Colombian, Raizal, and Palenquero Peoples (NARP for its acronym in Spanish), and the Romm People to recognize their own justice systems.

To this end, it implements instruments that can be used to work with the peoples,⁴⁹ recognizing the principle of reparation and transformative justice. The Restorative Transitional Justice of the SJP contributes to ensuring the right to autonomy, self-determination, and self-government of the peoples through intercultural dialogues and the collaboration of various justice systems.⁵⁰ These are established on the basis of the principle of legal pluralism stipulated in the Political Constitution of Colombia and the mandate of the Final Peace Agreement, particularly the Ethnic Chapter.

In addition, the SJP applies the ethnic-racial approach in Restorative Transitional Justice by recognizing the community, collective, and territorial aspects of the harm caused during the armed conflict, and how this is related to historical forms of exclusion prior to and exacerbated by the conflict, which have affected the autonomy of the peoples.⁵¹ This approach is also applied through contributions to reparations and restorations for survival, in accordance with knowledge, traditions,

⁴⁷ The Jurisdiction has a document of guidelines for the implementation of each of these approaches:

- Guidelines for the implementation of the ethnic-racial approach in the SJP. Available at: <https://acortar.link/IBQGsd>
- Guidelines for the implementation of the child and adolescent-centered approach in the SJP. Available at: <https://acortar.link/88Bfie>
- Guidelines for the implementation of the gender-based approach in the SJP. Available at: <https://acortar.link/e3xam4>
- Guidelines for the implementation of the elderly-focused differential approach in the SJP. Available at: <https://acortar.link/0bz16Q>
- Guidelines for people with disabilities in the SJP. Available at: <https://acortar.link/FLUxil>

⁴⁸ The Constitutional Court has highlighted the relevance of the intersectional approach in rulings T-448 of 2018 and T-310 of 2022.

⁴⁹ Special Jurisdiction for Peace, Plenary Chamber, Agreement of the Plenary Chamber ASP No. 001 of 2020, chapter 15.

⁵⁰ Special Jurisdiction for Peace, (2020). *Op. cit.*

and customs,⁵² which are based on the recognition of the territory as a victim of the armed conflict.⁵³

Following the mandate of the Final Peace Agreement, the Restorative Transitional Justice of the SJP implements the territorial approach across all mechanisms.⁵⁴ This approach involves taking into account the impact of various territorial dynamics on the origin, evolution, and persistence of the armed conflict in Colombia, as well as the specific conditions of different territories to ensure due process, access to justice, and the comprehensive participation of victims.⁵⁵

8. Collective approach to harm, reparation, and restoration:

The SJP is part of a system of institutions that, together, are called upon to comply with the Colombian State's obligation to provide comprehensive reparations to victims.⁵⁶ Specifically, the SJP contributes to reparation based on at least four aspects: **(i) ensuring access to transitional justice for victims, as well as investigating, prosecuting, and punishing those responsible for the crimes committed; (ii) guaranteeing the participation of victims in the restorative processes, which have a restorative impact; (iii) seeking the truth and the acknowledgment of the defendants as measures of satisfaction for the victims; and, (iv) facilitating defendants' contributions to reparation and restoration**

⁵² Congress of the Republic of Colombia. Law 1957 of 2019: Statutory Authority of the Administration of Justice in the Special Jurisdiction for Peace, O.G.: 50.976 of June 6, 2019, Article 141.

⁵³ Special Jurisdiction for Peace, Governing Body, Agreement of the Governing Body AOG No. 010 of 2024, p. 22.

⁵⁴ Congress of the Republic of Colombia, Legislative Act No. 01 of 2017, by means of which a title is created for transitional provisions in the Constitution to end the armed conflict and build a stable and lasting peace, and other provisions are issued, O.G.: 50.196 of April 4, 2017, article 1, paragraph 1.

⁵⁵ See: Special Jurisdiction for Peace, Executive Secretariat, Guidelines for applying the territorial approach in the Executive Secretariat of the Special Jurisdiction for Peace, (2020). Available at: <https://acortar.link/voRVik>.

⁵⁶ Institutions such as the Council of State, the National Center for Historical Memory, the Unit for Comprehensive Reparation to Victims (UARIV), and the Land Restitution Unit. In addition, the Colombian State must comply with the standards and orders of the Inter-American Human Rights System. When the Inter-American Court of Human Rights (IACtHR) orders the State to take measures that may include compensation, restitution, or actions for satisfaction, victims of the armed conflict in Colombia can also assert their right to comprehensive reparation. These measures—and those ordered by other Colombian institutions—do not conflict with but rather complement the provisions of the SJP.

through activities, works, and actions with restorative content (TOAR).⁵⁷

The SJP does not intend to exhaust the State and international reparation mechanisms that victims of the armed conflict can access; instead, it intends to make it possible to carry out meaningful and participatory activities that contribute to reparation and restoration. It does this by prioritizing collective and comprehensive participation, conducting restorative processes with high participation standards and imposing sanctions on the defendants as well as obligations to contribute to reparation and restoration, which highlight the recognition, dignity, leadership, and agency of the victims.

The Restorative Transitional Justice administered by the SJP must have a collective approach due to the widespread and massive nature of the harm caused by the conflict. Therefore, it focuses on characterizing the multidimensional harm suffered by victims, their communities, and territories. It does this by using the victims' own voices, with the aim of making them visible and contributing, to the greatest extent possible, to their restoration through concrete reparative actions.⁵⁸ The SJP is not called upon to grant compensation or direct reparations for individual harm, but

⁵⁷ The detailed definition of TOARs can be found in the Chapter III of this Manual.

⁵⁸ In this regard, the Appeals Chamber states: "The sanctions themselves have two core components: a restriction of freedoms and rights, and a restorative and reparative element. In contrast, due to their non-punitive nature, within the framework of the Strict Conditional Regime, contributions to reparation cannot, in any case, include a mechanism restricting rights and freedoms, since this characteristic is inherent to punishments or sanctions. However, because they are related to serious conduct in the Non-International Armed Conflict, contributions to restoration must be as proportional as possible to the impact or harm that the defendant caused to the social fabric. There must be a minimum degree of correspondence between the harm caused and the measure of reparation, within what is reasonable for a justice system with time constraints like the SJP. To address this, the SJP relies on large-scale reparation plans, programs, and projects to organize reparation efforts, maximize their impact, and facilitate implementation. The right to equality must also be upheld, and reparation obligations cannot impose a heavier burden on minor participants than on those most responsible for the associated macro-criminal patterns." See: Special Jurisdiction for Peace, Tribunal for Peace, Appeals Chamber, Interpretative Sentence TP-SA-SENIT No. 005 of 2023, para. 170.

rather to impose various obligations on the defendants to contribute to the reparation and restoration through activities, works, and actions (TOAR) that allow different levels of harm and impacts to be addressed within the framework of **restorative projects**.⁵⁹

The Advisory Office of Restorative Justice of the SJP's Executive Secretariat provides an operational definition of harm addressed by the different instances of the SJP. This definition is a result of multiple interactions with victims in preparatory and collaborative spaces for a variety of proceedings, but that in no way can be imposed or binding. In this sense, **harm is understood as the loss, detriment, or damage to the body (individual/social/territorial), heritage (material/immaterial), or ways of being, feeling, thinking, relating, and organizing oneself in private and social life; all of which are negatively affected as a result of the internal armed conflict and to the detriment of human dignity.**

This approach recognizes the complexity and extent of the impact of conflict, and seeks to foster a collective process that transcends mere financial compensation. Hence, the SJP focuses on designing reparations and restorations for the following **types of harm: i) sociocultural; ii) to physical integrity; iii) to political and organizational autonomy and integrity; iv) moral, psychological, and emotional; v) territory, environment, and nature; vi) to plans for the future** (see Table 1).⁶⁰

Table 1. Types of harm that are addressed in the SJP's restorative projects

HARM	
Sociocultural	Loss, detriment, or damage to the body (individual/social/territorial), heritage (material/immaterial), or ways of being, feeling, thinking, relating, and organizing oneself in private and social life; all of which are negatively affected as a result of the internal armed conflict and to the detriment of human dignity.
To physical integrity	Changes in ways of life, the meanings attached to them, and the social relationships that shape, sustain, and transform them impact the construction and reproduction of identities, hindering the full realization of both the community as a collective and the individuals within it.
To political and organizational autonomy and integrity	Injuries and aftereffects impacting individuals' bodies. These injuries are usually characterized under criminal types such as personal injury. In the field of international human rights law, other conduct could be related to this category, such as torture and cruel and inhuman treatment.
Moral, psychological, and emotional	Impacts on objectives, alternatives, and forms of action and political organization, as well as on citizen participation in decision-making spaces and in the enforceability of rights. It causes harm to the principles on which democracy, political subjects, institutions, and social organizations are defined and built.
	Internal distress experienced by people and groups associated with moods, value systems, and personality disorders, disturbing or depriving them of their ability to cope with life. This category can encompass clinical concepts such as trauma, depression, and paranoia, as well as humiliation, grief, mourning, guilt, or shame, and additionally, moral structures and non-pathological behavioral disorders.
	In the face of this type of harm, it is important to take into account that the Constitutional Court's Ruling T-702 of 2016 pointed out the need to conduct psychosocial assessments to identify harm to mental health suffered by the victims of the armed conflict. Moreover, it explained the methodology for assessing psychosocial damage in the context of human rights violations.

59 A restorative project is defined as "organized actions in which defendants appearing before the SJP participate in measures contributing to reparation, or anticipated TOARS, all within the framework of their special sanctions." See: Special Jurisdiction for Peace, Governing Body, Agreement of the Governing Body AOG No. 011 of 2024, Article 1.

60 The categories of harm mentioned here are the bases for the SJP's Restorative Lines, which are explained in Chapter II of this Manual. These categories are interrelated, and therefore the same restorative project should incorporate activities that contribute to the reparation-restoration of several types of harm. Although property and material damages are acknowledged and brought to light through the SJP's processes, they are not included in the table, as material reparation falls outside the Jurisdiction's mandate. See: Special Jurisdiction for Peace, Governing Body, Agreement of the Governing Body AOG No. 011 of 2024, p. 84. Colombian institutions also use other ways to categorize collective harm, including that of the UARIV-URT and the NCHM. See: Administrative Unit for Comprehensive Assistance and Reparations for Victims. Technical Annex to Resolution No. 3143 of 2018. Available at: <https://acortar.link/iPPmFG>; National Center for Historical Memory. Theoretical and methodological contributions to assess harm caused by violence (2014). Available at: <https://acortar.link/zfxv8b>.

To Nature, the Territory, and the Environment	Impacts on living environments. This category encompasses the effects on life, including non-human life, and its interactive and interdependent forms. It involves ruptures in ecosystem relations, including breakdowns in the social relations associated with how the territory (environment, resources, usufruct, meanings, etc.) is treated and managed, and what it means.
To plans for the future	Impacts on the ability of individuals and communities to live according to their own criteria, in conditions of autonomy and dignity. Effects on how individuals and communities give meaning to their life paths, in alignment with their specific values and principles.

Source: Executive Secretariat, Advisory Office of Restorative Justice, based on AOG 011 of 2024.

These are the distinctive elements involved in the contribution to reparation in the SJP:

- Comprehensive and inclusive approach to reparation:** The SJP's strategy for contributing to reparation, while incorporating international and national standards, transcends conventional methods of compensation and assessment of harm. This holistic approach emphasizes the recognition, satisfaction, and restoration of dignity for victims. Although direct financial reparation falls under the responsibility of other entities of the Colombian State, the SJP focuses on a wide range of restorative actions. These measures consider the complexity and scale of the harm and encourage victims' full participation in all aspects of the justice process.
- Emphasis on collective and symbolic measures:** The SJP prioritizes contributions to collective reparation and symbolic actions, reflecting an understanding that the harm caused by the conflict has a far-reaching impact on the social aspect. This includes memorialization and symbolic reparation activities, environmental restoration, and projects focused on the community and territories (see section on the Restorative System). The system's emphasis on restorative projects highlights the importance of addressing the broader social fabric and community restoration, beyond individual compensation to victims. This approach recognizes the interconnectedness of individual and collective experiences of harm and aims to foster community healing and reconciliation.

Table 2. Some examples of the SJP's restorative projects and their contributions to reparation and restoration

Measurement type	Description
Satisfaction	Public impact. These include the publication of sentences, public acts of contribution to the truth and acknowledgment of responsibility, receipt of reports from victims, and documentation on sentences for serious human rights violations and breaches of international humanitarian law, creation of spaces to honor victims. Restorative projects that contribute to symbolic reparation, the construction of memory, and the clarification of the events.
Rehabilitation	Focus on the psychological, moral, physical, and overall health effects caused by the conflict. For example, the construction of a health center could be included in a restorative project.
Guarantees of Non-Repetition	Prevention of future human rights violations. These include measures related to historical memory, the duty of remembering, strategies for communicating judicial decisions, and the defendants' contributions to the truth. Restorative projects for guarantees of non-repetition, for example, projects focusing on promoting humanitarian demining actions.
Overall approach of the SJP	It does not deal with individual compensation or the valuation of harm. It focuses on victims' recognition, satisfaction, and restoration of dignity, promoting their full participation in each procedural aspect and in defining the content of restorative projects.

Source: Executive Secretariat, Advisory Office of Restorative Justice, based on AOG 011 of 2024.

Communicating to Restore - Communications Strategy for Restorative Transitional Justice

Communication contributes to the restoration of harm caused during the armed conflict. It reclaims the word from the silence imposed by the conflict and, like a thread, helps weave together memory. Naming what the violence

has silenced and opening channels to tell the stories of pain and struggle—including those who gave orders and those who carried them out—provides a profound sense of reparation for all involved in the Restorative Transitional Justice applied by the SJP, aiming to achieve justice and overcome decades of impunity.

The Special Jurisdiction for PeaceSJP speaks to the country with each of its decisions and actions. Restorative Transitional Justice is carried out as an ongoing dialogue with society as a whole. It fosters reflection on the past and provides tools for victims, defendants of the most heinous crimes, and society as a whole to envision and work towards a future where the tragedy of the armed conflict is not repeated. In this process, communication is a central component, with its impact reflected on both individual and collective levels.

On the one hand, it builds bridges between the different actors involved in the process. By incorporating various content formats into the judicial process, not only are decisions more understandable, but they also serve as a tool to build trust. For example, gradually bringing together words, voices, and faces has enabled victims to move toward face-to-face encounters with those responsible for their suffering.

On the other hand, revealing the truth through judicial scrutiny—along with the processes and evolution of these narratives—is crucial for the country to grasp their significance and to show that reconciliation and peace are possible. This process builds credibility by simplifying the language and making the benefits of this justice model tangible. In doing so, it helps break with the traditional paradigms of our judicial system and connects the country—and the world—to a new reality: we are seeking justice for the most heinous crimes committed during the conflict.

Communication is an indispensable ally of this justice system, which organizes thousands of victimizing events into broad patterns of behavior to identify methods and assign responsibility.

In this context, amplifying the messages is crucial. Only by clearly explaining the findings and judicial processes can we enrich both individual and collective memory. Through the SJP's legal actions, the country now has a narrative that is not monopolized, helping us understand what happened and begin to turn the page on violence and confrontation, paving the way for resolving our conflicts.

Elements of the communicative process:

The communicative process is made up of five elements:

- i) **An element associated with those involved in the judicial process and the audiences of interest:** The communication demonstrates that the active participation of those involved in the judicial process is, in itself, a restoration of their dignity. It enables victims and defendants to humanize one another—with the mediation of the transitional judge—and to gain insight into the realities that were obscured during the armed conflict and its deterioration. Bringing this humanization to light within the judicial process—while considering symbolic, ethnic, cultural, psychosocial, psychospiritual, and legal aspects—is transformative for those involved and serves as a model of dialogue for society. It opens the door to changing realities such as impunity.
- ii) **An element related to the events of the conflict:** The communication demonstrates that the crimes, behaviors, their rationale, and their effects *did in fact happen*. To a certain extent, this second element can be seen as a struggle against the denial of what happened.
- iii) **An element relative to the magnitude of these events:** This includes figures, groups of victims, and events that allow us to measure the size of the victimization. A single figure can become a social symbol that encapsulates and

acknowledges not only the victims' pain but also their demands for truth. It also provides society with a tangible sense of the scale of what happened. An example of this is the figure of 6,402 killings and enforced disappearances presented as combat casualties by State agents between 2002 and 2008.

- iv) **An element that aims to establish a relationship between the reasons that led to these crimes being committed:** It delves into the origins and motivations, but also the serious effects the crimes had on victims and society. Understanding and publicizing these reasons makes it possible to process the effects of this violence, heal, and repair the social fabric. It also strengthens the relationships among those affected, thereby creating an environment that promotes collective agreement and helps ensure that the tragedy of the conflict is not repeated.
- v) **An element that demonstrates the transformation of victims and defendants participating in Restorative Transitional Justice:** It outlines what this restorative moral journey entails for those involved, including the facilitators of the process. Documenting and making this transformation known helps create a comprehensible historical record, which is essential for reconciliation and peacebuilding.

How can communication help in the restoration process?

Communication can help with restoration from three approaches:

- The SJP's communicative actions aim to re-humanize the conflict and its actors.
- The SJP's communicative actions embrace the country's diversity and complexities, as does Restorative Transitional Justice.

- The SJP's communicative actions contribute to building a collective memory of the tragic past, facilitating understanding and working to ensure it is not repeated.

1. Communicating to Humanize:

The atrocities experienced during the conflict tend to be presented as monstrous, inhumane, and difficult to comprehend. When justice investigates the contexts and motivations behind the atrocities and gives the defendants a face, it becomes evident that each crime is driven by underlying causes and motivations that can resonate with any human experience.

Examples: *During the Truth Acknowledgment Hearing held in Ocaña, Norte de Santander for killings and enforced disappearances presented as combat casualties by State agents in Catatumbo, in April 2022, retired Lieutenant Colonel Álvaro Tamayo Hoyos described how he remembered seeing the mothers of Soacha attend hearings in the ordinary justice system, where they had to endure "hearing us tell lies." "This was expressed at the beginning of this farce, this great lie that we perpetuated for 14 years. Today, thanks to the peace process, we can restore the human dignity of each victim," acknowledged a member of the State armed forces.*

At the Acknowledgment Hearing of the last Secretariat of the former Farc-EP for kidnappings, held in June 2022 in Bogotá, Rodrigo Londoño acknowledged responsibility for these crimes and said that he did not understand how they had reached that point "in the name of revolutionary ideals." "How can the objectification of a person be justified in the eyes of humanity? Turning someone into a commodity in order to finance a project that vindicated



human dignity when we were trampling on it?" acknowledged the peace signatory.

At the Acknowledgment Hearing held in Medellín for killings and enforced disappearances presented as combat casualties by State agents in Las Mercedes Cemetery in Dabeiba, Esneda Altamirano— aunt of Jhon Jarvi Cañas Cano, a young man who was murdered, disappeared, and falsely presented as a combat casualty— intervened to explain how, despite not initially understanding restorative justice, the process organized by the SJP had enabled her to find the answers to questions like, "Why forgiveness? Why let them approach us? Why should we look them in the eye when they were to blame for my nephew's death?" "We don't just wake up one day and say 'today we are going to forgive them' (...) No. It was a transition of nearly seven or eight months during which we worked with the SJP's psychosocial team, who, with great empathy, put themselves in our shoes," explained the victim.

These examples of humanizing both victims and defendants are captured in stories and testimonies presented through graphic, text, and audiovisual documentary pieces. These materials, produced by the SJP's Communications Sub-directorate, have been published across the entity's various digital platforms. These productions not only offer a glimpse into individual stories, but also challenge Colombians' preconceived notions. In other words, they allow society to understand the complexity of the armed conflict.

Each citizen has a different perspective of this tragedy, its intensity, those responsible, and its impacts. Therefore, highlighting the diverse stories about the causes and mechanisms of the conflict offers better tools for understanding the extent of the impacts. A thorough explanation of the roots and underlying dynamics of the events helps to understand the context in which the atrocities occurred. In the end, communication contributes to the therapeutic role of Restorative Transitional Justice.

Examples: *At the Acknowledgment Hearing in Yopal, Casanare for killings and enforced disappearances presented as combat casualties by State agents, Margarita Arteaga, a victim's sister, changed what she wanted to say at the last minute as a result of one of the videos produced by the SJP's Communications Sub-directorate: "I had prepared a little story to tell them, but after the video I just saw, frankly, I have nothing but outrage. In the private meetings, I asked them why they had killed my brother, why they had chosen him, and there was no clear answer. They only told me that it could have been anyone, and I just realized (with the video) that there was a pattern of cruelty against difference," said the victim.*

Within the framework of investigating the kidnappings by the former Farc-EP, for the first time it was possible to reconstruct the magnitude of the crimes charged,

the evolution of the practices, the dynamics that fueled the atrocities, the physical and psychological impacts suffered by the victims and their families, as well as the policies that led to the perpetration of these atrocities. Additionally, expanding the evidence of responsibility against the defendants allowed the country to understand the causes that transformed their actions into systematic and widespread attacks against the population.

The truth was no longer uncomfortable, the acknowledgments of responsibility—of those who caused the harm—became a matter of public interest, and the victims stopped staying silent in the face of barbarism. When communication explores the reflective experiences of those affected by the conflict, it enables a deeper understanding of the harmful effects of violence and highlights the significance of dialogue and peaceful conflict resolution.

Humanizing the actors in the conflict reveals the absurdity of violence and its ability to distort reality. Restorative Transitional Justice demonstrates that dialogue and listening are far more effective social practices than violence. These acts of listening and ongoing dialogue help prevent conflict; thus, the more visible the positive effects of dialogue, the easier it becomes to replicate them in the future.

These previously unknown experiences of the defendants reveal that those involved in serious crimes are now appearing before the SJP to address their legal situations and facilitate their effective reintegration into society. That includes the defendants, including former combatants of the Farc-EP, members of State armed forces, and third parties with minor or less severe involvement. Helping the country understand the various levels of involvement and participation in the conflict also serves as a means of restoring society.

Furthermore, the SJP's communicative actions shed light on aspects of the protagonists' lives that are not fully covered in judicial settings. This includes details of a victim's or defendants' day-to-day life, answers to questions as simple as what they had to do the day after experiencing what happened, and how that continues to affect them to this day. Questions that explore intimate details of the experience enhance the potential for empathy and facilitate connections and dialogue between those who suffered the damage, those who caused it, and those who "followed it on TV." By breaking these paradigms, society is restored because a reality that was previously unable to be seen is now portrayed.

Communication is a way for the SJP to relate to the world. Through its strategies, products, and campaigns, it provides tools that allow everyone to be protagonists in the search for solutions to resolve their own conflicts. Instead of imposing solutions, tools are provided that enable participants and society to discover for themselves that it is possible to resolve their differences peacefully.

2. Communication as an agent of diversity:

The SJP's communicative actions themselves can be seen as acts of justice. This principle emphasizes inclusion, listening, and dialogue, aiming to harmonize diverse and varied communication methods that address the needs of victims, defendants, and society as a whole.

During the conflict, there was a monopolization of narratives. Official accounts and those of the defendants largely shaped what the country learned about the development of the conflict. This intensified divisions and focused on finding blame, pointing fingers, and stigmatizing individuals.

The SJP's communicative actions aim to counter this monopoly by restoring the voice of the narrative to the victims and their communities. This encompasses the full range of voices involved in Restorative Transitional Justice, particularly those of Ethnic and Racial Peoples who experienced the conflict in a disproportionate and dis-

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tinct manner, reflecting practices of structural racism.

Including these communities and their voices in the story is an act of justice and representativeness, which are part of the SJP's fundamental principles. Respecting and embracing diversity, along with its symbols and beliefs, restores agency to the communities that have long been excluded from institutional processes. This inclusion represents an opportunity to restore the trust that has been lost in the State.

Examples: *This integration and diversity can be seen through the accreditation of the Cauca river as a victim, the participation of spokespersons of the Ethnic Peoples in dissemination spaces such as the opening of Case 09, the presence of the judiciary in Sacred Territories such as the Sierra Nevada de Santa Marta, and the coordination with the Afro-descendant Justice System and the Special Indigenous Justice System.*

The application of differential approaches is one of the SJP's and the Communications Sub-directorate's overarching principles. By adhering to this principle, we can reveal to the country what has remained untold in other contexts.

This dialogue among diverse groups also acts as a transformative force, broadening understanding of the extent of harm and its effects on populations and territories that are largely unknown to most of the country. The SJP's communicative actions bring society closer to these stories, fostering understanding and empathy.

3. Communicating to create memory:

Restorative Transitional Justice promotes deep reflection on the past. It offers society the tools to piece together an understandable view from the fragments of different versions, testimonies, and stories verified through the judicial process.

The SJP aims to encourage a national conversation about the tragic past of the conflict (one based on catharsis), to nurture individual and collective memories that allow us to understand what happened to us. Communication is a tool used to search for meaning and comprehend the scale of what happened in order to correct the present and project a better future. This approach is not possible if it is not seen in terms of memory and dignity.

Examples: *The positioning of emblematic figures of the investigations, such as the 6,402 so called "false positives," or the 21,396 victims of kidnappings by the Farc-EP, or the 18,677 girls and boys recruited and used by the former guerrilla.*

This same impact has been achieved in the regions with the dignified delivery of remains of more than 60 victims of enforced disappearance who were found and identified within the framework of the precautionary measures adopted by the SJP.

This chapter described the seven pillars that characterize the SJP's Restorative Transitional Justice approach, in accordance with the Final Peace Agreement. Additionally, the role of communication was explained within the framework of Restorative Transitional Justice. The next chapter will explain how the Jurisdiction's Restorative System operates and will delve deeper into defining key actors and their roles within this Restorative Transitional Justice framework. It will describe the way in which victims, communities, those responsible for serious crimes in the context of the conflict, and institutional actors contribute to the process of reparation and justice, outlining their responsibilities and the dynamics of their interaction within the framework of the SJP.

CHAPTER II

What is the Restorative System?

In this chapter, the SJP's Restorative System will be explored, defining its structure and objectives. The scope and focus of its *Restorative Lines* will be introduced in order to understand how they contribute to the restoration and reparation of victims.⁶¹

The Restorative System (outlined in CONPES 4094 of 2022) is the institutional framework designed to facilitate the contributions of defendants to the reparation and restoration of victims, taking into account the entire network of inter-institutional relations required for this purpose⁶².

It is a cohesive and interrelated set of authorities, procedures, and measures, whose shared objective is to facilitate and implement the necessary conditions to enforce, implement, monitor, and verify the defendants' special sanctions and contributions to victims' reparation measures. It is the Special Jurisdiction for Peace's responsibility to enforce these special sanctions and measures⁶³. It is aligned with the reincorporation processes of former Farc-EP combatants and the State armed forces' transition to civilian life, as well as other defendants, all under a Conditionality Regime.

The 2022-2026 National Development Plan established effective coordination between the national government and the SJP, ensuring compliance with and monitoring of these measures. The Restorative System is recognized by the Appeals Chamber of the SJP as essential in public policy for the implementation of sanctions and reparation measures by the Special Juris-

⁶¹ For more details, please see: Special Jurisdiction for Peace, Governing Body, Agreement of the Governing Body AOG No. 011 of 2024.

⁶² National Council for Economic and Social Policy. CONPES 4094 of June 21, 2022. *Policy Guidelines for Implementing the State's Institutional Framework for Implementing Special Sanctions and Reparation Measures*. (2022). Available at: <https://colaboracion.dnp.gov.co/CDT/Conpes/Econ%C3%B3micos/4094.pdf>

⁶³ Special Jurisdiction for Peace, Governing Body, Agreement of the Governing Body AOG No. 011 of 2024.

dition for Peace, focusing on restorative projects that allow the defendants to comply with their obligations to contribute to victims' reparations⁶⁴. This system, which is constantly evolving and adapting, effectively addresses the needs of victims and communities affected by the conflict while fostering informed and comprehensive reflection on its functioning.

Within the framework of the Restorative System, the SJP has developed the *Restorative Lines* in order to implement projects that address various aspects of harm caused by criminal behaviors and their impacts, as outlined in the previous chapter. These projects focus on direct and indirect effects on individuals and communities with the aim of ensuring broad and mainly collective contributions to reparation and restoration. The lines are carried out through TOAR, which include actions that contribute to satisfaction, rehabilitation, and guarantees of non-repetition⁶⁵. As already mentioned, the compensation aspect is not directly addressed in these sanctions or TOAR, since it is fulfilled through the public offer of assistance for victims, as indicated in Article 18 of Legislative Act No. 01 of 2017.

Scope and focus of the *Restorative Lines*:

The *Restorative Lines* allow us to address the harm experienced by various groups of victims, considering differential, gender-based, territorial, and intersectional approaches, as well as victimizing events. The approach is broad, extending beyond the direct victims, reaching communities, territories, and future generations. This approach seeks to fulfill the SJP's restorative mandate, satisfying the rights of victims and contributing to a stable and lasting peace.

The *Restorative Lines* are also based on demands and proposals for reparation from the victims and defendants involved in the cases opened by the SJP. Each line opens the door to implementing concrete actions that address the needs of victims, not only as procedural subjects, but, more importantly, as rights holders, in alignment with the provisions of the Final Peace Agreement.

⁶⁴ Special Jurisdiction for Peace, Tribunal for Peace, Appeals Chamber, Interpretative Sentence TP-SA-SENIT No. 005 of 2023.

⁶⁵ Special Jurisdiction for Peace, Governing Body, Agreement of the Governing Body AOG No. 011 of 2024.

Although the focus of the lines is on concrete contributions to the reparation and restoration of harm and the various negative impacts, in this framework, reparation is also understood from a human rights perspective, seeking the reestablishment of victims as rights holders. The seven proposed *Restorative Lines* provide material justice content to the SJP's Restorative System, seeking to comprehensively and effectively address the needs and rights associated with the reparation and restoration processes⁶⁶.

The lines correlate with the various judicial processes under the SJP's jurisdiction, including macro-cases, precautionary measures, the imposition and enforcement of special sanctions, reparative and restorative measures, anticipated TOARs, and compliance with the Conditionality Regime. This includes contributions to the truth and reparation that may lead to special sanctions or reparative measures, as part of conditional waivers of criminal prosecution granted by the Judicial Panel for Determination of Legal Situations. The main *Restorative Lines* that address and establish the applicable regulations are as follows:

- 1. Comprehensive Action Against Antipersonnel Mines (AICMA for its acronym in Spanish):** Prevention measures that defendants can get involved in include antipersonnel mine risk education, comprehensive care for victims of landmines, improvised explosive devices, and other explosive remnants of war, as well as humanitarian demining efforts to clear and decontaminate affected areas. These contributions, supported by education, training, and accreditation under strict international standards, include providing relevant information on contaminated locations and the types of devices used. Through a territorial approach, defendants can technically assist in prevention and risk management while working in areas heavily impacted by the internal armed conflict.

⁶⁶ Special Jurisdiction for Peace, Governing Body, Agreement of the Governing Body AOG No. 011 of 2024.



The SJP has made significant progress in recognizing territories and the environment as victims of the armed conflict.

These tasks are regulated, supported, and duly monitored both by the national authority on AICMA, under the Office of the High Commissioner for Peace (OACP for its acronym in Spanish), and by the SJP itself, through comprehensive monitoring by the Executive Secretariat and judicial verification by the Peace Tribunal.

The implementation of AICMA projects is carried out by operators accredited by the national authority (the AICMA group under the OACP), in accordance with international standards in the field.

The AICMA, supported by Restorative Transitional Justice content, transforms unsafe territories and communities into areas where it is possible to reopen or build schools and health clinics; start growing crops again, as well as harvesting and selling products; reactivate economic and cultural networks, organizational processes, and citizen participation, as well as the search for missing persons; among

other essential processes to reinforce the reconstruction of the social fabric, civic trust, peaceful coexistence, and conditions for reconciliation.

2. Environment, Nature, and Territory: This line aims to carry out restorative projects and actions, as outlined in the principles of environmental prevention and precaution, as well as projects focused on preservation, conservation, restoration, and sustainability. The SJP has made significant progress in recognizing territories and the environment as victims of the armed conflict. It has also developed a crucial framework for analyzing the environmental impacts of conflict-related events and behaviors, particularly in fragile ecosystems, including water source reserves, forests, paramos, and mangroves.

Thus, the proposed restorative approach aims to implement environmental protection, restoration, and management measures that the defendants, victims, and commu-

nities can participate in. This is framed within technical and forward-looking support aimed at creating a sustainable framework for environmental preservation in medium and long term.

In this restorative line, it is worth highlighting that the 2022-2026 National Development Plan adopts the Payments for Environmental Services for Peace program, in which the authorities of the national government, headed by the Ministry of Environment, grant benefits for environmental conservation to victims who own properties where defendants participate in restorative activities and that are in ecologically and strategically important areas⁶⁷.

Likewise, there are the Comprehensive Agricultural Development Projects, headed by the Territorial Renewal Agency (ART), aimed at the inclusion of victims, communities, and defendants who support agroforestry protection and development work in territories affected by the internal armed conflict and related forms of violence. These actions highlight the adoption of memorialization and conservation of rural *campesino* traditions, the rehabilitation of land for endemic species, and other types of activities.

3. Rural and urban infrastructure: The deficit in the supply of public goods and services in many territories and communities around the country is deepened by the dynamics of population, territorial, and resource control in the context of the armed conflict. As a result, the conditions of

⁶⁷ See, among others: Congress of the Republic of Colombia, Law 2294 of 2023 "By which the 2022-2026 National Development Plan "Colombia, World Power of Life" is issued, Article 224 et seq., Presidency of the Republic of Colombia and Ministry of Environment and Sustainable Development. Decree No. 1998 of 2023 "By which Section 5 is added to Chapter 8 of Title 9 of Part 2 of Book 2 of Decree 1076 of 2015, Single Regulatory Decree of the Environment and Sustainable Development Sector, in relation to the regulation of Payments for Environmental Services for Peace and other incentives for conservation in areas of public domain, in accordance with the provisions of Article 224 of Law 2294 of 2023, by which the 2022-2026 National Development Plan, Colombia World Power of Life, is adopted."

equality, exclusion, and impunity faced by large sectors of the Colombian population living in conflict zones are exacerbated. In socio-cultural, environmental, economic, and political terms, the impact of violence on territorial development is profound and long-lasting. In line with this, the restorative initiative for rural and urban infrastructure aims to address these damages by repairing, adapting, constructing, and rebuilding physical assets for communal use that were impacted by the conflict or left undeveloped because of it. Thus, activities such as the reconstruction or adaptation of schools, bridges and roads, collection centers, cultural meeting places, and the reparation of parks and places of memory are highlighted.

4. Memory preservation and symbolic reparation: The rights to truth, memory, expression, and communication are essential to comprehensive reparation processes, forming a key part of satisfaction and non-repetition measures, in alignment with a restorative paradigm and forward-looking justice. Within this framework, the restorative line focused on the conservation of memory and symbolic reparation has been developed as a series of actions aimed at promoting education, communication, remembrance, and commemoration of significant events or processes from the internal armed conflict. These actions are based on the stories and testimonies of victims, the clarifications and detailed truths provided by the defendants, judicial rulings from the ordinary justice system, as well as reports from human rights organizations, victims' organizations, relevant entities, and specialized agencies. Forward-looking justice, inherently intergenerational, and the establishment of guarantees of non-repetition aim to foster a political culture rooted in pluralistic, inclusive, and participatory dialogue around memory and truth. This approach helps to overcome denial and the suppression of what happened.

This line is crucial as it enables actions that dignify and recognize the individuals, communities, groups, and sectors most affected by events and behaviors linked to war crimes and crimes against humanity. A key aspect of this restorative line is the integration of diverse aesthetic and symbolic expressions of memory through theater, photography, graffiti, painting, cinema, and literature, among others.

5. Differential harm and macro-victimization: The Final Peace Agreement, as well as its regulations, recognizes that the internal armed conflict had differential impacts on populations that have historically been victimized, excluded, and discriminated against. As part of the peace process, the SJP aims to implement intersectional, age-based, territorial, and gender-based approaches to develop targeted restorative actions based on the specific harm and effects experienced by these populations and groups. In this way, the Restorative System has included the application of the following differential restorative sublines aimed at:

- (i) victims of sexual and other gender-based violence;
- (ii) children, adolescents, and young people;
- (iii) victims with disabilities;
- (iv) victims belonging to Ethnic Peoples.

6. Education, literacy, and training: Similar to the restorative line focused on memory, this proposal aims to develop forward-looking actions through lectures, curricula, and educational programs. These initiatives will address the harm, impacts, patterns of victimization, and significant crimes and behaviors from the internal armed conflict and related violence. Additionally, they will identify social and institutional processes of resilience, restoration, reconciliation, and coexistence that have emerged under Restorative Transitional Justice, serving as foundations for peacebuilding.

7. Search for disappeared persons: In point 5 of the Final Peace Agreement, one of the most restorative agencies is the Unit for the Search of Persons presumed to be Disappeared (UBPD) as a humanitarian unit in charge of supporting the search processes with psychosocial, forensic, and technical approaches. Since it is part of the Comprehensive System for Peace, like the SJP, the Search Unit—together with other agencies—works to find, locate, identify, and deliver the remains to provide closure to the searching families.

In this restorative line, the SJP, in coordination with the UBPD and the National Institute of Legal Medicine and Forensic Sciences, aims to create actions where defendants contribute to fulfilling the mandate outlined in the agreement regarding the harm caused by enforced disappearance. This includes addressing the impact on individuals, communities, families, and territories through territorial, intersectional, and gender-based approaches.

It is worth highlighting the application of precautionary measures that the SJP has implemented, especially through the Chamber for Cases of Absence of Acknowledgement of Truth and Responsibility, aimed at protecting places of forensic interest located in cemeteries and other possible illegal burial grounds.

It is important to note that the proposed restorative lines are grounded not only in the approaches, principles, and paradigms of the Restorative Transitional Justice system, but also in a normative mandate. Specifically, they are based on the provisions described in Articles 141 et seq. of Law 1957 of 2019, which relate to the special sanctions applicable to those deemed most responsible and determining participants by the Jurisdiction, and who make a timely acknowledgment of responsibility.

It is worth noting that these lines extend beyond the formulation of projects related to special sanctions; they also fully apply to restorative and reparative actions that must be undertaken by defendants who follow the non-sanctioning route within the framework of their regime of conditionality.

Actors in the SJP's restorative transitional process

The next segment will define the specific roles of each actor within the Restorative Transitional Justice process in the SJP. This includes victims and communities, who actively articulate their experiences and needs for reparation and restoration, as well as defendants, whose role is crucial in contributing to a detailed, comprehensive, and exhaustive account of the truth. In addition, it examines the role of institutional actors, such as the judiciary and judicial representatives, in facilitating restorative processes and guaranteeing the full and effective participation of victims. It also examines the role of government entities in supporting the implementation of TOARs as well as special sanctions.

Restorative Transitional Justice actors are classified into two categories which, in turn, play different roles in the judicial process⁶⁸:

(i) Participants: Victims, defendants, and communities.

(ii) Institutional actors: Justice operators, national government, territorial entities, and the private sector.

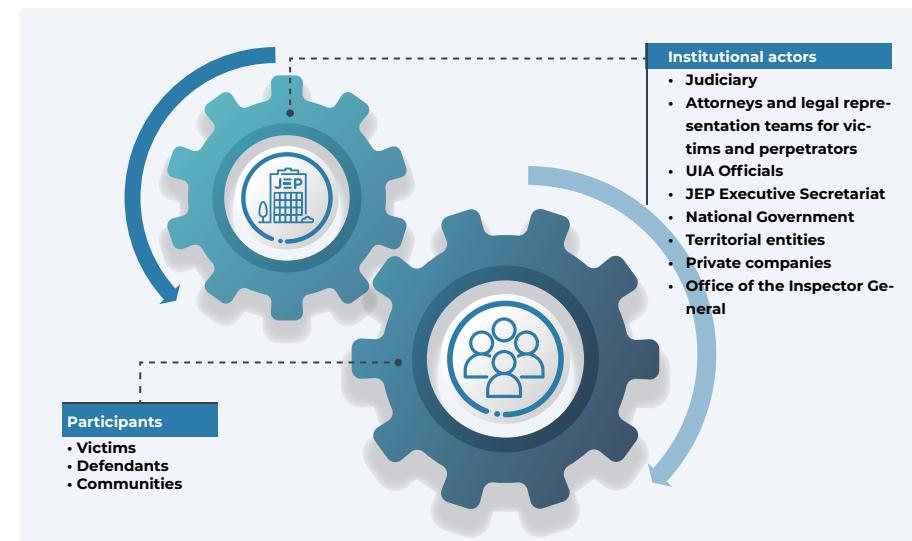
As mentioned before, Restorative Transitional Justice in the SJP focuses on fostering dialogic and participatory processes

⁶⁸ Congress of the Republic of Colombia, Law 1922 of 2018, *Adopting procedural rules for the Special Jurisdiction for Peace*, O.G.: 50.659 of July 18, 2018, Article 4: "Procedural subjects. The following are procedural subjects: the UIA, the defendant, and the defense. Special interveners are: the victim, the corresponding Ethnic Authority when the crime has affected a member of their respective community, and the Office of the Inspector General, whose participation will be carried out in accordance with the provisions of Legislative Act 01 of 2017, the Statutory Law of the SJP, and this law."

among the various actors, promoting the acknowledgment of truth and responsibility for the crimes committed, as well as the contribution to the restoration and reparation of the harm caused and the social reincorporation of the defendants. Its main focus is to restore the victims' dignity, recognizing all those involved as autonomous subjects. In this sense, institutional actors, such as justice operators, facilitate participatory dialogic meetings and offer tools to promote the participation of victims, defendants, and communities throughout the judicial process.

Restorative Transitional Justice in the SJP focuses on fostering dialogic and participatory processes among the various actors, promoting the acknowledgment of truth and responsibility for the crimes committed

Figure 4. Actors of Restorative Transitional Justice in the SJP



Source: Executive Secretariat, Advisory Office of Restorative Justice, 2024.

Restorative justice actors are individuals who were directly involved in the conflict, either as defendants of crimes or as victims who suffered harm. They have the right to full and effective participation in the SJP's restorative processes. These actors are divided into three essential categories for any interaction within the field of restorative justice: victims, defendants, and communities. These three categories are detailed below.

Victims⁶⁹

Victims have the fundamental right to fully and effectively participate⁷⁰ in the SJP's transitional judicial processes. This right is detailed in the *Manual for Victims' Participation in the SJP*, which establishes that, in a context of Restorative Transitional Justice, ensuring effective participation is not enough, as certain additional criteria must be met. Participation must be informed, accessible, differential, and have psychosocial support as well as proper legal representation⁷¹.

Similarly, this right is intrinsically connected to other fundamental guarantees, such as access to transitional justice, information, truth, reparation, and measures to ensure non-repetition. In this sense, victims have a central role in each restorative process that is carried out in the various areas of the SJP.

The SJP recognizes and values the active participation of a wide range of victims, categorized into five types, which reflect the diversity of experiences and perspectives⁷². The types of victims are:

69 See: *Special Jurisdiction for Peace*, (2020). *Op. cit.*

70 The scope of this right was set out in the National Constitution, Legislative Act 01 of 2017, the Statutory Law of the SJP, the Procedural Law, and is detailed in the *Manual for Victims' Participation in the SJP*. It establishes that participation must be effective, accessible and differential, informed, and dialogic, with proper legal representation as well as psychosocial and psycholegal support when necessary. *Special Jurisdiction for Peace. Manual for Victims' Participation in the Special Jurisdiction for Peace*. (2020). Available at: <https://www.SJP.gov.co/Infografas/participacion/manualparticipacion.pdf>, pp. 27-28.

71 See: *Special Jurisdiction for Peace*, (2020). *Op. cit. p. 27.*

72 Taken from: *Manual for Victims' Participation in the Special Jurisdiction for Peace*. (2020). Available at: <https://www.SJP.gov.co/Infografas/participacion/manualparticipacion.pdf>, pp. 27-28.

- **Individual subjects.**
- **Collective subjects of Ethnic Peoples and Communities:** Communities and Ethnic Peoples who have experienced collective impacts, highlighting the importance of addressing the cultural, social, and territorial aspects of the harm suffered.
- **Social and political groups and organizations accredited as collective subjects:** This includes groups and organizations that have been officially recognized as collective victims of the conflict, encompassing a wide range of entities that represent social, political, environmental, and other interests.
- **Nature, the Environment, and the Territory:** This category recognizes environmental and territorial damage as a form of victimization, underlining the interconnection between health, the environment, the sustainability of territories, and the well-being of the communities living there.
- **Indirect victims:** This category covers individuals or groups who, although they did not suffer directly from the effects of the conflict, have been significantly affected by it.

For all groups of victims, the SJP includes a series of *restorative principles* that guarantee comprehensive participation based on the satisfaction of their rights:

- **Voice and recognition:** It prioritizes the inclusion of victims' stories in the justice process, allowing them to share their experiences and be recognized as active and key subjects in peacebuilding.
- **Respect and trust:** Establishes an environment of respect and safety for victims, building trust in the justice system and encouraging their active and meaningful participation.
- **Neutrality and flexibility:** Ensures impartial treatment of cases, adapting processes to the specific needs and realities of each victim or affected community.

82 Manual on Restorative Transitional Justice

- **Care and dialogue:** Promotes a space for constructive and empathetic dialogue between victims, defendants, and communities, focused on caring for victims' emotional and psychosocial needs.
- **Identification and characterization of harm:** Involves the recognition and documentation of the harm caused by the conflict, using specialized teams who collaborate with victims and organizations to compile their testimonies and experiences.
- **Identification of needs for reparation and restoration:** The victims' reparation needs are assessed on an analysis of the context and their expectations, in order to design reparative and restorative actions, taking into account the comprehensive and inclusive approach to reparation and the emphasis on collective and symbolic measures explained in *Chapter I*. In addition, a participatory process is encouraged, allowing victims to engage in dialogue and contribute proposals for reparation and restoration, ensuring their voices play a central role in shaping the measures related to the defendants' responsibilities that are adopted.
- **Contributions to the construction of the truth about the armed conflict:** The SJP values the victims' accounts as essential to constructing a comprehensive truth about the conflict, facilitating case selection and prioritization processes.

Defendants

The defendants in the SJP are people who, traditionally, restorative justice has defined as *offenders, victimizers, defendants or responsible parties*. The defendants have the fundamental right to due process, and the SJP has the mandate to help clarify the truth and to respond to the victims' demands for truth in relation to the events that occurred.

The defendants' initial responsibility is to attend, listen to, and participate in the various procedures and spaces that make up

the restorative transitional process. The judiciary has the duty to guide the judicial process with a focus on contributions to truth, recognition, and reparation-restoration.

Restorative Transitional Justice in the SJP aims to ensure that the defendants progressively acknowledge their responsibility with respect to the crimes committed, without falling into revictimizing justifications. It is also important that they become aware of the harm caused and contribute to the reparation of the victims, the restoration of harm, and the reconstruction of the social fabric. **The concept of progression includes recognizing the defendant's ability to expound upon memories, reflections, and stories consistent with the victims' demands for truth.** Leveraging these capacities, the defendant is expected to provide a full account of past events before judicial authorities and the community, while demonstrating a commitment to reparation and restoration.

In this regard, and as previously mentioned with respect to the Conditionality Regime, the participation of the defendants is contingent upon a series of rights and duties,⁷³ which include acknowledging responsibility, constructing a narrative that fulfills the right to truth, contributing to reparation, restoring the dignity of victims, addressing the harm caused, and reaffirming a commitment to non-repetition and reintegration into civilian life.

In the SJP's judicial process, the defendants' acknowledgment arises from independent reflections developed within the preparatory processes, from which new insights and objectives emerge, enabling the creation of narratives aligned with the truth of the events that transpired during the armed conflict. This process emphasizes judicial tools and practices that foster defendants' personal transformation while also acknowledging and empowering victims' participation and autonomy. The de-

⁷³ See: Special Jurisdiction for Peace and the Universidad Nacional de Colombia. *Guide on Defendants' Rights and Duties in the SJP*, (2020). Available at: <https://acortar.link/xck114>.

fendants' commitment to truth and acknowledgment serves as a living testament to their transformation, representing a vital step toward reconciliation and the reconstruction of the social fabric⁷⁴. This principle highlights the need for ongoing support and sensitivity throughout the judicial process, ensuring it effectively contributes to the reparation and recognition of every individual involved.

In the SJP, the contribution to the truth and the acknowledgment of responsibility are two essential, yet distinct, concepts, as will be clarified below:

Contribution to truth:

The contribution to the truth refers to the defendants' obligation⁷⁵ to fully share their detailed knowledge of the human rights and international humanitarian law violations committed during the armed conflict. This involves recounting the crimes, the circumstances and methods of action, and the structures involved, to clarify the events and contribute to the construction of historical memory. This contribution is essential for the reparation process for victims and to guarantee the right to truth, and is a requirement under the Conditionality Regime, as explained in the introductory section of this manual.

⁷⁴ Special Jurisdiction for Peace, Tribunal for Peace, Appeals Chamber, Sentence TP-SA No. 140 of December 20, 2019. Subject: Julio Enrique Chávez Corrales.

⁷⁵ In accordance with the provisions of the first paragraph of Article 20 of Statutory Law 1957 of 2019, providing the full truth means: "[...] recounting, when possible, in a thorough and detailed manner, the crimes committed and their circumstances, along with the necessary and sufficient information to assign responsibility, in order to ensure the victims' rights to reparation and non-repetition are upheld. The duty to provide the truth does not imply the obligation to accept responsibilities." Congress of the Republic of Colombia. Law 1957 of 2019: Statutory Authority of the Administration of Justice in the Special Jurisdiction for Peace, O.G.: 50.976 of June 6, 2019.

Acknowledgment of responsibility:

The acknowledgment of responsibility means that the defendants admit their participation and responsibility in specific crimes committed during the armed conflict. This acknowledgment is a pivotal step in the judicial process, as it forms the foundation for determining the sanctions to be imposed. The acknowledgment of responsibility is one of the mechanisms available to defendants, allowing them to voluntarily admit their involvement and responsibility in these crimes. As explained previously, the SJP's sanctions have a restorative and reparative component, not just a retributive one. Voluntary and early acknowledgment of responsibility can lead to special sanctions, which are those focused on victims' reparation and non-repetition of crimes.

Key differences between contributing to truth and acknowledging responsibility:

- **Nature:** Contribution to the truth is a broader process and can include information about events in which the defendant was not directly involved, whereas acknowledgment of responsibility is a personal legal act involving the admission of direct participation in specific crimes.
- **Objective:** While the contribution to the truth aims to clarify the crimes and circumstances of the armed conflict as a whole and fulfill the victims' right to truth, the acknowledgment of responsibility focuses on the attribution and punishment of specific crimes and on satisfying the victims' right to justice.
- **Legal consequences:** The acknowledgment of responsibility directly influences the sanctions imposed by the SJP, while the contribution to the truth is a prerequisite for accessing legal benefits and is crucial to the victims' reparation process.

Characteristics of the contributions to truth:

- **The narrative as the cornerstone of the contribution to the truth:** The narratives constructed by the defendants are subject to judicial analysis and evaluation. In this scenario, the judiciary reviews the defendants' accounts and assesses whether their contribution to the truth meets the victims' demands for justice. To this end, the Appeals Chamber⁷⁶ has determined clear criteria relating to the contribution of truth (*Pactum Veritatis*) that is expected of the defendants in the different processes and spaces of the SJP. It is essential that these narratives have specific characteristics, and that during the dialogic process, the defendants understand that:
 - their narratives will be in dialogue with the victims' need for truth;
 - this involves addressing the victims' demands for truth, which requires careful preparation in how the crimes are presented to avoid revictimization and causing further harm;
 - in accordance with the criteria defined by the Appeals Chamber, the defendants' accounts of the crimes should contribute to the truth and be based in empathy.

The narrative of the crimes committed, and the harm caused is shaped both by the personal experiences of those involved and through collective effort. This process is based on two main aspects:

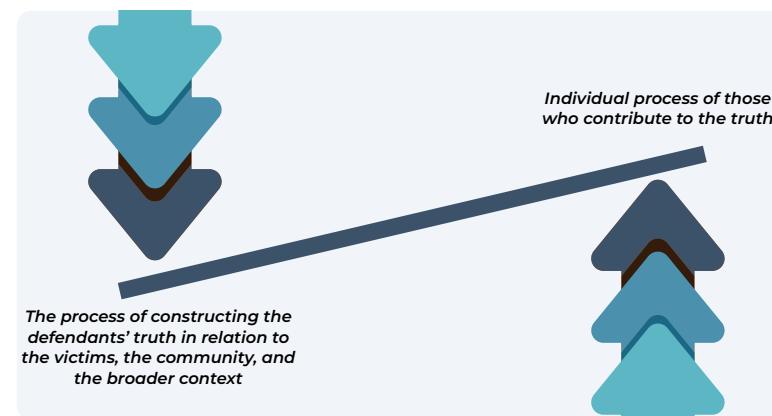
- **Individual aspect:** The story as a personal process, in which the individual faces and acknowledges his or her own experience in relation to the crimes.
- **Dialogic aspect:** The narrative that arises when consider-

⁷⁶ Cf. Special Jurisdiction for Peace, Tribunal for Peace, Appeals Chamber, Sentence TP-SA No. 124 of June 19, 2019. Subject: Juan de Dios Orozco Loaiza.

ing how the crime that caused harm has impacted the victims, the community, and the general environment.

This means that the way the narrative is constructed not only reflects the personal experiences of those directly involved, but also incorporates elements that show how these events interact with and impact others in the broader context (see Figure 5).

Figure 5. Dialogic contribution to truth



Source: Executive Secretariat, Advisory Office of Restorative Justice, 2024.

Characteristics of the acknowledgment of responsibility:

The path toward acknowledging responsibility is not marked by specific stages and does not necessarily occur at the same pace in all cases. However, for Restorative Transitional Justice in the SJP, it is essential to establish standards for acknowledging responsibility that enable progress within the time constraints of the judicial process, which is tasked with guaranteeing victims' rights and addressing macro-criminal phenomena across the national territory.



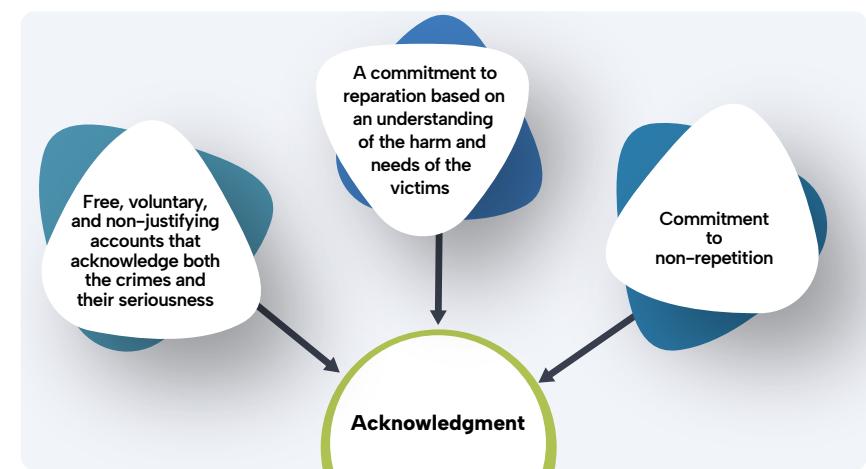
The defendant must take responsibility for the gravity of the crimes committed, refrain from justifying them, acknowledge the harm caused.

In this sense, the Judicial Panel for Acknowledgment specified that the acknowledgment expected from the defendants must adhere to a standard that encompasses three components: *factual, legal, and restorative*.⁷⁷ To satisfy the factual aspect of acknowledgment, the defendant must provide detailed accounts of the crimes in which they participated. It is essential to clearly outline the nature of the participation, the role played within the criminal organization, and the contribution made to execute a specific criminal plan. In order to comply with the legal aspect of acknowledgment, it must be stated that the

⁷⁷ Special Jurisdiction for Peace, Judicial Panels, Judicial Panel for the Acknowledgment of Truth, Responsibility, and Determination of Facts and Conducts, Order No. 027 of February 21, 2022.

crimes committed are not eligible for amnesty, and the manner in which they were carried out must be accepted. Finally, in order to satisfy the restorative aspect of acknowledgment, the defendant must take responsibility for the gravity of the crimes committed, refrain from justifying them, acknowledge the harm caused, and affirm their commitment to providing reparation and ensuring the non-repetition of such serious offenses (see Figure 6).⁷⁸

Figure 6. The restorative aspect of acknowledgment in the SJP



Source: Executive Secretariat, Advisory Office of Restorative Justice, 2024

In addition to the above, the defendants' accounts of acknowledgment can be strengthened by considering the following aspects:

- **Context as a tool for the construction of inclusive narratives:** Using context as a tool to create inclusive narratives involves understanding acknowledgment as a human, relational, and interdependent process. This means explaining both the role that the defendants played in the conflict and their involvement with the

⁷⁸ Óscar Parra Vera. *The SJP's Acknowledgment Hearings* (n.d.). Available at: <https://www.SJP.gov.co/DocumentosSJPWP/LAS%20AUDIENCIAS%20DE%20RECONOCIMIENTO%20DE%20LA%20SJP.pdf>

crimes committed. Incorporating these elements gives the narrative historical and cultural significance, enabling other actors to understand at least four key aspects:

- **Identity of the defendant:** Who the defendant is and has been as a human being.
- **Perception of the crimes committed:** The defendant's perspective and stance regarding the crimes committed.
- **Knowledge of crimes:** What the defendant knows about the crimes committed.
- **Perspective of the harm and the victims:** The defendant's perspective on the harm caused and the victims' role.

In addition, the context goes beyond identifying who participated in the crimes and details how, when, and where they occurred. This is essential for victims to understand each defendant's role in the conflict and how those sharing their stories have been transformed through the restorative process.

The broad use of context facilitates the collective construction of stories and truths, from individual contributions to dialogue about the harm caused. This contextual approach is essential for those responsible to begin their process of reintegration and reincorporation into civilian life. In addition, the context offers insights for designing reparative and restorative actions, as well as for establishing the necessary conditions to rebuild social relations.

- **Empathy when recounting the crimes:** Empathy is understood as the **ability to identify other people's needs and act accordingly**. This skill is not innate, but is cultivated through rational and emotional reflection, personal preparation, and active listening. Empathy plays a crucial role when recounting the crimes committed during the conflict. This aspect of the acknowledgment process requires defendants to develop a mutual and evolving under-

standing of the conflict's impact on individuals, the harm caused, and the victims' experiences. Providing detailed information and accurately characterizing the harm, while empathetically considering the victims' specific needs, is essential.

- **The defendants' commitment to reparation-restoration:**

The defendants' expressed intent for reparation and restoration demonstrates their commitment not only to acknowledging their responsibility for the crimes committed during the conflict, but also to taking concrete actions to repair the harm and restore broken relationships. This willingness is grounded in empathy and a deep understanding of the harm caused, which is crucial to the healing and reconciliation process. Specifically, this commitment is seen when the defendants effectively communicate two key elements to the judiciary and the victims:

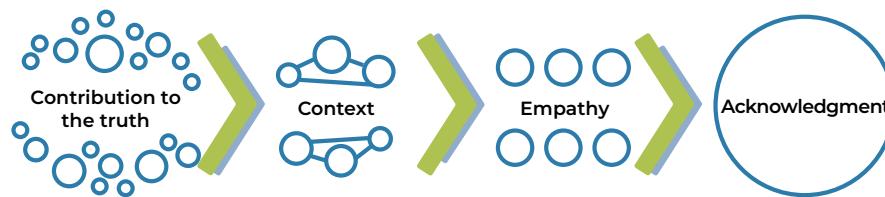
- **Their personal capabilities:** Detailed information about their skills, knowledge, and capabilities, which are essential in determining how they can effectively contribute to reparation and restoration efforts.
- **Their willingness to participate in a reparation and restoration plan:** Defendants should work on a specific plan to contribute to victims' reparation-restoration, which should be realistic and feasible, reflecting a clear understanding of victims' needs and how these can be met.

This approach facilitates a meaningful transition from contributing to the truth to acknowledging responsibility. Such a transition can take place through a staggered process of acknowledgment of the crimes, the harm caused, and their responsibility. Initially, the defendants help clarify the crimes and circumstances of the conflict—a crucial step in creating a shared narrative of what happened. Subsequently, when acknowledging their responsibility in the crimes, this process evolves into a more proactive and reparative phase. Presenting their abilities

and willingness to engage in a concrete reparation and restoration plan is a tangible expression of their commitment to rectifying the harm caused and contributing to the reconstruction of the social fabric.

In summary, this point emphasizes not only the importance of reparation and restoration as key elements of the transitional justice process, but also how the defendants' intent to repair and restore serves as a bridge between contributing to the truth and acknowledging responsibility (see Figure 7).

Figure 7. From the contribution to the truth to the acknowledgment of responsibility



Source: Executive Secretariat, Advisory Office of Restorative Justice, 2024.

Communities

Communities play a critical role within the restorative justice framework in ordinary contexts. This form of justice focuses on integrating communities as active participants in conflict resolution. In the context of the Restorative Transitional Justice implemented by the SJP, the identification of patterns of mass victimization and the accreditation of collective victims are highlighted⁷⁹. In this context, the roles of community and victim are integrated. Recognizing this integration is essential for understanding and addressing the complexities within the SJP's Restorative Transitional Justice process, particularly regarding rep-

⁷⁹ See: Special Jurisdiction for Peace, (2020). *Op. cit.* p. 285.

aration and reconciliation. The connection between the roles of community and victim in this framework is due to several factors, including:

- **Collective organization of victims:** The formation of victim groups can emerge as a form of resistance and a struggle against injustice, transforming individual pain into a foundation for building a collective with shared goals. Victims' organizations play a fundamental role in the processes of collectivization of particular experiences.
- **Macro-victimization:** The patterns of macro-criminality investigated by the SJP show that large sectors of the population have been affected in a similar way. Through preparatory processes where these patterns are discussed collectively, victims can form connections and build communities based on shared characteristics, experiences, and grievances.

These factors not only explain the convergence of community and victim roles within SJP processes, but also highlight the importance of addressing conflicts and their aftermath collectively, recognizing the relationship between justice, reparation, and the reconstruction of the social fabric. This collective perspective is crucial to understanding the dynamics of victimization in contexts of conflict and widespread violence, and the need to design reparative and restorative actions focused on the collective aspects of the harm.

As such, it is necessary to recognize how the communities were affected and involved in the armed conflict. This includes their resistance strategies, how they responded to and protected individual victims, or the ways in which they were forced to participate in conflict-relat-

ed events. This understanding is key to addressing the collective dimension of harm and planning appropriate restorative actions that serve communities as a whole.

In addition to the communities, which are also victims, there are other groups that play relevant roles in the processes involved in Restorative Transitional Justice, including:

- Families not directly affected by the conflict and other support groups for victims.
- Families and other support groups for defendants.
- Territorial leadership and civil organizations that were not direct victims of the conflict.
- Communities in areas of reintegration or return to civilian life, and areas in which Rural Development Programs with a Territorial Approach (PDET for its acronym in Spanish) are carried out.
- Communities where restorative projects are carried out.

Both victimized and non-victimized communities play fundamental roles in the SJP's Restorative Transitional Justice, including:

- **They are recipients of restorative projects:** Communities play an important role in receiving the defendants in charge of implementing restorative projects. These projects are part of their sanctions or contributions to reparation and restoration in various regions. Preparing communities for these projects is essential for the reconstruction of the social fabric.
- **They are emotional support agents:** The communities provide emotional support and assistance to victims and defendants. This support facilitates the preparation of restorative interactions and the creation of constructive dialogues between the parties. Although they do not participate directly in the SJP's judicial processes, their role is fundamental in preparing and organizing restorative meetings.



- **They create proposals and demands:** Communities have an active and proactive voice in restorative justice and are able to suggest restorative agreements and demand the truth. They have a transformative—not a passive—role in the process.

Communities are key pillars in the SJP's Restorative Transitional Justice, exerting a transformative impact that extends beyond simply receiving reparative and restorative actions. By involving them as agents of emotional support, advocates, and critical overseers, their unique capacity to influence the reconstruction of the social fabric and the promotion of lasting peace is acknowledged.

Communities not only welcome and support victims and defendants, but also play an active role in shaping judicial processes that aim to heal the wounds of the conflict. This recognition of their multifaceted role reflects a deep understanding of Restorative Transitional Justice, in which community participation is

essential for achieving national reconciliation and the true restoration of social relations in territories affected by decades of conflict.

Institutional actors

The implementation of Restorative Transitional Justice in the SJP operates within a complex framework of institutional relations and procedures, thus demanding clear definitions of the roles of the various actors involved in this institutional setting. The specific responsibilities of institutional actors are rooted in the promotion, implementation, and assurance of justice, truth, reparation, and guarantees of non-repetition.

Thus, institutional actors adopt a key role as guarantors of restorative dynamics between victims, communities, and defendants. Additionally, they take on responsibilities stemming from their authority in the judicial field, as well as certification and support tasks inherent to their administrative roles. Institutional actors not only fulfill their role of supervision and facilitation, but also actively contribute to the establishment of an effective Restorative Transitional Justice process.

Judiciary

The magistrates of the various judicial panels and chambers of the SJP play a key constitutional role in overseeing the Restorative Transitional Justice process. Among other tasks, they:

- **Encourage comprehensive and effective participation:** They ensure that all actors involved, including victims, communities, and defendants, actively and meaningfully participate in the process, with full judicial guarantees inherent to the restorative transitional process.
- **Evaluate the full acknowledgment of truth and responsibility:** They ensure that defendants provide complete, detailed, and exhaustive testimonies about the crimes, es-

tablishing a solid foundation for acknowledgment, truth, justice, and reparation-restoration.

- **Promote restorative justice processes:** They prioritize the creation of processes that facilitate restoration and reconciliation, focusing on justice as a set of practices aimed at restoring the social fabric.
- **Evaluate restorative capacity:** They evaluate and assess the restorative impact of projects to maximize their contribution to healing the wounds of the conflict.
- **Promote dialogue between actors:** The judges promote spaces for direct dialogue between the parties. This effort aims to foster mutual understanding and the construction of agreements, highlighting the importance of an inclusive and restorative process.
- **Maintain fairness in the process:** They ensure that participation in the process is equitable, respecting each actor's rights and responsibilities. Their role is to ensure a fair and balanced process, where equality among participants promotes justice and effective reparation.

Attorneys and judicial representation teams

The role of attorneys and judicial representation teams before the SJP is crucial in the implementation of Restorative Transitional Justice. Judicial representation fosters a close relationship of professional trust with defendants, victims, and communities, making it a key element in restorative processes. Their work must be aligned with the Restorative Transitional Justice objectives, and is characterized by:

- **Developing Restorative Justice-Based Litigation Strategies:** This involves representing defendants, victims, and communities with the understanding that, in these judicial processes, the goal is not only to express the interests of their clients, but also to contribute to truth, acknowledgment, reparation, reintegration or return to civilian life, and the reconstruction of the social fabric.

- **Ensuring the protection of the rights of the people represented**, including the right to due process.
- **Encouraging acknowledgment and contribution to the truth**, as well as promoting reparation, restoration, and reconciliation in all procedural areas.
- **Being actively involved in the preparation of restorative meetings**, involving those they represent in meaningful interactions with the different actors of the Jurisdiction, based on the principle of action without harm.⁸⁰
- **Using available legal resources** within a framework that recognizes and values the contribution to reparation, the return to civilian life, reincorporation, and the reconstruction of the social fabric.
- **Promoting dialogue at various stages of the proceedings**, facilitating effective communication with the other parties involved.

Executive Subsecretariat of the SJP

The offices of the SJP's **Executive Subsecretariat** support, implement, and strengthen the actions of the Jurisdiction, including those of a restorative nature. No restorative procedure is undertaken without the consultation, support, and involvement of its offices.

⁸⁰ From a humanitarian and Restorative Transitional Justice point of view, the principle of action without harm focuses on the prevention of additional harm to populations affected by conflict or situations of violence and oppression. This principle is crucial in contexts where communities aim to overcome episodes of violence and build lasting peace. In this framework, action without harm involves: (i) Prevention of future harm: Interactions should be designed and implemented in a way that does not exacerbate existing tensions or create new forms of violence or injustice. This includes carefully considering local power dynamics and conflict backgrounds. (ii) Sensitivity to context: Understand the social, cultural, economic, and political complexities of affected communities to ensure that support actions are not only effective but also respectful of local traditions and values. (iii) Fostering community cohesion and resilience: Actions should seek to promote unity, reconciliation, and resilience, rather than division and dependence. This is vital for the reconstruction of fractured societies and for the promotion of sustainable peace. (iv) Participation and inclusion: Ensure that the voices of all affected parties, especially those pertaining to vulnerable and marginalized populations, are heard and considered in decision-making processes. This fosters legitimacy and justice in recovery and reconstruction efforts. (v) Responsibility and accountability: Entities carrying out interventions must be transparent about their actions and accountable for the consequences of their actions, ensuring that support efforts do not cause inadvertent harm.

The role of the Executive Subsecretariat's offices is essential for the implementation of the psychosocial approach in the SJP's restorative processes. The psychosocial teams of the Advisory Office of Assistance for Victims, the Advisory Office of the Autonomous Advisory and Defense System (SAAD) for Defendants, and the SAAD Advisory Office for Victims' Representation, implement different strategies focused on the understanding of restorative justice within the framework of the Jurisdiction's processes, applied in different individual and collective scenarios.⁸¹

Psychosocial support in administering Restorative Transitional Justice is a continuous practice that strengthens the relationship between defendants, victims, and communities, serving as a key element in the processes of participation and dialogue.⁸² For this reason, the SJP's psychosocial team participates extensively in restorative meetings and workshops. This not only makes it possible for victims and witnesses to be prepared to meet in dialogic spaces, but also builds trust in the institutions.

The teams of judicial representation for victims and defendants provided by the SAAD Advisory Office for Defendants and the SAAD Advisory Office for Victims' Representation also play a key role in the implementation of the SJP's restorative processes⁸³.

⁸¹ Congress of the Republic of Colombia. Law 1957 of 2019: Statutory Authority of the Administration of Justice in the Special Jurisdiction for Peace, O.G.: 50.976 of June 6, 2019, Article 112.

⁸² Special Jurisdiction for Peace, Executive Secretariat, Advisory Office of Victim Assistance. Comprehensive strategy for psycholegal support and guidance of the Department of Assistance for Victims. (n.d.). Available at: <https://acortar.link/8WAENT>

⁸³ The SAAD Advisory Office for Victims' Representation is responsible for representing SJP-accredited victims who lack resources. The SAAD Advisory Office for Defendants is responsible for representing the defendants who do not have the resources needed to access a suitable legal defense. Both agencies are autonomous, as framed in Article 115 of Law 1957 of 2019.

The role of the Executive Subsecretariat's offices is essential for the implementation of the psychosocial approach in the SJP's restorative processes.

Together with the Investigation and Prosecution Unit (UIA), the Territorial and Ethnic liaisons of the Advisory Office of Differential Approaches and the Advisory Office of Territorial Management work to build trust with communities and victims on a daily basis, ensuring the continuity and advancement of restorative transitional procedures in the territories⁸⁴. In addition, the Advisory Office of Differential Approaches plays a key role in the implementation of the ethnic-racial approach in the SJP's restorative procedures (see Chapter III).

The Executive Secretariat's Advisory Offices of the Restorative System

As mentioned in *Chapter I*, in order to effectively implement Restorative Transitional Justice in the SJP, an integrated system of authorities, procedures, and strategies called the Restorative System has been established⁸⁵. As a result of Agreements No. 12 and 15 of 2023 of the SJP's Governing Body, four advisory offices were created within the Office of the Executive Secretariat, in order to promote and strengthen this Restorative System, as detailed below:

Office of the Executive Secretariat:

- **Advisory Office of Restorative Justice:**⁸⁶ This office is responsible for guiding the implementation of the substantive and procedural aspects of restorative justice, working

⁸⁴ To learn more about the work implemented by the Advisory Office of Victims Assistance (formerly known as the Department of Assistance of Victims – DAV for its acronym in Spanish), the SAAD Advisory Office for Victims' Representation, the Advisory Office of Territorial Management (formerly known as the Department of Territorial Management), and the UIA, in order to guarantee victims' full participation in the SJP. See: Special Jurisdiction for Peace, Plenary Chamber, Agreement of the Plenary Chamber ASP No. 001 of 2020, p. 43-52.

⁸⁵ Special Jurisdiction for Peace, Governing Body, Agreement of the Governing Body AOG No. 011 of 2024.

⁸⁶ Specifically, its main function is that of “[a]ssisting in the implementation of the substantive and procedural restorative components with other offices and entities of the SJP as well as national and international entities.” Special Jurisdiction for Peace, Governing Body, Agreement of the Governing Body AOG No. 15 of 2023.

in coordination with other SJP agencies, as well as with national and international entities and relevant organizations. Key tasks include the creation of restorative methodologies and practices, the facilitation of direct and mediated dialogues between actors, and the support of participatory processes based on the pillars of Restorative Transitional Justice mentioned in *Chapter I*.

- **Advisory Office of Comprehensive Monitoring:** Its objective is to guide the coordination and implementation of actions to monitor the defendants, in addition to supporting the judicial verification of compliance with the sanctions imposed. This office is also responsible for certifying the TOARs presented by the defendants, in accordance with the provisions of the law⁸⁷.
- **Advisory Office of Institutional Memory:** This office advises on how to handle institutional memory, including the formulation, implementation, and monitoring of policies, plans, and projects. Their work is essential for preserving, providing access to, and disseminating institutional memory, contributing to the preservation of the Comprehensive System for Peace's historical record⁸⁸.
- **Advisory Office for the Structuring of Projects:** This office is responsible for leading the formulation and structuring of projects within the Restorative System, as well as monitoring reparative and restorative measures. This office ensures projects are in line with the institutional guidelines and current regulations⁸⁹.

⁸⁷ In a regulatory sense, its main function is to “guide coordination with other offices and entities of the SJP, as well as national and international entities, guide the implementation of the actions to monitor the defendants, and administratively support the judicial verification of compliance with the sanctions imposed, as well as the conditions for their implementation, in accordance with the established protocols and guidelines.” SJP, Governing Body Agreement AOG 15. Page 20.

⁸⁸ In accordance with the regulations, its primary function is to “advise the Executive Secretariat, as well as guide and oversee the formulation, implementation, and monitoring of policies, plans, programs, and projects for the creation, conservation, preservation, access, and dissemination of institutional memory, contributing to the consolidation and preservation of the memory of the Comprehensive System for Peace (SIP), in line with current regulations.” See: Special Jurisdiction for Peace, Governing Body, Agreement of the Governing Body AOG No. 15 of 2023.

⁸⁹ According to the provisions of the Governing Body, its primary function is “to lead the formulation

Communications Sub-directorate:

Restorative Transitional Justice relies on communication processes, making the role of the Communications Sub-directorate essential for its implementation. It goes beyond merely informing and disseminating; it engages in practices that are restorative in nature.

Institutional Strengthening Sub-directorate:

The Institutional Strengthening Sub-directorate broadens the scope of advocacy, manages consolidated knowledge on restorative practices, and establishes strategic partnerships, particularly with educational institutions, thereby playing a key role in linking restorative justice, education, and guarantees of non-repetition.

Administrative, Financial, and Legal Affairs Directorates:

The Legal and Financial Directorates safeguard the actions and ensure not only the proper implementation of restorative proceedings but also the wellbeing and dignity of all parties involved. The extensive logistical efforts of the SJP have both the potential and responsibility to dignify, alleviate, and maximize wellbeing in all interactions with the institution, and these directorates are responsible for carrying out this work.

Investigation and Prosecution Unit (UIA for its acronym in Spanish):

Although the UIA focuses primarily on adversarial judicial pro-

and structuring of the Restorative System's plans, programs, and projects, as well as to monitor the reparative and restorative measures, in accordance with institutional guidelines and current regulations." See: Special Jurisdiction for Peace, Governing Body, Agreement of the Governing Body AOG No. 15 of 2023.

cesses, particularly in cases where defendants do not acknowledge responsibility, its work remains connected to the principles of Restorative Transitional Justice at various stages. This connection is especially evident in aspects related to protection⁹⁰, which will be detailed in *Chapter III*. The UIA's actions incorporate the restorative approach as follows:

- **Facilitates the creation of communication and information spaces:** The UIA establishes channels that not only aim to inform but also to foster dialogue, encouraging mutual listening between the parties involved. This approach acknowledges the vital role of communication in the SJP's justice process, as outlined in the Communications Protocol⁹¹.
- **It places the rights of victims at the forefront:** The UIA's work is driven by the principle of victim-centeredness, ensuring that investigations and prosecutions are focused on fulfilling victims' rights⁹².

The UIA carries out restorative research that focuses on victims and is based on the transformation of traditional institutional practices that may create obstacles or additional burdens in accessing justice. The restorative transitional nature of these investigations is reflected in the judicial support provided to the judicial panels and chambers of the SJP during the dialogic process, in the development and dissemination of investigative tools, in the adversarial process, and in the other specific mandates of this SJP entity. Thus, the restorative nature of the UIA's research and mission is not limited to the adversarial process, but extends its potential in each sphere of competence. UIA investigations are participatory and rights-

⁹⁰ Congress of the Republic of Colombia. Law 1957 of 2019: Statutory Authority of the Administration of Justice in the Special Jurisdiction for Peace, O.G.: 50.976 of June 6, 2019, Article 87. Paragraph b.

⁹¹ Congress of the Republic of Colombia. Law 1957 of 2019: Statutory Authority of the Administration of Justice in the Special Jurisdiction for Peace, O.G.: 50.976 of June 6, 2019, Article 86.

⁹² See: Special Jurisdiction for Peace, (2020). Op. cit., pp. 48-52.

based, which is why they recognize human dignity and promote reconciliation.

The UIA provides support to the judicial panels and chambers within the framework of the dialogic process, ensuring compliance with the directives outlined in their orders and resolutions. These activities include interviews with defendants and victims, judicial inspections, exhumations at forensic sites of interest, support in the dignified delivery of missing persons' bodies to family members, expert reports on acts of sexual violence, assistance in restorative sessions with victims and defendants, and other restorative investigative actions. Similarly, the UIA carries out risk analysis, within the framework of dialogic and adversarial processes, and develops prevention strategies that protect the life and integrity of victims, witnesses, defendants, and other participants.

Specific mandates of the UIA and its restorative nature:

The restorative transitional nature of the UIA's work is also reflected in its specific mandates derived from the Final Peace Agreement and the norms that regulate its implementation. One of these mandates involves taking concrete actions to help victims of sexual violence overcome historical barriers to accessing justice. This has been achieved by creating the Special Investigation Team on Sexual Violence and designing tools to overcome high levels of impunity. This specialized team, together with the Victim Care and Guidance Group (GAOV for its acronym in Spanish), has developed tools and methodologies to ensure the participation of victims of these acts and to promote their reparation⁹³.

Other specific mandates are related to the following: the Forensic Technical Support Group (GATEF for its acronym in Spanish)

and its role in exhumations and dignified deliveries of remains; the protection and prevention component, which addresses risks within the framework of victim, witness, and participant involvement in the SJP; and the pathways for dialogue and engagement with victims, established by the GAOV. These specific functions are carried out through restorative pathways, reflected in the various tools developed in collaboration with the victims⁹⁴.

Finally, the UIA developed the content for gender-based, Ethnic, Territorial, and differential approaches to be strategically and comprehensively applied across all its actions. These approaches play a central role in the research and activities conducted by the Unit, in both dialogic and adversarial processes⁹⁵.

Delegated attorneys before the SJP

Delegated attorneys play a vital role in safeguarding the rights of all parties in judicial processes and in supporting the implementation of the 2016 Final Peace Agreement. Regarding Restorative Transitional Justice within the SJP, the Office of the Inspector General performs the following roles:

- **Promotes Restorative Transitional Justice in dialogues between the parties**, ensuring that these processes are not only true to restorative and transitional principles, but also respect the participants' rights and judicial guarantees.
- **Promotes the creation and application of restorative practices**. In the procedural realm, and from the standpoint of judicial guarantees, delegated attorneys play a key role in promoting and implementing restorative practices. Their work is centered on ensuring these approaches are consistently integrated within the existing legal framework, while respecting the procedural rights of all parties. This involves ensuring that restorative practices serve not

93 See: Special Jurisdiction for Peace, Investigation and Prosecution Unit (n.d.). Available at: <https://www.SJP.gov.co/SJP/Paginas/uia/Grupos-misionales.aspx>

94 Ibid.

95 Ibid.



This involves adapting judicial proceedings to effectively incorporate mediation sessions, dialogue circles, and other restorative practices, ensuring they are conducted within a framework that upholds due process and judicial guarantees for all parties involved.

only as a tool for conflict resolution, but also align with the principles of due process, equity, and justice.

- **Verifies the availability of suitable spaces.** Within the procedural framework, and with an emphasis on judicial guarantees, delegated attorneys play a critical role in ensuring that adequate spaces are provided for the implementation of Restorative Transitional Justice across all judicial areas and procedures. This involves ensuring that facilities and environments are appropriately prepared to facilitate restorative practices, enabling all parties—victims, defendants, and communities—to actively participate in processes that foster dialogue, mutual understanding, and the repair of harm.

This effort extends beyond the mere physical availability of spaces, also involving the adaptation of procedural environ-

ments to align with the principles of respect, inclusion, and equity. This involves adapting judicial proceedings to effectively incorporate mediation sessions, dialogue circles, and other restorative practices, ensuring they are conducted within a framework that upholds due process and judicial guarantees for all parties involved.

National Government and Territorial Entities

The responsibilities of the National Government and territorial entities in relation to the Restorative System, following CONPES 4094 of 2022, include:

- Effectively coordinating to define participation in the execution of sanctions imposed by the SJP.
- Ensuring compliance with Decree 893 of 2017, which reg-

ulates Rural Development Programs with a Territorial Approach⁹⁶, promoting initiatives that contribute to the repair and reconstruction of the social fabric in conflict-affected regions.

- Providing the necessary territorial spaces for the implementation of Restorative Transitional Justice practices and methodologies, creating the appropriate conditions for their implementation.
- Providing the necessary resources and support to carry out restorative actions and processes that have a territorial focus, to promote community reparation and reconstruction.
- Promoting an inclusive and participatory reintegration process, involving victims, defendants, and communities in developing strategies and actions that support social reintegration and lasting peace⁹⁷.

These responsibilities highlight the shared commitment of all levels of government to implementing Restorative Transitional Justice and advancing territorial peacebuilding.

Institutions that are part of the Comprehensive System for Peace (SIP)

Unit for Comprehensive Assistance and Reparations for Victims (UARIV for its acronym in Spanish):

⁹⁶ The Rural Development Programs with a Territorial Approach (PDET) are key initiatives in Colombia's Final Peace Agreement, designed to structurally transform the regions most affected by armed conflict and poverty. These programs aim to promote comprehensive development through local communities' active participation in identifying their needs and priorities. The PDETs cover various areas such as comprehensive rural reform, infrastructure, health, education, housing, reconciliation, and the reconstruction of the social fabric. PDET implementation is essential to ensure a stable and lasting peace, by addressing the root causes of conflict and promoting development and territorial equity.

⁹⁷ Along the same lines, the National Development Plan, Law 2294 of 2023, provided for the following: the creation of the restorative system; the modification of the mission of the Agency for Reincorporation and Normalization (ARN); the creation of the Comprehensive Reincorporation Program (PRI for its acronym in Spanish); and the creation of the process to support active and retired members of the State security forces appearing before the SJP. The latter three are directly connected to the ARN. See: Congress of the Republic of Colombia, Law 2294 of 2023, by which the 2022-2026 National Development Plan "Colombia World Power of Life" is issued, O.G.: 52.400 of May 19, 2023, Articles 18, 19, and 20, among others.

The Unit for Comprehensive Assistance and Reparations for Victims (UARIV) plays a crucial role in fulfilling the Colombian State's commitment to providing comprehensive reparations to victims of serious human rights violations, as outlined by the Constitutional Court in Ruling C-674 of 2018. This ruling, which evaluated the constitutionality of Legislative Act 01 of 2017, provides the basis for the creation of the Special Jurisdiction for Peace and highlights the need for coordination between the UARIV, the SJP, and other entities to ensure the effectiveness of the reparation measures implemented in the country.

The UARIV is responsible for administering compensation and implementing measures for satisfaction, rehabilitation, restitution, and guarantees of non-repetition. Ruling C-674 of 2018 recognizes its integration into the Comprehensive System for Peace (SIP) and the National System for the Comprehensive Assistance and Reparations for Victims (SNARIV for its acronym in Spanish), highlighting its role in the facilitation of restorative practices and in the inclusion of victims recognized by the SJP in the Single Registry of Victims.

This framework established by the Constitutional Court ensures that the UARIV makes significant contributions to Restorative Transitional Justice in Colombia, promoting comprehensive reparation in alignment with the principles of truth, justice, reparation, and non-repetition established in the Final Peace Agreement.

Unit for the Search of Persons presumed to be Disappeared (UBPD for its acronym in Spanish):

The Unit for the Search of Persons presumed to be Disappeared (UBPD) plays an essential role in the Compre-

hensive System for Peace (SIP), particularly in the procedures for precautionary measures and the dignified delivery of bodies of victims. These actions not only align with Restorative Transitional Justice, but also directly address one of the deepest and most recurrent demands present in the various macro-cases investigated by the SJP: putting an end to the pain and uncertainty caused by the enforced disappearance of loved ones.

This work done by the UBPD not only aims to alleviate the suffering of affected families but also serves as a form of symbolic and material reparation, providing concrete answers and facilitating the grieving process. Through searches, identifications, and ensuring dignified deliveries of remains, the Unit not only fulfills a mandate of justice, but also contributes to rebuilding the social fabric and strengthening trust in State institutions.

Moreover, these procedures highlight the State's acknowledgment of the gravity of enforced disappearances and its commitment to truth and historical memory. By focusing on the needs and rights of victims and their families, the UBPD reinforces Restorative Transitional Justice, demonstrating that the search for disappeared persons is critical in the peacebuilding and reconciliation process in Colombia⁹⁸.

The Truth Commission:

The Commission for the Clarification of Truth, Coexistence, and Non-Repetition concluded three years of intensive work

⁹⁸ Ruling C-674 of 2017 of the Constitutional Court specifies that its role is to "[...] direct, coordinate, and contribute to the implementation of humanitarian actions aimed at the search and location of disappeared persons in the context of the armed conflict." See: Constitutional Court of Colombia, Plenary Chamber, Ruling C-674 of 2017, P.J. Luis Guillermo Guerrero Pérez. Likewise, Ruling C-080 of 2018, issued by the same entity, indicated that: "[...] it is a humanitarian organization, of those mentioned in the Geneva Conventions, similar to the ICRC, which will carry out its humanitarian activities within the framework of confidentiality." See: Constitutional Court of Colombia, Plenary Chamber, Ruling C-080 of 2018, P.J. Antonio José Lizarazo Ocampo.

with the presentation of its Final Report and recommendations for the future, laying the foundation for peace and marking a milestone in Colombia's Restorative Transitional Justice process.⁹⁹ This report not only documents the human rights violations and crimes that occurred during the armed conflict, but also charts a path towards national reconciliation, proposing measures to prevent the recurrence of such events.¹⁰⁰

The SJP plays a crucial role as the successor to the work of the Truth Commision, utilizing its findings and recommendations to drive investigations, prosecute, and punish war crimes and crimes against humanity, and contribute to the comprehensive reparation of victims. In this way, the SJP supports the implementation of the Truth Commision's recommendations, ensuring that its efforts have a lasting impact, significantly contributing to the consolidation of lasting peace and the prevention of future crimes.

⁹⁹ Although its mandate was established for three years by Decree 588 of 2017, it should be taken into account that the Constitutional Court, through Ruling C-337 of 2021, indicated that this term should be of "effective operation."

¹⁰⁰ Final Report of the Truth Commission. Available at: <https://www.comisiondelaverdad.co/>

CHAPTER III

How is Restorative Transitional Justice applied in SJP pro-cedures and actions?

How is Transitional Restorative Justice applied in JEP procedures and actions?

The way in which procedures and actions are carried out across the various SJP mechanisms directly influences the potential to fully achieve its restorative objectives. For this reason, this chapter of the Manual offers guidelines to strengthen the restorative dimension of some of the Jurisdiction's procedures and actions¹⁰¹, without prejudice to the autonomy of its judicial panels and chambers.

To this end, the first section of the chapter outlines general guidelines that apply to all actions of the Jurisdiction. Second, specific recommendations are provided to strengthen the restorative aspect of key SJP procedures, divided into two categories: (i) general and cross-cutting procedures for the entities and departments of the SJP and (ii) major proceedings of the judicial panels and chambers. It is important to clarify that these procedural acts are not described here through a jurisprudential or regulatory analysis, but from a practical perspective focused on fulfilling their restorative objectives.

These recommendations are based on the Jurisdiction's accumulated experience and the analysis of best practices in Restorative Transitional Justice conducted by the Presidency of the SJP and its Participation Commission, in association with the Universidad del Rosario and the Colombian-German Institute for Peace

¹⁰¹ As established by Legislative Act 01 of 2017, in Transitory Article 1, and in coherence with the seven pillars of Restorative Transitional Justice set forth in Chapter I of this Manual, the SJP's main procedures and actions aim, to some extent, to fulfill restorative objectives. The restorative aspect of the proceedings refers to the set of actions through which the Jurisdiction's processes aim to achieve these objectives. Congress of the Republic of Colombia, Legislative Act No. 01 of 2017, by means of which a title is created for transitional provisions in the Constitution to end the armed conflict and build a stable and lasting peace, and other provisions are issued, O.G.: 50.196 of April 4, 2017.

(CAPAZ)¹⁰². Guidelines included in the *Manual for Victims' Participation*¹⁰³.

Overarching recommendations.

Although each stage and procedural mechanism of the SJP has its own unique nature and purpose, they all share the following restorative objectives, aligned with the seven pillars outlined in *Chapter I*:

- Address victims' needs.
- Hold the defendants accountable.
- Create spaces for effective, dialogic, reflective, and respectful listening when hearing about harm, crimes, and the perspectives of the actors.
- Highlight the magnitude and scope of the harm and impacts suffered by the victims, in order to foster a better understanding among all parties involved.
- Create dignified and safe spaces that foster dialogue between victims, defendants, and community members regarding the severity of the crimes committed, contributing to the reconstruction of the social fabric.
- Promote spaces that allow for the humanity and dignity of both victims and defendants to be recognized, thus fostering their reintegration and reincorporation into society.
- Promote the construction of truth, not only regarding the victimizing events, but also the causes, motives, and circumstances behind them, to better understand the dynamics of the conflict and ensure non-repetition.
- Clarify past events beyond what has been addressed in other jurisdictions, in order to realize the right to truth, motivate participation, and contribute to the reparation and restoration of victims.
- Apply differential approaches and an intersectional per-

¹⁰² See annex to this Manual.

¹⁰³ See: *Special Jurisdiction for Peace*, (2020). *Op. cit.* pp. 122-148.

spective across all processes to help transform the structures of historical exclusion faced by groups affected by various forms of discrimination, which were intensified by the armed conflict.

With these restorative objectives in mind, which apply across all procedures and actions of the Jurisdiction, the following general guidelines are proposed to deepen their restorative aspect, organized into 10 key focus areas:

1. **Guarantee safe conditions:**
 - In every space and proceeding, it is crucial to ensure security conditions that enable the effective participation of both defendants and victims. This includes ensuring the safe transportation of community members from their homes to the location of the proceeding, as well as the safe movement of judiciary members and officials to the designated territories¹⁰⁴.
 - After the proceeding is completed, the SJP team must also ensure the safe return of participants to their places of origin. To this end, it is essential to coordinate with the UIA and relevant State agencies to adopt appropriate security measures, especially in cases where participation in the SJP may pose or heighten risks to participants.
 - Logistical aspects must be carefully planned for proceedings that could have negative impacts on security. For example, the security of proceedings held in locations where entry and exit are not controlled, such as schools or hotels, must be verified in advance.
2. **Logistical aspects:**
The success and restorative nature of all procedural moments and mechanisms depend on securing the necessary logistical support, including lodging, transportation, secu-

¹⁰⁴ See: *Special Jurisdiction for Peace*, (2020). *Op. cit.*, p. 141.

rity, food, and an appropriate meeting space. It is essential to ensure that victims do not face difficulties or delays in obtaining the resources needed for their participation. To achieve this, it is important to identify and coordinate logistical requirements and needs based on the context and the participating organizations/ individuals, while also considering budgetary and time constraints.

- Logistic decisions must be made to ensure actions cause no harm. For example, it is important to provide separate spaces for victims and defendants to take breaks and eat, ensuring they are not forced to meet or cross paths during these times.
- Logistics involves not only a technical-legal aspect, but also a performative aspect tied to symbols that create a restorative environment¹⁰⁵. Incorporating elements that are meaningful to the victims—such as candles, flowers, dances, and other symbolic items—heightens restorative significance and should not be considered a misuse of resources.
- The symbolic aspect of the proceedings must be developed collaboratively with the victims to avoid homogenizing their experiences. Standardizing restorative practices diminishes the restorative potential of these symbols.
- It is essential to arrange and adapt the space to make it more welcoming and conducive to dialogue, avoiding the formalities typical of ordinary justice settings. To achieve this, it is recommended to include symbolic elements as agreed upon in advance with the organizations and victims¹⁰⁶. The defense must first be informed of the existence and significance of these symbolic acts.

¹⁰⁵ See: *Special Jurisdiction for Peace*, (2020). Chapter III. *Op. cit.*, p. 146.

¹⁰⁶ See: *Special Jurisdiction for Peace*, (2020). Chapter III. *Op. cit.*, p. 139.



3. Pedagogy:

- It is essential to educate the participating actors to address any doubts and provide the necessary information about the procedural phase, methodology, objectives of the proceeding, and the crimes to be addressed, among other key details¹⁰⁷.
- Effective pedagogy involves not only sharing information but also fostering an understanding and ownership of what is being done, including the procedural stage and its implications for the parties involved. Pedagogy should enable those involved to give personal meaning to the procedural stage. It is not a one-way process of providing information, but a two-way exchange. The SJP also takes into account the sensitivities, experiences, expertise, and backgrounds that both defendants and victims bring with them.

¹⁰⁷ *Op. cit.*, ASP No. 001 of 2020, p. 140.

- The pedagogical process must also involve the defense, ensuring that the restorative justice of the SJP is understood and that the restorative objectives are aligned with the requirements of due process.
- Providing information on Restorative Transitional Justice to the defendants' defense teams is essential. Tensions still exist between restorative and adversarial approaches, which are particularly evident in how the defendant's attorneys is sometimes conducted.
- It is recommended to engage in extensive educational and outreach efforts within local communities to generate interest in the significant progress and key moments taking place within the SJP processes. Dissemination strategies are crucial for involving communities in Restorative Transitional Justice, as highlighted in Chapter II, where they are recognized as key participants.
- Educational and outreach efforts on Restorative Transitional Justice within local communities are essential for preparing them to welcome defendants and victims with a reintegrative mindset, fostering the reconstruction of the social fabric.

4. Preparation processes with victims and defendants:

- In the SJP's experience, the preparatory processes before proceedings with victims and defendants are crucial, as they help identify the needs of the parties and clarify what will take place and what can be expected from the various processes.
- The restorative aspect of the proceedings with acknowledgment is largely realized through the implementation of preparatory processes, which include strategies aimed at facilitating dialogue (both direct and indirect) between the participating actors (victims, communities, defendants) and institutional actors. It involves gradually bringing together the voices, faces, bodies, and lives of those involved.

- Mediation and direct meetings between victims and defendants are crucial for promoting contributions to truth, acknowledgment of responsibility, and efforts toward reparation, justice, and non-repetition, all within a restorative framework.
- Practices that facilitate dialogue between the parties, grounded in mutual respect, play a crucial role in rebuilding the social fabric and moving towards a stable and lasting peace.
- When preparing the victims, it is crucial to manage expectations by clarifying what can and cannot be expected from the proceedings, to prevent potential harm. It is important to listen to their expectations and align them with the reality of the situation.¹⁰⁸
- When preparing the defendants, it is essential to address the importance of transforming *justifying narratives* by clearly identifying both the victimizing events and the harm suffered by the victims. This understanding will help ensure that any expressions of acknowledgment, remorse, or requests for forgiveness are genuine and sincere.¹⁰⁹
- A significant challenge for defendants is recognizing something as a "crime" that—in their experience—seemed completely "normal" during the armed conflict. Therefore, it is crucial to address this issue in the preparation processes designed especially for them. Clear explanations are necessary to challenge the normalized practices of armed conflict and help defendants understand that these acts may constitute serious crimes that caused profound harm. Changing this mindset helps reduce *justifying narratives*.
- In coordination with attorneys representing victims, it is important to ensure consistent participation of victims in the preparatory phases, as these spaces are pro-

¹⁰⁸ See: Special Jurisdiction for Peace, (2020), p. 143.

¹⁰⁹ Ibid.

gressive and intentional. If some participate in earlier phases and others in later ones, the preparatory and restorative effects become fragmented and less effective.

5. Psychologic, psychosocial, and psychospiritual support for victims and defendants:

- **Psychologic** and **psychosocial** support for victims of the armed conflict—as well as defendants—in the context of Restorative Transitional Justice is a key component of the SJP’s actions. This comprehensive approach aims to provide a holistic response to the needs and rights of victims, offering psychologic support for emotional and mental recovery, legal guidance to facilitate access to justice and truth, and psychosocial support to strengthen community and social bonds throughout allSJP proceedings.
- The SJP emphasizes the importance of addressing not only the legal consequences of the conflict, but also its psychologic and social impacts, thus promoting reparation and reconciliation. This support is aligned with the objectives of Restorative Transitional Justice, seeking to restore the victims’ dignity, recognize their experiences and suffering, and foster a lasting peace that prevents the repetition of violence. In this framework, the SJP is committed to working at both the individual and collective levels, with the goal of rebuilding the damaged social fabric and strengthening peaceful coexistence. The purpose is to ensure that victims are protagonists in the SJP’s processes, ensuring that their voices are heard, and their rights are fully recognized and guaranteed.
- Within the framework of the SJP’s Restorative Transitional Justice, **psychospiritual support** aims to heal not only physical and emotional wounds, but also those that impact an individual’s spirit, sense of connection, and belonging to their community, traditions, and core

values. It acknowledges that the full recovery of victims and societies affected by armed conflict requires addressing spiritual and existential aspects, such as forgiveness, guilt, the meaning of suffering, and the restoration of inner peace.

- By incorporating this type of support, the SJP promotes a vision of justice that extends beyond the criminal and legal realms, acknowledging the importance of emotional, social, and spiritual realms in rebuilding society and strengthening social cohesion within communities. By fostering spaces for dialogue and reflection that incorporate the spiritual aspect, a more holistic healing process is facilitated, leading to genuine and lasting reconciliation. This encourages victims, defendants, and communities to find a sense of closure and renewal in their plans.
- Continuous psychosocial, psychospiritual, and legal support must be provided to victims and defendants¹¹⁰. The legal side focuses on providing advice and addressing concerns, while the psychosocial side facilitates emotional coping by helping to manage the thoughts, feelings, and actions that arise during the proceedings. The overall aim is to safeguard the integrity and stability of all parties involved. Ideally, this support should be provided by traditional doctors, healers, and/or professionals who have been involved in the process from the start.
- It is important to provide comprehensive and continuous psychosocial and psychospiritual support that aligns with the SJP’s restorative goals and methodologies. These conditions must be met even when the support is provided by organizations outside the SJP.
- It is not always convenient to involve victims in all procedural spaces and stages. In this regard, it is crucial to carefully assess the appropriateness of involvement,

¹¹⁰ *Ibid.*

considering factors such as the defendant's willingness to engage and their understanding of the SJP's restorative practices. This helps to prevent harm and emotional exhaustion that could affect the motivation to continue participating¹¹¹. **The principle behind this recommendation is that, in a restorative transitional context, victims should not participate in procedural stages merely to legitimize the space. Their involvement should only occur if those spaces promote their leadership, acknowledgment, and dignity. This depends on a continuous exercise of psycho-legal and psychosocial preparation and support.**

- Guilt and the defendants' narratives are deeply intertwined, meaning that the restorative quality of their contributions to the truth depends on in-depth psycho-legal, psychosocial, and psychospiritual work with defendants concerning the feeling of guilt.
- Support must be provided to help defendants cope with any potential negative effects resulting from the proceedings. Some defendants already live in extremely precarious conditions, and acknowledgment of responsibility may worsen their vulnerability due to the social stigma they may face.
- When multiple spaces are in use simultaneously, such as mirror rooms during hearings, psycho-legal and psychosocial support must be ensured in each of these places.
- Psycho-legal and psychosocial support must be maintained after key procedural milestones, such as Acknowledgment of Truth and Responsibility Hearings.

¹¹¹ See: Special Jurisdiction for Peace, (2020), p. 135.

6. Methodology coordination:

- The script and methodology of the proceedings should be agreed upon as much as possible and closely follow the pre-established agenda. What was agreed upon during the preparation phase must always be honored during the proceedings to avoid creating insecurity or mistrust¹¹². While the goal is to reach the greatest possible agreement in judicial proceedings, the final decision rests with the judge.
- When working with Ethnic Peoples, it is important to emphasize and carefully agree on specific methodologies. It is crucial that these methodologies are culturally appropriate and developed within collective participation¹¹³. It is important to consider these spaces in alignment with the organizational processes of Ethnic Peoples, understanding whether they require autonomy, technical assistance, psychosocial or sociocultural support, processes of harmonization or spiritual rituals led by traditional authorities¹¹⁴. Experience shows that the more clearly defined and agreed-upon these aspects are before the activity takes place, the better the results, optimizing the effectiveness of the process and fostering more fluid and respectful collaboration.

7. Follow-up to the agreements and commitments made during the proceedings:

- SJP officials are encouraged to clearly and promptly communicate commitments made during the proceedings while also establishing ongoing channels of communication. This clarity helps manage expectations regarding what can and cannot happen after a

¹¹² See: Special Jurisdiction for Peace, (2020), p. 142-143, 144.

¹¹³ See: Special Jurisdiction for Peace, (2020), p. 141.

¹¹⁴ See: Special Jurisdiction for Peace, (2020), p. 148.



proceeding. It is also essential to honor the agreements made during the dialogues and to follow up on these commitments, for instance, through legal decisions.

- It is important to follow up on the requests and questions raised by victims and defendants. Monitoring can be done strategically through supporting organizations.
- In some cases, it has proven effective for the psycho-legal team of each organization to offer a face-to-face space for individual or group reflection to review what happened and explain the next steps. In other cases, follow-up can be done through phone calls or video conferencing. These are the spaces for addressing, doubts,

How is Transitional Restorative Justice applied in JEP procedures and actions?

providing feedback, and sharing personal learning and experiences¹¹⁵.

8. Ad intra and inter-institutional coordination:

- It is essential that the various SJP departments are properly coordinated during the proceedings, ensuring clarity in their assigned functions and responsibilities¹¹⁶.
- It is important to have effective communication channels and designated contact persons, not only with the judiciary but also with the UIA.
- Likewise, it is important for the SJP to coordinate with other institutions, such as the National Institute of Legal Medicine and Forensic Sciences (under the Attorney General's Office), the National Protection Unit (UNP), and the entities involved in the Comprehensive System for Peace (SIP).

9. Role of the judiciary:

- It is considered good practice for the judiciary to take on a moderating role, ensuring respect for the rules, methodology, and scripts that have been agreed upon. Additionally, it must ensure the principle of victim-centeredness, avoiding revictimizing narratives or any actions that could cause harm¹¹⁷.
- It is recommended that the judiciary strive for active listening beyond the investigation and criminal process, and facilitate dialogues that respect different accounts while ensuring procedural fairness and avoiding actions that cause harm¹¹⁸.
- It is recommended to establish selection criteria

¹¹⁵ *Ibid.*

¹¹⁶ See: *Special Jurisdiction for Peace*, (2020), p. 141.

¹¹⁷ See: *Special Jurisdiction for Peace*, (2020), p. 146.

¹¹⁸ *Ibid.*

for the participation of victims and defendants that ensure the highest possible level of representativeness. In addition to oral and direct participation in the proceedings, alternative forms of participation are also possible (written observations, symbolic acts, audiovisual material such as testimonial videos or short films, among others)¹¹⁹.

- It is recommended that all parties be properly informed about the procedural steps, ensuring they have communication channels with the offices handling their case as it moves between the Judicial Panel for Acknowledgment of the Truth, Responsibility, and Determination of Facts and Conducts, the Judicial Panel for Determination of Legal Situations, and the Tribunal for Peace.
- It is recommended to establish or promote spaces, methodologies, or mechanisms that allow victims in cases transferred to the Judicial Panel for Determination of Legal Situations or the Judicial Panel for Amnesty or Pardon the opportunity to be acknowledged.
- It is recommended to inform victims of non-prioritized victimizing events about the progress of macro-cases, so they are aware of the clarification of macro-criminal patterns and of who is identified as responsible.

10. Differential approaches:

- In proceedings addressing sexual or gender-based violence, special preparation and education are necessary to ensure defendants have a comprehensive understanding of the types of victimizing events and their impacts, to prevent denial or revictimizing attitudes.
- It is recommended to engage in ongoing educational and awareness-raising efforts within the SJP and the institutions that implement precautionary measures to

¹¹⁹ See: *Special Jurisdiction for Peace*, (2020), p. 125-133.

strengthen the tools for effectively implementing gender-based and ethnic approaches, and engagement protocols¹²⁰.

- For ethnic authorities to participate on equal footing with the SJP judiciary, they must have the guidance of officials or experts in transitional justice and Special Indigenous Justice.
- Design educational methodologies with Ethnic Peoples in clear, simple language free of legal technicalities.
- It is recommended to allocate sufficient financial, logistical, and human resources to support the SJP's ethnically relevant proceedings (such as collective accreditation, ethnically relevant notifications, interjurisdictional and inter-justice dialogues, and more), ensuring their long-term viability and continuity.

¹²⁰ See: *Special Jurisdiction for Peace*, (2020), p. 142.

Recommendations for strengthening the restorative aspect of certain overarching procedures within the SJP

Victim's accreditation¹²¹

Participants:

Victims

Institutional actors:

Judiciary
UIA Officials
Attorneys and judicial representation teams
Ethnic authorities
Judicial Secretariat
Executive Secretariat
Advisory Office of Victims Assistance
SAAD Advisory Office for Victims' Representation
Advisory Office of Territorial Management
Office of the Inspector General - Delegated Attorneys before the SJP

Definition:

A judicial procedure that integrates victims into SJP processes as *special participants*. Victim accreditation before the SJP is granted by a first-instance judicial panel or chamber, based on the expressed desire to participate in the Restorative Transitional Justice process and on the account of the events ex-

perienced during the armed conflict or summary evidence. The Executive Secretariat of the SJP receives and registers the applications, conducts a preliminary administrative review, and submits a report to the relevant offices to facilitate accreditation decisions.¹²² Through this procedure, victims gain the right to effective and comprehensive participation in the SJP's Restorative Transitional Justice process.¹²³

Restorative objectives:

- Initially led by the judiciary, this approach involves identifying the victimizing events and damages and laying the groundwork for progressively assessing the restoration and reparation needs to facilitate dialogic encounters and other restorative practices throughout the process.
- Provide clear and sufficient information to manage victims' expectations, ensuring that the Restorative Transitional Justice function operates under the "do no harm" principle.

Recommendations:

- Prior to accreditation, carry out educational exercises in the territories to explain the specifics of the SJP's Restorative Transitional Justice, clearly outlining its objectives, processes, and scope, including a clear distinction between the types of reparation and restoration within the Jurisdiction's mandate and those processes that do not fall into these categories.
- Provide victims with clear and comprehensive information about the types of participation in the SJP, their opportunities to be involved in various procedures, and what they

121 *Congress of the Republic of Colombia, Law 1922 of 2018, Adopting procedural rules for the Special Jurisdiction for Peace, O.G.: 50.659 of July 18, 2018, Article 3; Congress of the Republic of Colombia, Law 1957 of 2019: Statutory Authority of the Administration of Justice in the Special Jurisdiction for Peace, O.G.: 50.976 of June 6, 2019, Articles 14-15; Special Jurisdiction for Peace, Judicial Panels, Judicial Panel for Acknowledgment of Truth, Responsibility, and Determination of Facts and Conducts, Order SRVBIT No. 021 of January 27, 2020.*

122 Cf. *Special Jurisdiction for Peace, Executive Secretariat, Resolution No. 154 of February 10, 2023. By which the administrative phase is adopted for victim accreditation before the SJP in the Executive Secretariat*. Available at: https://jurinfo.SJP.gov.co/normograma/compilacion/docs/resolucion_SJP_0154_2023.htm

123 See: *Special Jurisdiction for Peace*, (2020), p. 77.

can expect in terms of truth-building, reparation, and restoration within the Jurisdiction.

- Conduct expedited reviews of accreditation requests through the Executive Secretariat's administrative mechanism, followed by the prompt issuing of accreditation orders by the relevant offices.
- Individual and collective accreditation requests must be reviewed as quickly as possible to prevent unease among victims.

The accreditation of **victims of gender-based violence, sexual violence, reproductive violence, and crimes motivated by prejudice related to diverse sexual orientations, gender identities, and/or expressions in the context of the armed conflict** requires specific considerations, for which the following recommendations are provided¹²⁴:

- It is recommended to carry out educational and outreach processes prior to accreditation, specifically targeting human rights organizations, victims, women, and the LGBTQ+ community, as well as women's groups from Indigenous Peoples, Black, Afro-Colombian, Raizal, Palenquero, and Romani Peoples. This approach aims to foster trust between the SJP and the organizations that have supported the victims before the administrative and judicial proceedings begin. These processes should focus on presenting the SJP's Restorative Transitional Justice and on managing victims' expectations regarding what can or cannot be expected during the judicial process upon accreditation for this type of case, with an emphasis on highlighting the individual, collective, and societal harms caused by such violence.
- It is recommended that these outreach processes take

¹²⁴ Special Jurisdiction for Peace, Executive Secretariat, Advisory Office of Victims Assistance, Accreditation protocol for macro-case 11, (2024).

place in spaces that are physically and psychosocially safe, incorporating symbolic actions and elements that reflect the characteristics of the organizations and their members. This ensures that participants feel comfortable and in a caring, protective environment, which is restorative in itself.

- Protocols for handling information provided by organizations that support victims of sexual and gender-based violence should be established collaboratively, ensuring anonymity, data protection, and confidentiality.
- The provision of accurate information is important, using inclusive, non-sexist, and accessible language for victims of gender-based violence, considering the intersectionality of discrimination.



- Psychosocial and psychospiritual support should be provided throughout the educational and outreach sessions prior to accreditation. Additionally, victims and organizations should have access to this type of support while completing the application form and while waiting for the accreditation notification, if necessary.
- Victims should not be asked unnecessary questions, and they should not be asked for information that may be already available from other sources, since such consultations can be revictimizing.

Collective Accreditation and Ethnic Collective Accreditation¹²⁵

Definition:

Collective accreditation (both ethnic and non-ethnic) is the judicial proceeding in which collective victims and institutional actors of the SJP (judiciary and legal representatives) participate, marking the recognition and entry of collective subjects as victims of the armed conflict and as active actors within the judicial process. It serves as the gateway for victims to exercise their right to participate in the decisions and actions of the SJP, particularly in relation to the prioritized macro-cases.

The difference between non-ethnic and ethnic collective accreditation lies in the fact that, in the former, accreditation refers to collective subjects whose associations are not based on ethnic belonging. It is aimed at the accreditation of organizations and collectives that were victims of political violence—for example, members of the Unión Patriótica political party. On the other hand, ethnic collective accreditation refers to subjects and collective vic-

tims belonging to one of the Ethnic Peoples that exist in Colombia: Indigenous, black, Afro-Colombian, Raizal and Palenquero (NARP), and the Romani People.

Restorative objectives:

- Emphasize the collective nature of the harm caused by the armed conflict to Ethnic Peoples in Colombia, considering their identity and common origin that has made them holders of collective rights.
- Recognize the collective nature of the harm caused by the armed conflict to various types of organizational processes, including political parties or movements.
- Guarantee the participation of ethnic and non-ethnic communities, recognizing their organizational systems.
- Judicially recognize the victimizing events and restore the dignity of the communities or populations in the territories affected by the armed conflict.
- Raise awareness of collective harm rather than individual harm.
- Narrate, express, and highlight the collective harm and impacts that the various victimizing events had on the victims and their territories.
- Strengthen the communities' organizational capacity. Their autonomous decision to seek accreditation within the Jurisdiction strengthens them organizationally.
- Establish a process that fosters the rebuilding of relationships, communication channels, and community ties fractured by the armed conflict.

Recommendations¹²⁶:

- Conduct educational and outreach sessions prior to collective accreditation, providing sufficient information on the

¹²⁵ See: *Special Jurisdiction for Peace*, (2020), Chapter VIII. Op. cit., p. 278-318.

SJP's restorative justice, its scope, objectives, and limitations, the prioritized macro-cases, and the protocols for coordination with ethnic groups' justice systems, if applicable.

- Incorporate symbolic elements into the educational and outreach sessions, as well as the accreditation procedures themselves, taking into account the rituals, customs, and traditions of the specific peoples, their concepts of collective territory, and ensuring the presence of interpreters when necessary.
- Logistical and methodological aspects of the educational sessions and accreditation procedures should be agreed upon collaboratively, and the established agreements must be strictly followed, especially considering the necessary security guarantees for their implementation.
- Clarify that collective accreditation does not diminish the recognition of individual experiences of victimization or the specific situations faced within the community, nor does it hinder the possibility of applying for individual accreditation.
- Ensure psychosocial and psychospiritual support throughout the educational and outreach sessions, as well as during the accreditation procedure itself.
 - ❖ The Bank of Best Practices (annexed to this Manual) compiles the best practices identified before, during, and after the collective accreditation and ethnic collective accreditation procedures.

Notification¹²⁷

Participants:

Victims, defendants

Institutional actors:

Judiciary
Judicial Secretariat
UIA Officials
Attorneys and judicial representation teams
Ethnic authorities
Executive Secretariat
Advisory Office of Differential Approaches
Advisory Office of Territorial Management
Office of the Inspector General - Delegated Attorneys before the SJP

Definition:

Notification is the procedure through which the SJP communicates relevant judicial decisions to its recipients, including the accredited individual or collective victims, defendants, or institutional actors involved in the Jurisdiction¹²⁸. It is a cross-cutting procedure throughout all phases of the judicial process, where the various judicial panels and chambers of the SJP issue decisions and order their communication to the recipients, a task carried out by the Judicial Secretariat. This procedure is essential for ensuring due process within the Jurisdiction¹²⁹.

¹²⁷ Congress of the Republic of Colombia, Law 1922 of 2018, Adopting procedural rules for the Special Jurisdiction for Peace, O.G.: 50.659 of July 18, 2018, Article 1, paragraph e; Special Jurisdiction for Peace, Tribunal for Peace, Appellate Section, Interpretative Ruling TP-SA SENIT No. 003 of 2022 and Interpretative Ruling TP-SA SENIT No. 001 of 2019.

¹²⁸ Special Jurisdiction for Peace, Tribunal for Peace, Appeals Chamber, Interpretative Sentence TP-SA SENIT No. 003 of 2022, para. 28.

¹²⁹ Congress of the Republic of Colombia, Law 1922 of 2018, Adopting procedural rules for the Special Jurisdiction for Peace, O.G.: 50.659 of July 18, 2018 Article 1. Paragraph e.

Restorative objectives:

- Build relationships of trust between the SJP and the individuals or entities receiving the notification.
- Give the actors a comprehensive and clear understanding of the procedural stage, its purpose, effects, and their rights in relation to the process.
- Ensure voluntary and informed participation in SJP proceedings through the transmission of clear and relevant information.
- Implement differential approaches to ensure that individuals or groups facing multiple forms of discrimination receive understandable and relevant information, enabling them to participate in an informed and voluntary manner throughout all stages of the Restorative Transitional Justice process, thereby reducing the barriers to justice they have historically encountered¹³⁰.

Recommendations:

- Provide a clear explanation of the procedure and the available forms of participation or intervention.
- Include a space within the proceeding for dialogue and education about the notification, involving attorneys, legal advisors, and victims or defendants.
- Ensure clarity on the next steps, the commitments made, and the available communication channels.
- Clearly explain the effects, scope, and implications of the notification, along with the rights and obligations of the parties involved and the next steps in the process, using language that is understandable and tailored to the characteristics of the individual or community receiving the notification.
- The formats used in the notification process, as well as

¹³⁰ See: Special Jurisdiction for Peace, Tribunal for Peace, Appeals Chamber, Interpretative Sentence TP-SA SENIT No. 003 of 2022, para. 281-323.

the language used by officials involved, must be appropriate, inclusive, and non-revictimizing¹³¹. In this regard, fully take into account the specific needs of victims of gender-based and/or sexual violence.

- Make adjustments to the standard notification process, such as involving interpreters for Indigenous languages or specific languages for individuals with visual or hearing impairments, or using trusted members of the recipient's environment to facilitate communication¹³².
- Adapt the informational documents provided with the notification letters to use language that is clear, inclusive, non-revictimizing, and tailored to the characteristics of the recipients¹³³.

Ethnically and culturally relevant notification¹³⁴**Definition:**

It is a private proceeding involving the judiciary, legal representatives, and ethnically relevant actors (individual victims, collective victims, or indigenous authorities and defendants). During this proceeding, key judicial decisions issued by the SJP are shared and explained, with consideration given to the cultural traditions and worldviews of each community or group. It applies across all phases of the judicial process and is conducted by various chambers and sections of the SJP.

¹³¹ Special Jurisdiction for Peace, Tribunal for Peace, Appeals Chamber, Interpretative Sentence TP-SA SENIT No. 003 of 2022, para. 288.

¹³² Op. Cit., Interpretative Sentence TP-SA SENIT No. 003 of 2022, para. 291.

¹³³ Op. Cit., Interpretative Sentence TP-SA SENIT No. 003 of 2022, para. 298.

¹³⁴ The SJP has several tools to address ethnically and culturally relevant notifications: Special Jurisdiction for Peace, Tribunal for Peace, Appeals Chamber, Interpretative Sentence TP-SA SENIT No. 003 of 2022, para. 301-323; Special Jurisdiction for Peace, Plenary Chamber, Agreement of the Plenary Chamber ASP No. 001 of 2020, Chapter 15; Special Jurisdiction for Peace, Ethnic Commission, Protocol for coordination, interjurisdictional collaboration, and intercultural dialogue between the Special Indigenous Jurisdiction and the Special Jurisdiction for Peace. Guide for Ethnically and Culturally Relevant Notifications and Communications (2019); Special Jurisdiction for Peace. Manual for Victims' Participation before the Special Jurisdiction for Peace, Chapter VIII, Guidelines for the Implementation of the Ethnic-Racial Approach in the SJP. (2020). Available at: <https://www.SJP.gov.co/Infografias/participacion/manualparticipacion.pdf>.



Restorative objectives:

- Communicate SJP's decisions clearly and effectively within the framework of an intercultural and interjurisdictional dialogue that acknowledges and respects differences.
- Ensure the informed participation of both collective and individual victims, as well as defendants from Ethnic Peoples, in the judicial processes they are involved in.
- Ensure that the SJP coordinates with the Special Indigenous Jurisdiction (JEI) based on the acknowledgment and dignity of the indigenous authorities' own government and authorities.
- Ensure that the SJP coordinates with the community councils and other organizational systems of the Black, Afro-Colombian, Raizal, and Palenquero Peoples, recognizing their traditional practices of conflict resolution or justice systems.
- Ensure that the SJP coordinates with the authorities of the Romani People, recognizing their system of norms and values.

How is Transitional Restorative Justice applied in JEP procedures and actions?

Recommendations¹³⁵:

- To build trust in the notification process, it is recommended to establish a two-way educational approach: from the SJP to the community members about its operations, and from the community or individuals to the SJP about the functioning of their own justice systems.
- Adapt the written and spoken language used in notification proceedings to ensure it is clear, inclusive, and non-revictimizing, and include translators who speak the language of the recipients, if necessary.¹³⁶
- Ensure the inclusion of meaningful symbolic elements for the individuals, communities, and ethnic organizations involved in the notification process.
- Respecting harmonization practices rooted in the specific cultural traditions of each community, including spiritual rituals aligned with their customs, enhances the restorative nature of the procedure and demonstrates that the SJP is a justice system built through intercultural collaboration.
- Encourage those involved in the notification process to effectively communicate the decision to others within the community.
 - ❖ The Bank of Best Practices, annexed to this Manual, contains best practices identified for use before, during, and after ethnically and culturally relevant notification procedures.
 - ❖ Additionally, the SJP has recently introduced a new notification method called "Nature-Related Notification," based on the accreditation of the Cauca River as a victim before the SJP.

¹³⁵ See: *Bank of Best Practices*, annex to this Manual. Best practices for ethnically and culturally relevant notification. p. 12-13.

¹³⁶ Op. Cit. *Peace. Manual for Victims' Participation in the Special Jurisdiction for Peace*. p. 298.

Interjurisdictional collaboration and intercultural dialogue¹³⁷

Participants:

Victims, defendants, community

Institutional actors:

Judiciary
UIA Officials
Attorneys and judicial representation teams
Ethnic authorities
Executive Secretariat
Advisory Office of Differential Approaches
Office of the Inspector General - Delegated Attorneys before the SJP
National Government
Territorial entities

Definition:

Horizontal dialogue exercises between the judicial authorities of the SJP and the Special Indigenous Jurisdiction (JEI), or the authorities of community councils, or the Romani People, aim to foster mutual understanding and cooperation on judicial and procedural matters, while respecting the autonomy and judicial independence of each jurisdiction or justice system.

¹³⁷ Congress of the Republic of Colombia, Law 1922 of 2018, Adopting procedural rules for the Special Jurisdiction for Peace, O.G.: 50.659 of July 18, 2018, Article 70; Special Jurisdiction for Peace, Plenary Chamber, Agreement of the Plenary Chamber ASP No. 001 of 2020, Chapter 15, Article 100; Special Jurisdiction for Peace, Ethnic Commission, Protocol for coordination, interjurisdictional collaboration, and intercultural dialogue between the Special Indigenous Jurisdiction and the Special Jurisdiction for Peace (2019); Special Jurisdiction for Peace, Ethnic Commission, Protocol for the coordination, collaboration, and intercultural dialogue between the Romani People and the Special Jurisdiction for Peace (2019); Special Jurisdiction for Peace, Ethnic Commission, Protocol for the Relationship between the Special Jurisdiction for Peace and the Black, Afro-Colombian, Raizal, and Palenquero Peoples (2021).

These dialogues are founded on the principle of legal pluralism outlined in the Political Constitution of Colombia and the mandate of the Final Peace Agreement, particularly the ethnic chapter, which requires the SJP to incorporate the collaboration between justice systems and intercultural dialogue in its actions and procedures. In line with this mandate, protocols for engaging with Indigenous Peoples, Black, Raizal, and Palenquero peoples (NARP), and Romani People were established, following the necessary prior consultations. These documents effectively incorporate the approaches, principles, and methodologies for coordination and dialogue that must be considered in all scenarios of participation within the Jurisdiction.

These protocols already outline the key aspects to consider during the preparation phase, as well as the procedure for conducting this type of dialogue. These provisions are binding on the SJP and reflect agreements, consensus, and best practices gathered from the experiences and needs of the consulted ethnic communities. Therefore, the following recommendations, in some cases, reflect what has already been established through the protocols, while also presenting specific developments that have emerged from their implementation.

Restorative objectives:

The specific objectives of interjurisdictional collaboration and intercultural dialogue vary depending on the type of meeting and the purpose for which it is convened. However, some of its general restorative objectives are as follows:

- Recognize ethnic authorities as peers to engage in dialogue with the SJP as representatives of the Colombian State.
- Recognize and position the Ethnic Peoples' own justice or legal systems as a mechanism for vindication.

- Recognize the harm with respect to the community (collective) and the territory.
- Implement the ethnic-territorial approach and the principle of restorative justice by facilitating access to justice for historically discriminated groups.
- Incorporate elements from the restorative justice practices of Indigenous peoples into the procedures of the SJP.

Recommendations:

- It is recommended that the offices establish a previous two-way educational process with the authorities of the peoples, in which the SJP learns about the specific justice system of each people, while also providing education on the Restorative Transitional Justice model.
- The logistics of the meetings must consider the meeting format, the locations, and their significance within the peoples' worldview, determine the language of the dialogues, who will handle translation, the symbolic and ritual elements involved, and the spiritual rituals for opening and closing the meetings.
- The spiritual authorities of the peoples involved in psychospiritual support should be given a central role.
- Questions and interventions by ethnic authorities should be prioritized over those of the judiciary, especially when the meeting involves defendants belonging to the community.
- Incorporate an intersectional perspective and use language that respects the specific customs of the people to highlight the unique harms experienced by women, children, adolescents, and individuals with disabilities within the community.
 - ❖ The Bank of Best Practices (annexed to this Manual) compiles the best practices identified before, during, and after the interjurisdictional collaboration and intercultural dialogue procedures.

Proceedings for the dialogic construction of truth.¹³⁸

Participants:

Victims, defendants

Institutional actors:

Judiciary

UIA Officials

Attorneys and judicial representation teams

Ethnic authorities

Executive Secretariat

Advisory Office of Differential Approaches

Advisory Office of Victims Assistance

SAAD Advisory Office for Defendants

Advisory Office of Territorial Management

Advisory Office of Restorative Justice

Office of the Inspector General - Delegated Attorneys before the SJP

Definition:

The proceedings for dialogic truth-building are typically direct, face-to-face encounters between participants (victims and defendants) and institutional actors from the SJP (judiciary, legal representatives, and others listed in the table above), taking place at an advanced stage of the dialogic process. As part of the gradual and progressive co-construction of truth, these proceedings serve to address victims' demands for truth, clarify and complement information regarding events, context, and responsibilities, and explain the impact and scale of the harm suf-

¹³⁸ Congress of the Republic of Colombia, Law 1922 of 2018, Adopting procedural rules for the Special Jurisdiction for Peace, O.G.: 50.659 of July 18, 2018, Article 27.

ferred by the victims. Additionally, these proceedings act as a prelude to other restorative meetings, particularly the Acknowledgment of Truth and Responsibility Hearings. The flexibility of the dialogic construction process allows these spaces to be used for preliminary symbolic reparations and can involve only institutional actors with either victims or defendants, depending on the specific objectives of the proceedings.

As noted earlier, the construction of truth is based on the accounts provided by participants in the judicial process, the dialogue between victims and defendants about what happened, and the evidence gathered by the judiciary. In this sense, the procedures of dialogic construction of the truth are an essential tool of Restorative Transitional Justice.

Restorative objectives:

- Restore dignity to the victims by actively listening to their accounts and versions of the crimes and harm caused. The judiciary should take them into account and raise awareness of these narratives.
- Come to agreements between victims and defendants, and enable the dialogic construction of the truth.
- Foster trust and create safe spaces among the actors involved, as well as between participants and the SJP, to enable fluid dialogue.
- Ensure due process is upheld in all proceedings.
- Encourage restorative participation by both victims and defendants when sharing stories, experiences, and emotions, raising awareness of and acknowledging victims' suffering.
- Provide a space for emotional expression and healing through direct participation, responses to questions, and addressing demands for truth.

Recommendations:

- These proceedings should address the context in which the crimes occurred in order to understand it from both the victims' and defendants' perspective.
- These proceedings should lay the groundwork for a potential restorative meeting between defendants and victims. This can be achieved through prior, separate, and parallel preparation sessions with victims and defendants, focusing on context, the account of events,



demands for the truth, and expectations for acknowledgement.

- The proceedings must take place in an environment conducive to dialogue, ensuring the privacy and emotional safety of both sides, with a spatial arrangement that promotes dialogue rather than confrontation.
- Sufficient time should be allotted to fully hear the stories from both victims and defendants.
- These proceedings should be designed with the goal of contributing to healing and peacebuilding at individual, collective, and territorial levels, aligning with one of the key objectives of Restorative Transitional Justice: reparation through truth. The outcome of these proceedings should aim toward healing.
- If victims, communities, and defendants are involved in the proceedings, it is important that separate preparation processes for each group are completed beforehand.
- These procedures must be conducted using methodologies that incorporate differential, gender-based, and intersectional approaches in every activity, as well as in the preparation process itself for both victims and defendants.
 - ❖ The Bank of Best Practices (annexed to this Manual) compiles the best practices identified before, during, and after the dialogic construction of the truth.

Activities, Work, and Actions with Reparative-Restorative content (TOAR)¹³⁹

Participants:

Victims, defendants, and communities

Institutional actors:

Judiciary
Attorneys and judicial representation teams
Executive Secretariat
Advisory Office of Restorative Justice
Advisory Office of Comprehensive Monitoring
Advisory Office of Institutional Memory and Comprehensive System for Peace
Advisory Office for the Structuring of Projects
Ethnic authorities
Office of the Inspector General - Delegated Attorneys before the SJP
National Government
Territorial entities

Definition:

The TOAR are the activities, work, and actions carried out by a defendant to contribute to restoring or repairing the harm caused to victims¹⁴⁰. Within the framework of the SJP, there

139 Congress of the Republic of Colombia. Law 1957 of 2019 Statutory Authority of the Administration of Justice in the Special Jurisdiction for Peace, O.G.: 50.976 of June 6, 2019, Articles 140-141; Special Jurisdiction for Peace, Tribunal for Peace, First Instance Chamber for Cases of Acknowledgment of Truth and Responsibility. Guidelines on Special Sanctions and Activities, Work, and Actions with Reparative-Restorative content. (2020). Available at: <https://www.SJP.gov.co/Sala-de-Prensa/SiteAssets/Paginas/Conozca-Los-lineamientos-en-materia-de-sanci%C3%B3n-propia-y-Trabajos%2C-Obras-y-Actividades-con-contenido-Reparador---Restaurador/28042020%20VF%20Lineamientos%20Toars%20y%20SP.pdf>

140 Special Jurisdiction for Peace, Tribunal for Peace, First Instance Chamber for Cases of Acknowledgment of Truth and Responsibility. Guidelines on Special Sanctions and Activities, Work, and Ac-

The TOAR are the activities, work, and actions carried out by a defendant to contribute to restoring or repairing the harm caused to victims.

are different types of TOAR. A first distinction is due to the source—whether they are initiated by the defendants, victims, or the State. A second category is based on the procedural stage in which they are implemented: as part of the Conditionality Regime, before the (anticipated) sanction, or as a result of a special restorative sanction.

The first classification has already been addressed by the Coordination Committee of Anticipated TOARs and Special Restorative Sanctions¹⁴¹. According to this, there are “two different channels or processes” from which TOARs arise: an extra-procedural channel and a procedural channel:

Extra-procedural channel: Restorative plans, programs, or projects that have already been formulated or are in the process of being implemented through **national or local public policy, international cooperation, the private sector, or other interested parties**.¹⁴²

Procedural channel: Restorative plans, programs, or projects that are proposed on the basis of restoration initiatives or proposals **presented by the defendants and, in some cases, by victims** in the context of the proceedings of the **SRVR, SDSJ, SeRVR, and SR**. In addition, the SRVR must present proposals for

tions with Reparative–Restorative content. (2020), p. 6. Available at: <https://www.SJP.gov.co/Sala-de-Prensa/SiteAssets/Paginas/Conozca-Los-lineamientos-en-materia-de-sanci%C3%B3n-propia-y-Trabajos%2C-Obras-y-Actividades-con-contenido-Reparador---Restaurador/28042020%20VF%20Lineamientos%20Toars%20y%20SP.pdf>

¹⁴¹ Special Jurisdiction for Peace, Coordination Committee for TOAR and Special Sanctions. Agreement No. 03 of 2021 of the Governing Body. Prioritization of Restorative System lines.

¹⁴² Ibid.



restorative plans, programs, and projects in the absence of initiatives by the defendants.¹⁴³

Thus, while the extra-procedural channel refers to projects that arise from the State or external agents, the procedural channel includes those that have been presented by defendants, victims, the SDSJ, the SeRVR, and the SR.

Regarding the second form of TOAR categorization, based on the procedural stage in which they arise, the SeRVR of the Tribunal for Peace has explained that these can occur at different stages before the SJP: as a contribution to the rights of the victims within the Conditionality Regime, which is required of anyone involved in the Comprehensive System for Peace; prior to the imposition of sanctions, so the judges may reconsider the extent of the sanction, at the request of the defendant; or as a result of the imposition of special sanctions¹⁴⁴.

¹⁴³ Ibid.

¹⁴⁴ Special Jurisdiction for Peace, Tribunal for Peace, First Instance Chamber for Cases of Acknowledgment of Truth and Responsibility. Guidelines on Special Sanctions and Activities, Work,

Anticipated TOARs:

The anticipated TOARs or “TOARs to be considered as early compliance with special restorative sanctions, when employing the sanctioning mechanism” are activities, work, or actions with reparative-restorative content that may reduce the special restorative sanction or contribute to the fulfillment of the obligations of the Conditionality Regime. Thus, this type of TOAR is voluntary and can be undertaken freely by the defendant before their legal situation is defined.

TOAR within the Strict and General Conditionality Regime:

As stated in *Chapter I* of the Manual, the Strict Conditionality Regime (RCE) refers to the special duties that must be carried out by those defendants found less responsible referred by the Judicial Panel for Acknowledgment to the Judicial Panel for Determination of Legal Situations in order to access and retain the waiver of criminal prosecution¹⁴⁵. These duties include those in the General Conditionality Regime (RCG) and other more specific ones. In any case, the contribution to reparation is one of the duties that the RCE implements within the framework of the RCG.

- **TOAR as a result of the special restorative sanction:**

The special sanctions originate in the SJP Tribunal for Peace once it has been proven that the defendant has provided the full and detailed truth and has acknowledged responsibility. As mentioned before, this sanction has a retributive and a

and Actions with Reparative–Restorative content. (2020). Available at: <https://www.SJP.gov.co/Sala-de-Prensa/SiteAssets/Paginas/Conozca-Los-lineamientos-en-materia-de-sanci%C3%B3n-propia-y-Trabajos%2C-Obras-y-Actividades-con-contenido-Reparador---Restaurador/28042020%20VF%20Lineamientos%20Toars%20y%20SP.pdf>

145 Special Jurisdiction for Peace, Tribunal for Peace, Appeals Chamber, Interpretative Sentence TPSA-SENIT No. 005 of 2023, para. 167.

restorative component. The first refers to the restriction of rights for a minimum term of five and a maximum term of eight years for those most responsible defendants, and between two and five years for minor participants involved in the crimes under judgment¹⁴⁶. It should be clarified that this retributive component does not involve imprisonment, but rather effective restrictions on freedoms and rights, such as residency and movement. The restorative component involves TOARs that fulfil “the greatest restorative and reparative function for the harm caused.”¹⁴⁷

In general terms, according to the Guidelines on Special Sanctions and TOARs established by the SeRVR of the Tribunal for Peace, TOARs¹⁴⁸ must meet the following criteria to be considered restorative: (i) guarantee the effective participation of victims; (ii) address the harm caused; (iii) not violate victims' rights; (iv) contribute to the reconstruction of social ties or societal transformation to overcome the conflict; and (v) be capable of facilitating the reintegration of defendants into society. It is important to mention that Article 141 of the SJP Statutory Law¹⁴⁹ and Article 65 of the Procedural Law specify a duty to consult on the implementation and content of TOARs within the framework of special restorative sanctions for Ethnic Peoples and victims of gender-based violence.

Restorative objectives:

- Contribute to the restoration and reparation of the harm caused to victims, as well as to the reconstruction of the social fabric, through concrete actions by defendants who

146 Congress of the Republic of Colombia. Law 1957 of 2019: Statutory Authority of the Administration of Justice in the Special Jurisdiction for Peace, O.G.: 50.976 of June 6, 2019, Articles 126 and 129.

147 Special Jurisdiction for Peace, Tribunal for Peace, Appeals Chamber, Interpretative Sentence TPSA-SENIT No. 005 of 2023, para. 175.

148 Ibid.

149 Congress of the Republic of Colombia. Law 1957 of 2019: Statutory Authority of the Administration of Justice in the Special Jurisdiction for Peace, O.G.: 50.976 of June 6, 2019, Article 141.

have provided full and detailed truth and accepted responsibility before the SJP.

- Create collaborative scenarios for participants in Restorative Transitional Justice to engage in processes of reparation and restoration, helping to overcome the impacts of the armed conflict, rebuild the social fabric, and promote the reintegration of all parties into the community.

Recommendations¹⁵⁰:

- To ensure victim participation and victim centeredness in the implementation of TOAR, it is advisable to establish dialogic spaces between victims and defendants (including communities), preceded by a series of preparatory workshops aimed at identifying expectations, fears, perceptions, non-repetition commitments, the ideas the parties have about each other, and other relevant issues. In any case, it is important that the meaning given to a reparation project is constructed with the victims.
- In preparing the project, a participatory process should be conducted that aligns with the traditions, customs, stories, narratives, and cultures of the victims, ensuring that reparation is meaningful.
- TOARs should foster joint construction processes aimed at repairing broken ties and promoting coexistence and civic trust (social fabric).
- It is crucial to respect the right of victims of gender-based and sexual violence to decide not to confront their aggressors. Therefore, for TOARs focused on the reparation-restoration of such harm, consideration should be given to involving individuals who may not have been directly responsible for the crimes, but who recognize the seriousness and extent of the harm caused. These options should be explored through participatory processes with victims

¹⁵⁰ Special Jurisdiction for Peace, Executive Secretariat, SJP's Advisory Office of Restorative Justice. Restorative Justice Guidelines for TOARs. (2024).

and the organizations supporting them, led by legal teams.

- Additionally, the possibility of indirect interactions between victims of gender-based and sexual violence and defendants —mediated by non-legal representatives trained in restorative justice and gender-based and differential approaches—should be considered within the TOAR framework. In any case, these approaches must ensure the comprehensive safety of all parties, strictly adhere to the principles of voluntary participation and “do no harm,” and be preceded by thorough preparation processes¹⁵¹.
- TOARs should include elements aimed at memorializing, offering symbolic reparation, and restoring the dignity of victims, their families, as well as their communities and territories. Symbols carry a strong emotional component and transformative potential, enabling the recovery of memory and the reconstruction of social fabrics and territories destroyed by the conflict.
- It is important that TOARs do not disrupt the mechanisms of individual or collective reintegration, the transition to civilian life, or the consolidation of defendants' plans. Activities should prioritize continuity in the reintegration and resocialization process, in line with the commitments made.
- The initiative must ensure that defendants, as rights holders, have access to decent living conditions. This includes meeting basic needs such as healthcare, food, and water, as well as logistical support (transportation, equipment, supplies, entry and exit exams) and risk coverage (Occupational Risk Administrators (ARL) or insurance) to develop and implement project activities.
- TOARs should encourage reflections on actions that resulted in victimization by the defendant, thus reinforcing their commitment to non-repetition of such behaviors.
- TOAR initiatives should not be limited to repairing the

¹⁵¹ Special Jurisdiction for Peace, Executive Secretariat, SJP's Advisory Office of Restorative Justice. Proposal for a restorative mechanism aimed at facilitating the implementation of the dialogic principle in macro-case 11 (2023).

harm done in the past, but should also look to the future, aiming to have positive impacts on the living conditions of future generations.

- TOARs should consider the differentiated impact that the armed conflict has produced on victims, communities, and territories from a perspective of intersectionality, as well as its relationship with patterns of structural violence.
- Within the framework of TOAR implementation, spaces should be created to allow for the participation of communities, territories, local leaders, and other relevant actors. This extended participation aims to promote changes in how communities perceive the defendants, challenging preconceived and deep-rooted ideas, thus advancing the reparation of social ties.

Precautionary measures¹⁵²

Participants:

Victims and communities

Institutional actors:

Judiciary

UIA Officials

Executive Secretariat

Advisory Office of Restorative Justice

Unit for the Search of Persons presumed to be Disappeared

Attorneys and judicial representation teams

Ethnic authorities

Office of the Inspector General - Delegated Attorneys before the SJP

Territorial entities

National entities

Definition:

Precautionary measures are preventive, provisional, and temporary mechanisms that can be initiated ex officio or through petitioners. They are designed to safeguard and/or restore the rights or legal interests of defendants in order to protect and contribute to the objectives of the SJP process and, more broadly, those of the Final Peace Agreement¹⁵³. These measures provide an opportunity to implement the SJP's restorative approach, as they aim to satisfy victims' rights and guarantee non-repetition¹⁵⁴.

Precautionary measures within the SJP have enabled the timely creation of mechanisms to address the protection and reparation needs of victims and territories, as well as to ensure the safety of defendants. Their goal is to protect the rights of those involved in Restorative Transitional Justice, ensuring that anyone at risk is safeguarded during the judicial proceedings. During follow-up hearings on precautionary measures, State entities and organizations are held accountable to victims, the community, and the SJP regarding addressing risks, violations, and protection needs.

These measures foster a connection between restoration efforts and actions to protect communities or territories. While they support other processes, precautionary measures are not purely instrumental¹⁵⁵. They are restorative in nature, as they aim to satisfy rights, ensure non-repetition, and promote victim participation. The procedure allows community voices and inflicted harm to be recognized,

¹⁵³ Special Jurisdiction for Peace, Tribunal for Peace, First Instance Chamber for Cases of Absence of Acknowledgement of Truth and Responsibility for Facts and Conducts, Order AI 001 of December 7, 2018.

¹⁵⁴ Special Jurisdiction for Peace, Tribunal for Peace, First Instance Chamber for Cases of Absence of Acknowledgement of Truth and Responsibility for Facts and Conduct, Order AI 011 of November 20, 2019.

¹⁵⁵ Special Jurisdiction for Peace, Tribunal for Peace, Appellate Section, Order TP-SA 754 of 2021, para. 22.4.

¹⁵² Congress of the Republic of Colombia, Law 1922 of 2018, Adopting procedural rules for the Special Jurisdiction for Peace, O.G.: 50.659 of July 18, 2018, Article 21-23.



thus fostering a deeper connection with the affected territory.

The precautionary measure hearings and corresponding follow-up hearings are restorative actions in and of themselves. Much of the dignifying process during a precautionary measure hearing is led by the judiciary, with support from the Executive Secretariat. Together, they act as representatives of a State committed to addressing its past failures, where it either re-victimized, endangered, or failed to protect victims and their territories in a timely manner.

Victim participation in precautionary measures extends beyond the follow-up hearing. There are six additional participation opportunities identified in these judicial proceedings: i) if the measure involves locations where missing persons' bodies may be found, participation in the search plan (before, during, and after); ii) involvement in the hearing's preparatory process; iii) designing audiovisual materials for the hearing;

How is Transitional Restorative Justice applied in JEP procedures and actions?

iv) defining the hearing's structure and staging; v) developing and implementing symbolic acts for the hearing; and vi) formulating restorative measures. In this context, precautionary measures feature three essential restorative components: participation in the preparatory and design process, restorative implementation—including the staging and handling of the proceedings with corresponding symbolic acts and rituals—and the orders issued by the judiciary.

Restorative objectives:

- Prioritize listening to organizations and communities as the first restorative action.
- Ensure an institutional presence in the territories.
- Coordinate with local organizations to define how this presence will be carried out.
- Guarantee a “do no harm” approach in all interventions.
- Work to prevent further harm.
- Facilitate the recognition of dialogue, along with the voices and pain of those affected by the State’s inaction, or improper or incomplete actions.
- Respect the ethnic identity of applicants and ensure the participation of ethnic-territorial authorities.
- Incorporate differential approaches as an essential aspect of protection.
- Promote judicial actions as a means of recognizing victims, fostering civic trust, and providing tools for those affected by violence to reestablish their citizenship.
- Ensure protection and safeguarding, while simultaneously restoring rights.
- The measures in the SJP are not necessarily tied to a specific case; their goal is not to protect the legal process as in ordinary jurisdictions, but rather to protect and guarantee the rights of all participants.
- Support the objectives of the Final Peace Agreement, including truth, justice, reparation, and guarantees of non-repetition.

- Facilitate peacebuilding.
- Adapt the measures to the context in which they are applied, aligning with their specific objectives, the type of measure, and the underlying need.
- Coordinate protection needs and actions based on the principles of Restorative Transitional Justice.

Recommendations¹⁵⁶:

- A preparatory process should be conducted for the various follow-up hearings on precautionary measures¹⁵⁷. This process involves engagement with communities and territories where the precautionary measure will be or has been decreed.
- Organize workshops to collectively construct the restorative and symbolic content of the hearing in collaboration with petitioning organizations, communities, and the SJP. These workshops have an educational nature and facilitate balanced dialogue to build trust.
- The preparatory process should place a strong emphasis on symbols. The aim is to develop symbolic acts and stagings that reflect the territory, harm, communities, search efforts, and other elements to restore dignity.
- A good practice is to invite artists to these preparatory sessions, so they can capture the input from participants and suggest artistic or aesthetic representations for the hearing.
- These workshops should include semi-structured questions (previously formulated) based on material provided by the communities, SJP orders, and other investigative documents that detail the conflict in the territory and its effects on residents.

¹⁵⁶ See *Bank of Best Practices*, annexed to this Manual.

¹⁵⁷ In precautionary proceedings, both hearings for the decree of measures and follow-up hearings can be held. See: Congress of the Republic of Colombia, Law 1922 of 2018, Adopting procedural rules for the Special Jurisdiction for Peace, O.G.: 50.659 of July 18, 2018, Articles 21-23.

- Testimonies should be collected in a participatory manner, using tools like social mapping workshops¹⁵⁸. These tools help identify significant locations, the impacts suffered due to the presence of armed actors, burial sites, and how the community wishes to represent the territory during the hearing, through acts and symbols that reflect the harm suffered. Ultimately, these workshops provide a space for institutions to listen to petitioning communities and organizations.
- Precautionary measures in favor of defendants should focus on protecting rights that are at risk and that may affect their ability to acknowledge or contribute to the truth.
- These measures should be coordinated with implementing TOARs and the special restorative sanctions, ensuring that their rights are safeguarded while allowing the planned projects or activities to proceed without disruption.

❖ The Bank of Best Practices (annexed to this Manual) compiles the best practices implemented before, during, and after the precautionary measure hearings.

¹⁵⁸ Social mapping is a participatory methodology that enables communities or groups to map significant aspects of their environment and experiences, allowing them to visualize and analyze social, cultural, economic, or environmental realities from their own perspective. Unlike traditional mapping, which focuses on geographic representation of physical or political elements, social mapping centers on the meanings, histories, relationships, and challenges defined by the communities themselves. This collaborative approach involves participants in the creation of the map, fostering dialogue, critical reflection, and collective action. The resulting maps can depict various aspects, such as ancestral territories, natural resources, conflict zones, displacement patterns, or social inequalities. By making these realities visible, social mapping becomes a powerful tool for community planning, decision making, social mobilization, and advocacy. Jon Corbett and Peter Keller. *Participatory GIS: A People's GIS*, Rev. Progress in Human Geography, vol 31, no. 5 (2007), p. 616-637.

Recommendations to strengthen the restorative aspect of certain procedures within the chambers and sections of the SJP

Voluntary accounts¹⁵⁹

Participants:

Defendants, victims

Institutional actors:

Judiciary

Attorneys and judicial representation teams

Ethnic authorities

UIA Officials

Executive Secretariat

SAAD Advisory Office for Defendants

Advisory Office of Restorative Justice

Office of the Inspector General - Delegated Attorneys before the SJP

Definition:

Voluntary accounts are proceedings that are part of the investigations carried out by the Jurisdiction. These proceedings provide a space where the SJP must listen to the voluntary accounts that defendants wish to offer about the most serious and representative crimes committed during the armed conflict¹⁶⁰. Although participation in the voluntary accounts is mandatory, it is not a confrontational or adversarial setting. Instead, it serves as a "deliberative space that encourages the collabo-

rative search for truth, allowing for the critical cross-checking of facts with the victims' supplemental participation."¹⁶¹ In this sense, "the collective account complements the individual one, enabling a process of dialogue and comparing perspectives of defendants and victims"¹⁶².

While the individual component focuses on each defendant's personal trajectory and their direct knowledge of specific events, the collective voluntary accounts aim to understand the macro-criminal dynamics and patterns of the events relevant to the macro-case¹⁶³.

These sessions may be open or closed to the public, but they are always recorded for judicial purposes. They must be conducted orally, or at least in a mixed format (oral and written), ensuring that an oral component is always present to uphold the dialogic principle¹⁶⁴. Victims can participate in the hearing through their defense attorneys and typically connect via video call or are situated in mirror rooms—alternate spaces where they can follow the proceedings in real time.

The voluntary statements by defendants represent their first procedural and substantive participation in the SJP's judicial process. These statements also reflect a commitment made when signing the submission to the Jurisdiction. In this context, to guarantee victims' rights, due process, and the application of Restorative Transitional Justice, **voluntary accounts are not equivalent to interrogations or cross-examinations as seen in the accusatory oral criminal system. Instead, they focus on recognition and truth within a dialogic process.** As a result, the procedure is distinct from traditional criminal proceedings.

¹⁶¹ Special Jurisdiction for Peace, Judicial Panels, Judicial Panel for the Acknowledgment of Truth, Responsibility, and Determination of Facts and Conducts. Order SRVR-LRG-T-025-2022 of February 11, 2022.

¹⁶² Ibid.

¹⁶³ Ibid.

¹⁶⁴ Ibid.

¹⁵⁹ Congress of the Republic of Colombia, Law 1922 of 2018, Adopting procedural rules for the Special Jurisdiction for Peace, O.G.: 50.659 of July 18, 2018, Articles 27a and 27b; See the corresponding best practices in the annex to this Manual.

¹⁶⁰ Special Jurisdiction for Peace, Judicial Panels, Judicial Panel for the Acknowledgment of Truth, Responsibility, and Determination of Facts and Conducts. Order SRVR No. 080 of May 28, 2019.

Restorative objectives:

- In the case of the former FARC-EP combatants, this allows for contributions to the full truth, not only on an individual level but also in relation to the organization¹⁶⁵. Foster dialogue and exchange among former FARC-EP members about their experiences and knowledge of the events, while encouraging deep collective reflection on the harm caused to victims¹⁶⁶.
- Efficiently construct dialogic truth, ensure procedural efficiency, and reinforce the macro-criminal investigation approach.
- Promote the early dialogic construction of truth among the parties involved, even when victims are not directly present to speak or ask questions.
- Bring the voice of the defendants into the process of cross-checking facts.
- Facilitate the mechanism for public acknowledgment of responsibility.

Recommendations:

- Ask open-ended questions that encourage the development of a free narrative.
- Structure the proceeding's script to maintain coherence between questions about personal life, the crimes, and the possibilities and intentions for reparation, all while aligning with prior documentation on the defendant.
- Pose questions that are relevant to the entire process, avoiding those that will not be used later or that could cause harm, either by re-victimizing or leading the defendant into a justifying narrative.

¹⁶⁵ Special Jurisdiction for Peace, Judicial Panels, Judicial Panel for the Acknowledgment of Truth, Responsibility, and Determination of Facts and Conduct. Order SRVR No. 080 of May 28, 2019

¹⁶⁶ Special Jurisdiction for Peace, Judicial Panels, Judicial Panel for the Acknowledgment of Truth, Responsibility, and Determination of Facts and Conduct. Order SRVR-LRG-T-025-2022 of February 11, 2022.

- Ensure the voluntary account is transferred transparently, with consideration for the needs of victims and in a setting that minimizes the risk of re-victimization.
 - ❖ The Bank of Best Practices (annexed to this Manual) compiles the best practices implemented before, during, and after the proceedings of the collective voluntary accounts by those who took part in the former structures of the FARC-EP.

Comments on voluntary accounts¹⁶⁷

Participants:

Victims

Institutional actors:

Judiciary

Executive Secretariat

Advisory Office of Victims Assistance

Attorneys and judicial representation teams

Ethnic authorities

Office of the Inspector General - Delegated Attorneys before the SJP

Definition:

As part of the story-building process at the heart of the dialogic procedure, victims can respond to the voluntary accounts provided by the defendants and begin to express their demands for truth regarding the events in question. This dialogue, mediated by the judiciary, considers the victims' expec-

¹⁶⁷ SJP Special Jurisdiction for Peace (2020). *Op. cit.*, p. 164.

tations based on the voluntary accounts and gathers information about their needs for truth that have resulted from the procedure.

Restorative objectives:

- After listening to the victims' observations—and those of their legal representatives—defendants are given a chance to expand their accounts, refine their narratives, and provide the necessary information to address the victims' requests.
- This process helps assess whether additional evidence is needed.
- It allows victims to initiate a focused dialogue about the crimes narrated by the defendants.
- Victims' questions must be answered using all available resources to fully meet their demands for truth.

Recommendations:

- In the context of the hearings for observations on voluntary accounts, where victims will voice their perspectives, it is advisable to hold preparatory meetings with defendants to emphasize the importance of addressing these demands through a dialogic truth-building approach and to avoid re-victimization.
- It is also suggested to implement a preparatory process with victims, ensuring they understand that the voluntary accounts mark only the beginning of the contributions defendants can offer regarding their involvement in the crimes, within the framework of the SJP. This initial stage should not be viewed as the most detailed or substantial contribution. Proper preparation ahead of the Acknowledgment Hearing, which follows the Observations Hearing, is crucial to enabling more comprehensive and in-depth contributions.

Acknowledgment Hearing¹⁶⁸

Participants:

Defendants, victims, and communities

Institutional actors:

Judiciary
Attorneys and judicial representation teams
Ethnic authorities
UIA Officials
Executive Secretariat
Advisory Office of Differential Approaches
Advisory Office of Victims Assistance
SAAD Advisory Office for Victims' Representation
SAAD Advisory Office for Defendants
Advisory Office of Territorial Management
Advisory Office of Restorative Justice
Office of the Inspector General - Delegated Attorneys before the SJP
Territorial entities

Definition:

The Acknowledgment of Truth and Responsibility Hearing is the procedural stage when defendants defendants are called by the SRVR to publicly acknowledge their responsibility for the crimes and conduct attributed to them following the judiciary's cross-checking of facts¹⁶⁹. This is a pivotal moment for facilitating a direct encounter between victims and defendants, with the participation of the public either in person or

¹⁶⁸ Special Jurisdiction for Peace, Judicial Panels, Judicial Panel for the Acknowledgment of Truth, Responsibility, and Determination of Facts and Conducts. Order JLR-01 No. 381 of 2022 and Order JLR 01 No. 372 of 2022. See the corresponding best practices in the annex to this Manual.

¹⁶⁹ SJP Special Jurisdiction for Peace (2020). *Op. cit.*, p. 165-166.

via media and social media. The Acknowledgment Hearing represents the most visible restorative transitional space of the Judicial Panel for Acknowledgment, given its timing, the level of participation it requires, and the purpose it serves.

Restorative objectives:

- Deepen the clarification and acknowledgment of the crimes and conduct for which each defendant is summoned.
- Focus on the factual, legal, and restorative components established by the chamber (see *Chapter II*).
- Ensure that the public acknowledgment by defendants centers on the harm done, addressing both victims and society, to amplify the victims' voices in public discourse.
- Enable a reconfiguration of the roles of victims, defendants, and society, fostering internal and individual transformations that contribute to broader social change.
- Symbolize and implement a model of non-retributive justice before society.
- Promote *voluntary direct encounters*.
- Promote recognition and dignification of the victims, as well as redress for them.
- Prioritize *dialogue*, the power of *words*, and active *listening*.

Recommendations:

- Ensure prior preparatory spaces for both participants and institutional actors.
- This preparation should consider expectations related to recognition and sanction plans, with separate, parallel preparation for participants and actors, culminating in joint preparatory meetings when necessary.
- Incorporate differential, gender-based, and intersectional approaches into methodologies, activities, and support for

both victims and defendants during the preparatory process as well as during the public hearing.

- Hold the hearing in an environment conducive to dialogue.
- Acknowledgment during the hearing should include spaces that prioritize meaningful dialogue between the parties.
- Adequate time must be allocated to allow for the construction of a freely given narrative of acknowledgment.

The Acknowledgment Hearing shifts the defendants' contribution to truth from a private to a public setting, in the presence of both the judiciary and society. In this context, the arrangement of the hearing space should reflect the information gathered and agreements made during the preparatory sessions, with attention to the following aspects:

- The preparatory activities held in the days leading up to the proceeding—focusing on welcoming participants, addressing anxiety, and reviewing intentions and expectations—are crucial to holding a successful hearing.
- **The staging** of hearing itself is a key restorative element, led by the victims and designed to ensure that both their narratives and identities are recognized by those present, as well as by the remote audience. This includes graphic, artistic, and symbolic representations that bring the languages of the victims, the territory, the impacts, their coping mechanisms, and the faces of victimization into focus.
- **Stakeholder engagement strategies**, coordinated with the judiciary, require careful planning to determine the content and format of the hearing. This process involves recognizing authorities and leaders while respecting the cultural diversity of the communities involved. It is essential to decide who will participate and how the various contributions of victims and defendants will be integrated. Additionally, maintaining a balance and democratization of voices is vital to ensure that diverse perspectives are preserved and to avoid deliberately

ignoring underlying power dynamics or hierarchies in place during the violence experienced in the territories.

- **Restorative symbolic acts** within the process reflect a unique way to fully include victims, giving the proceedings a sense of ceremonial dignity. This integration balances legal regulations with the cultural traditions of the setting where the proceeding takes place. Through these rituals, the process is transformed into an act of remembrance, dignification, and tribute that resonates widely, extending beyond the direct participants.
- **The restorative use of audiovisual media** incorporates sound and visual elements to enrich testimonies, facilitate understanding, amplify restorative messages, include alternative voices, visualize facts, and place the hearing within a broader recognition process. These audiovisual materials can later be used for creating documentaries that contribute to larger justice and peace initiatives, becoming tools for memory and a commitment to future generations within a framework of non-repetition.
- When appropriate and without compromising the judicial process, organizing private meetings with victims—while not strictly judicial—can help clarify the truth.
- It is crucial to emphasize the continuity of the judicial process; participants must understand that the conclusion of the Acknowledgment Hearing does not signify the end of the process. The ongoing development of dialogue regarding contributions to truth and acknowledgment must be evaluated as part of a continuous process, with the potential for future actions, including post-acknowledgment phases.
 - ❖ The Best Practices Bank (attached to this Manual as an annex) compiles the best practices implemented before, during, and after the acknowledgment hearings.



First Instance Chamber for Cases of Acknowledgment of Truth and Responsibility's Verification Hearing¹⁷⁰

Participants:

Defendants, victims

Institutional actors:

Judiciary
 Attorneys and judicial representation teams
 Ethnic authorities
 Executive Secretariat
 Advisory Office of Restorative Justice
 Advisory Office of Project Structuring
 Executive Sub-secretariat
 Office of the Inspector General - Delegated Attorneys before the SJP
 Territorial entities
 National entities

¹⁷⁰ Congress of the Republic of Colombia, Law 1922 of 2018, *Adopting procedural rules for the Special Jurisdiction for Peace*, O.G.: 50.659 of July 18, 2018. Articles 29-30.

Definition:

Once the Final Indictment has been sent to the First Instance Chamber for Cases of Acknowledgment of Truth and Responsibility (SeRVR) of the SJP Tribunal for Peace, the trial stage begins by evaluating the correspondence between “the crimes, the acknowledged conduct, the related evidence, the claims made, the defendants, and the proposed sanction, analyzing the contribution to truth and reparation”¹⁷¹.

The Verification Hearing follows, serving as the stage of the proceedings in which the SeRVR “verifies compliance with the conditions of contribution to the truth and the form of reparation.”¹⁷² This is a critical step before sentencing, where the acknowledgment of crimes and harm, along with the restorative proposals presented by the defendants, contribute to the judicial decision.

In keeping with the dialogic principle, the Verification Hearing, along with its preparation and development, becomes a space for dialogue where the reparative effect of the TOAR (Activities, Work, and Actions with Reparative-Restorative Content) carried out by the defendants is assessed. This can occur as an anticipated restorative project or as a special sanction imposed by the Tribunal for Peace. This process involves a preparation phase and a dialogue between victims and defendants focused on restorative proposals.¹⁷³

¹⁷¹ Congress of the Republic of Colombia, Law 1922 of 2018, Adopting procedural rules for the Special Jurisdiction for Peace, O.G.: 50.659 of July 18, 2018, Article 29.

¹⁷² Congress of the Republic of Colombia, Law 1922 of 2018, Adopting procedural rules for the Special Jurisdiction for Peace, O.G.: 50.659 of July 18, 2018 , Article 30.

¹⁷³ As outlined in the 2020 Guidelines on Special Sanctions and Activities, Works, and Actions with Reparative-Restorative Content, the effective participation of victims and the fulfillment of their rights can occur during various procedural stages, including: “(i) early acts of acknowledgment of the truth; (ii) the application of measures for dialogic truth construction as outlined in Article 27 of Law 1922 of 2018; (iii) the Truth Acknowledgment Hearing before the SRVR; (iv) the definition of the sanction projects carried out by the defendants; and (v) before the Tribunal for Peace, before or during the Verification Hearing.” Page 11. See: Special Jurisdiction for Peace, Tribunal for Peace, First Instance Chamber for Cases of Acknowledgment of Truth and Responsibility. Guidelines on Special Sanctions and Activities,

Restorative objectives:

- Identify the victims' expectations and perceptions regarding the observation and acknowledgment stage, including those who have not participated in earlier phases.
- Create environments and strategies that promote participation and dialogue.
- Represent and establish Restorative Transitional Justice in a way that is both visible and understandable to the public.
- Organize and gather relevant information that informs judicial decision-making, ensuring that sentencing aligns with restorative principles.

Recommendations:

- It is essential to establish separate yet simultaneous preparatory environments for victims and defendants, focusing on key aspects and expectations related to the acknowledgment process and the analysis of the Final Indictment. Special attention should be given to the opinions on reparative proposals suggested by the defendants, as well as to the organization of the Verification Hearing.
- A space for joint interaction between victims and defendants should be encouraged prior to the hearing in order to facilitate restorative dialogue that allows for the exchange of observations, perceptions, and expectations regarding the harm caused and the proposed reparative measures. This dialogue will provide essential material for the SeRVR's sanctioning procedure.
- The hearing itself should promote constructive dialogue between the parties, opening the possibility for restorative

Work, and Actions with Reparative-Restorative content. (2020). Available at: <https://www.SJP.gov.co/Sala-de-Prensa/SiteAssets/Paginas/Conozca-Los-lineamientos-en-materia-de-sanci%C3%B3n-pro-pia-y-Trabajos%2C-Obras-y-Actividades-con-contenido-Reparador---Restaurador/28042020%20VF-%20Lineamientos%20Toars%20y%20SP.pdf>

agreements that contribute to the judicial decision, in line with the principles of Restorative Transitional Justice outlined in *Chapter I*.

Monitoring and verification of special sanctions¹⁷⁴

Participants:

Defendants, victims, and communities

Institutional actors:

Judiciary
Attorneys and judicial representation teams
Ethnic authorities
Office of the Inspector General - Delegated Attorneys before the SJP
National Government
Territorial entities
United Nations Verification Mission
Executive Secretariat
Advisory Office of Comprehensive Monitoring
Advisory Office for the Structuring of Projects

Definition:

This restorative process entails the supervision and certification of effective compliance with sentences issued by the SeRVR of the SJP Tribunal for Peace, culminating in the fulfillment of the sanctions. It is structured around two main components:

¹⁷⁴ Special Jurisdiction for Peace and the United Nations Verification Mission in Colombia. Protocol adopted by the Presidency and Executive Secretariat of the Special Jurisdiction for Peace, and the United Nations Verification Mission in Colombia, to ensure effective coordination of the components of the Mechanism for Monitoring and Verifying Special Sanctions (2022). Available at: <https://bapp.com.co/wp-content/uploads/2022/09/1.03.3548-1.pdf>

a) **Monitoring of sanctions and defendants**, involving the administrative steps needed to gather information that demonstrates effective compliance with the imposed sanctions.

b) **Judicial verification**, which focuses on ensuring compliance with sanctions, a task that falls exclusively on the SeRVR. This judicial function oversees the effective restriction of freedoms and rights while supervising the implementation of TOARs by the defendants.

Monitoring and verification ensure that, within the framework of Restorative Transitional Justice, the punishment itself becomes a vehicle for restoration, contributing to the reparation of victims, the reconstruction of the social fabric, and the reintegration of defendants into civilian life¹⁷⁵.

Restorative objectives:

- Satisfy the rights of the victims through the restorative and reparative components, addressing the harm caused.
- Facilitate the reintegration or return of defendants to civilian life.
- Promote the reconstruction of social ties damaged or broken by the conflict.

Recommendations:

- Administrative tasks related to sanction monitoring should include an evaluation of any potential negative consequences, such as exacerbating conflict triggers. This includes addressing issues like intersectional discrimination

¹⁷⁵ Special Jurisdiction for Peace, Tribunal for Peace, First Instance Chamber for Cases of Acknowledgment of Truth and Responsibility. Guidelines on Special Sanctions and Activities, Works, and Actions with Reparative–Restorative content. (2020). Available at: <https://www.SJP.gov.co/Sala-de-Prensa/SiteAssets/Paginas/Conozca-Los-lineamientos-en-materia-de-sanci%C3%B3n-pro-pia-y-Trabajos%2C-Obras-y-Actividades-con-contenido-Reparador---Restaurador/28042020%20VF%20Lineamientos%20Tours%20y%20SP.pdf>

- or the continuation of gender-based violence.
- It is essential to create spaces for individual dialogues and group meetings, using restorative methodologies to mitigate any conflicts that may arise during the imposition and implementation of sanctions.
- The development and use of indicators by the Advisory Offices of the Restorative System are key to providing relevant information to the entire Jurisdiction. This serves two purposes: to gather evidence of the positive impact of sanction implementation on transformation and peace-building, and to establish monitoring systems that evaluate not only sanction enforcement but also the effectiveness of victim reparations and the social transformations fostered by Restorative Transitional Justice.

Ensure that commitments are clear, concrete, and scheduled, while also recognizing the value of the contribution to truth and reparation efforts.

Participants:

Defendants

Institutional actors:

Judiciary

Attorneys and judicial representation teams

Office of the Inspector General - Delegated Attorneys before the SJP

Definition:

Clear, concrete, and scheduled commitments are one of the defendants' duties related to guaranteeing victims' rights and the Conditionality Regime. This obligation applies when the individual aims to appear before the Juris-

diction as part of the process of submission and determination of legal status.

Just as Restorative Transitional Justice is understood to be gradual and progressive, the commitments made can evolve and improve throughout the procedures. However, since these commitments directly involve victims' rights, it is crucial to recognize the judges' key role in assessing them.

Restorative objectives:

The SJP's judges require that all presented commitments have the following characteristics¹⁷⁶:

- The plan must include an initial outline for providing the full truth, addressing victim reparations, and contributing to the non-repetition of crimes.
- It should clearly specify how these contributions will be made.
- The plan must be concrete, indicating precisely which crimes will be clarified, what aspects of the conflict it will help uncover, what measures will be taken to compensate victims, how it will support other components of the Comprehensive System for Peace (SIP), and in which other victim reparation processes they can participate. It should also detail the contributions to non-repetition, including efforts to expose structures, networks, links, financing methods, and patterns of victimization.
- Additionally, the plan must include a schedule, specifying the time, manner, and place of the contributions to truth, justice, reparation, and non-repetition.

Recommendations:

- The restorative intent of the commitments must be eval-

¹⁷⁶ Taken from: Special Jurisdiction for Peace and the Universidad Nacional de Colombia. Guide on Defendants' Rights and Duties in the SJP, (2020). Available at: <https://acortar.link/xck114>.

uated in light of the victims' expectations within the process. This means that the commitments proposed by the defendants should be analyzed alongside the needs of the victims. Judges must fully understand the victims' interests in relation to the individual defendants' processes, and on that basis, request any necessary adjustments.

- As the process evolves, the Clear, Concrete, and Scheduled Commitments (CCCPs) must be adapted, since the contribution to the truth is a narrative built over time, and reparation is a collective and constructive effort between defendants and victims. Continuous dialogue about the victims' demands and expectations, as well as the fulfillment of their rights, is crucial.
- When evaluating the seriousness of CCCPs, the restorative objectives of the transitional process must be considered. A lack of seriousness or an inability to meet these commitments not only limits the defendants' access to transitional justice benefits, but also hinders the victims' participation in the truth-building process. While the development of CCCPs cannot be delayed indefinitely, their significance in achieving the restorative goals of the process must be carefully considered. This includes the defendants' ability to acknowledge their responsibility, address the harm and needs of the victims, and create an environment conducive to reparation and restoration through truth-building and participatory dialogue.

Conditionality Regime Follow-Up Hearings¹⁷⁷

Participants:

Defendants' and victims

Institutional actors:

Judiciary

UIA Officials

Attorneys and judicial representation teams

Ethnic authorities

SAAD Advisory Office for Victims' Representation

SAAD Advisory Office for Defendants

Advisory Office of Victim Assistance

Advisory Office of Territorial Management

Office of the Inspector General - Delegated Attorneys before the SJP

Definition:

The purpose of the Conditionality Regime Follow-Up Hearings is to assess whether any breach of said regime has occurred regarding the commitments made by the defendants. These decisions are made by the Jurisdiction's Chambers of Justice and Sections of the Tribunal for Peace, with consideration of observations submitted by victims and their legal representatives.

Restorative objectives:

- Assess the defendants' compliance with obligations in relation to satisfying the rights of the victims.

¹⁷⁷ Congress of the Republic of Colombia, Law 1922 of 2018, Adopting procedural rules for the Special Jurisdiction for Peace, O.G. 50.659 of July 18, 2018, Article 48; Cf. Special Jurisdiction for Peace, Tribunal for Peace, Interpretative Ruling TP-SA-SENIT No. 001 of April 3, 2019.

- Create a space for victim participation, where they can present their observations on the defendant's fulfillment of commitments.
- Ensure continued application and monitoring of restorative justice principles in alignment with the commitments made by the defendants.

Recommendations¹⁷⁸:

- **Engage in prior dialogue with the victims to define analysis criteria based on their needs:** While not legally required, the Conditionality Regime is deeply connected to victims' rights and community involvement in peace-building. Therefore, assessing compliance with the regime must consider victims' needs through a differential and gender-based approach, including an intersectional perspective. To support this, preparatory spaces for the hearing should be created, focusing on the observations of victims and their representatives regarding the defendants' compliance with the Conditionality Regime, utilizing psychosocial and psycho-legal preparation. These preparations will provide the judiciary with critical insights for the follow-up process during the hearing.
- **Establish preparedness scenarios with victims in case incidents of non-compliance arise:** It is crucial that victims are adequately prepared for any potential declarations of non-compliance. This can be facilitated through prior meetings and preparatory sessions that allow victims to express their expectations concerning the legal and restorative consequences if a defendant is removed from the Jurisdiction. These scenarios will also gather valuable information for the judges to assess the monitoring of the Conditionality Regime.
- **Establish pedagogical dialogues with defendants and their defense teams within the framework of monitor-**

¹⁷⁸ See: SJP (2020). *Op. cit.*, p. 191-192.

ing the Conditionality Regime: Interactions between the judiciary and defendants must incorporate a differentiated, gender-based, and intersectional approach. This will help ensure an understanding of both the meaning and scope of these proceedings and, if applicable, the observations that triggered the mechanism. Dialogue should be supported by pedagogical and communication strategies to ensure that those benefiting from the regime fully grasp the risks of violating the agreements, while also reinforcing their reintegration into civilian life and the decisions made within the process.

Single Hearings to Contribute to the Full Truth¹⁷⁹

Definition:

Single Hearings to Contribute to the Full Truth (AUAV) are designed to determine whether civilian third parties or State agents who are not part of the security forces voluntarily submit to the SJP's Judicial Panel for Defining Legal Situations (SDSJ). These individuals could potentially be among those most responsible for patterns of macro-criminality¹⁸⁰.

The AUAVs serve two primary functions: first, as an entry point for submission, offering a participatory and extensive restorative process; or, alternatively, as the sole instance of interaction with the SJP.¹⁸¹ The hearings may be held privately or publicly, but are always recorded for judicial purposes. Victims may participate as observers or through symbolic acts.

¹⁷⁹ Congress of the Republic of Colombia, Law 1922 of 2018, Adopting procedural rules for the Special Jurisdiction for Peace, O.G.: 50.659 of July 18, 2018, Article 48; Special Jurisdiction for Peace, Tribunal for Peace, Appeals Chamber Sentence TP-SA 1187 of 2022 and Order TP-SA 1186 of 2022.

¹⁸⁰ Special Jurisdiction for Peace, Tribunal for Peace, Appeals Chamber Sentence TP-SA 1186 of 2022.

¹⁸¹ *Ibid.*

Restorative objectives:

- It is crucial to reach a level of contribution to the truth that surpasses what is typically required by the ordinary criminal system, as this may be the one and only opportunity for the defendant to make a meaningful contribution.
- The goal is to provide a complete, exhaustive, and detailed account that holds restorative value for the victims. In this context, the truth not only serves to repair, but the nature of the contribution and the demeanor of the defendant can restore dignity to the victims.
- It is crucial to address the victims' demands for truth and ensure that their representation in the hearing is both effective and significant.

Recommendations:

- It is advisable to engage in a preparation process with the affected victims to establish agreements on the appropriateness of their participation from a restorative transitional perspective. This includes determining whether their involvement in the hearing will be restorative by providing access to a more detailed truth about the events, or if the potential emotional toll of unfulfilled expectations outweighs the possible restorative effect. During preparation, the scope and expectations of the proceedings must be clearly outlined, ensuring that victims understand both what they can and cannot expect.
- Agreement should be reached with the victims regarding the format of their participation (virtual or in-person) as well as the symbolic elements they may wish to introduce into the hearing.
- Additionally, the preparatory sessions should delve deeply into the specificities of the SJP's Restorative Transitional Justice model. These spaces should also address the transformation of *justifying narratives*.
- As part of the hearing's preparation process, it is important

to define the restorative aspect of the hearing that will be disseminated via the media. The communication material to be shared should be planned, and the restorative impact intended for the broader Colombian society should be considered prior to the hearing's broadcast.

Restorative Hearing¹⁸²

Participants:

Defendants, victims, communities

Institutional actors:

Judiciary

Attorneys and judicial representation teams

Ethnic authorities

Office of the Inspector General - Delegated Attorneys before the SJP

Definition:

The Restorative Hearing is a key step in the process for cases where there is no initial acknowledgment of truth. If the defendants makes a late admission, and prior to starting an oral trial in the adversarial mechanism,¹⁸³ a dialogue can be initiated between the parties at the request of the victims or defendants, in the presence of the judiciary. The aim is to reach a restorative agreement that fulfills the rights of the victims. In this context, the Restorative Hearing becomes a pivotal moment in the process, with the potential to alter the legal outcomes within the Jurisdic-

¹⁸² Congress of the Republic of Colombia, Law 1922 of 2018, Adopting procedural rules for the Special Jurisdiction for Peace, O.G.: 50.659 of July 18, 2018, Article 44.

¹⁸³ For more details on the adversarial mechanism, see: Title 2 of "Proceedings in case of absence of acknowledgment of truth;" Chapter 2 and Chapter 3 of Law 1922 of 2018. For more details regarding victims' participation in the adversarial mechanism, see: Chapter IV, Victims' participation in proceedings before the Special Jurisdiction for Peace, Numeral 2. Tribunal for Peace, subparagraph 2.2.2. Victims' participation in the adversarial process.

tion. Late acknowledgment could allow the defendant to receive an alternative sanction instead of a traditional punitive measure.

Restorative objectives:

- Encourage the establishment of trust, openness, and mutual willingness between victims and defendants, aligned with the interests of both parties¹⁸⁴.
- Facilitate conflict resolution between victims and defendants from a restorative justice perspective.
- Support the restoration of victims' rights through the defendants' acknowledgment of truth and responsibility, addressing both individual and collective demands for truth and acknowledgment.

Recommendations:

- It is paramount to establish a restorative mediation process, coordinated by the designated teams of the Executive Secretariat, prior to the Restorative Hearing. This process should include procedural training and prepare both victims and defendants independently yet simultaneously, while ensuring the necessary psychosocial and legal support. The objectives of this process are: (a) to create an environment conducive to dialogue; b) to build trust in the restorative process during the Restorative Hearing; c) to allow for the expression of emotions, requests, and proposals; d) to explore potential points of agreement in the dialogue; and (e) to facilitate the creation of possible agreements between the parties.
- The Restorative Hearing should be a dialogue space where victims not only express their demands for truth and acknowledgment, but also share emotions, such as the pain and harm they have suffered.

¹⁸⁴ Restorative justice hearing in processes of absence of acknowledgment of the SJP: A Possible utopia? By Daniela Escallón. In the book *Restorative Justice in Transitional Contexts*. 2021.



- During both the mediation process and the Restorative Hearing, confidentiality, care, and respect for emotions and topics addressed are essential to maintain a safe environment for expressing questions, answers, and emotions.

This chapter has outlined key restorative objectives guiding the Jurisdiction's actions, as well as general recommendations based on accumulated experience, which are essential for achieving these goals.

It also specifies restorative objectives for key procedures within the SJP's activity, proposing recommendations to ensure compliance. Additionally, the restorative goals of certain critical procedural stages conducted by the judicial panels and chambers have been discussed, offering specific recommendations to ensure their effectiveness, while respecting judicial autonomy.

The next chapter of the Manual will present criteria for assessing the transformative effects of the SJP's application of Restorative Transitional Justice.

CHAPTER IV



How to evaluate and monitor the restorative processes

This chapter outlines standards, indicators, and monitoring mechanisms designed to document and assess the impact of restorative transitional processes within the SJP. This includes monitoring the actions implemented and evaluating the outcomes achieved¹⁸⁵.

As a starting point, it is important to note that in transitional justice, international standards embedded in various legal frameworks play a central role in ensuring victims' rights to truth, justice, reparation, and guarantees of non-repetition¹⁸⁶. These have been integrated into the jurisprudence of the Constitutional Court, which incorporates standards encompassed in the Joinet Principles, Van Boven Principles, Orenlichter Guidelines, and Bassiouni Guidelines¹⁸⁷.

The standards of truth, justice, reparation, and non-repetition, as developed and applied by the SJP in its role as the administrator of transitional justice in Colombia, form a key part of its mandate and provide a way to measure compliance. Key standards include:

¹⁸⁵ United Nations Office on Drugs and Crime. *Restorative Justice Program Manual*, (2006), p. 81-82. Available at: https://www.unodc.org/documents/justice-and-prison-reform/Manual_sobre_programas_de_justicia_reparativa.pdf

¹⁸⁶ Charter of the United Nations; Universal Declaration of Human Rights; International Covenant on Civil and Political Rights; International Convention for the Protection of All Persons from Enforced Disappearance; Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment; International Convention on the Elimination of All Forms of Racial Discrimination; Convention on the Rights of the Child; Updated Set of Principles for the Protection and Promotion of Human Rights through Action to Combat Impunity; Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law.

¹⁸⁷ Constitutional Court of Colombia, Plenary Chamber, Ruling C-588 of 2019, P.J. José Fernando Reyes Cuartas.

The Right to Truth: This standard safeguards the right to know what happened and ensures that the truth uncovered in the process aligns with the material truth. Its guarantee can emerge in both judicial and non-judicial settings and involves understanding “the facts that constitute the violation of rights, the circumstances of time, manner, and place, the identities of those responsible, the motives for the crimes, and the patterns underlying their execution”¹⁸⁸. According to the Court, this right: (i) encompasses the inalienable right to truth, the duty to remember, and the right of victims to know; and (ii) has both individual and collective aspects, addressing the needs of both directly affected individuals and society, to understand what happened. Within the SJP, the right to truth includes not only material facts but also the victims’ experiences, ensuring that their voices are fully heard within this broader truth-seeking process¹⁸⁹.

The Right to Justice: This is generally understood as the right to avoid impunity, ensuring access to an effective judicial remedy to bring the defendant to trial. This right entails the State’s duty to investigate and prosecute those responsible for the crime, guaranteeing adherence to due process. Additionally, the Tribunal has affirmed that it includes the right for defendants to be effectively sanctioned. However, the effectiveness of the sanction faces significant limitations if confined solely to traditional imprisonment. These limitations include the inability to fully address the harm done, the real impact on the lives of victims, the reintegration of defendants, and the assurance of non-repetition. Through its Conditionality Regime, the SJP offers an alternative path for those who acknowledge responsibility and its consequences¹⁹⁰.

The Right to Comprehensive Reparation: This right is supported by the SJP through its justice mandate, seeking to address the harm inflicted on victims. This right encompasses demands for restitution, compensation, rehabilitation, satisfaction, and non-repetition. Ac-

cording to case law, full restitution involves “restoring the victim to the situation prior to the violation, including the restitution of lands that were usurped or dispossessed”¹⁹¹. Additionally, it requires the State to adopt “rehabilitation measures for the harm caused, such as medical and psychological care and the provision of necessary social services”¹⁹² to restore both the physical and psychological wellbeing of victims.

The Right to Non-repetition: This includes measures aimed at “ensuring that victimizing events are not repeated”¹⁹³.

Since these standards apply to a transitional justice model, they serve as an indispensable foundation but remain insufficient for evaluating and monitoring the actions of the SJP. Therefore, it is necessary to adapt and expand these basic standards, considering those developed within restorative justice models around the world¹⁹⁴.

Although still limited, efforts have been made to establish evaluation and monitoring methods for restorative justice processes, focusing on indicators such as *relief, satisfaction, desertion, recidivism, agreements reached, and costs*. These indicators, combined with transitional justice standards, are important tools for recording and monitoring the impacts of the SJP’s Restorative Transitional Justice processes.

The following diagram outlines the traditional evaluation indicators used in restorative justice:

¹⁸⁸ Constitutional Court of Colombia, Plenary Chamber, Ruling C-588 of 2019, P.J. José Fernando Reyes Cuartas, Consideration 21.

¹⁸⁹ *Ibid.*

¹⁹⁰ Constitutional Court of Colombia, Plenary Chamber, Ruling C-588 of 2019, P.J. José Fernando Reyes Cuartas, Consideration 22.

¹⁹¹ Constitutional Court of Colombia, Plenary Chamber, Ruling C-588 of 2019, P.J. José Fernando Reyes Cuartas, Consideration 23.

¹⁹² *Ibid.*

¹⁹³ *Ibid.*

¹⁹⁴ James Bonta, et al. *An outcome evaluation of a restorative justice alternative to incarceration*. Rev. Contemporary Justice Review, vol. No. 4, (2002), p. 319-338.

The emotional relief of victims¹⁹⁵.

Overall satisfaction includes both the parties' contentment with the process itself and with the reparation agreements that are reached¹⁹⁶.

Victim satisfaction with the process should consider several aspects: (i) how their case was managed; (ii) the outcome; (iii) the role of the facilitator; (iv) the perceived fairness of the process; and (v) interactions with the defendants¹⁹⁷.

The desertion of the defendants.

The recidivism of the defendants.

Number of agreements reached and level of compliance.

Number of victim-defendant mediation sessions.

The costs and time involved in the processes.

However, since the SJP deals primarily with war crimes and crimes against humanity—and is only one part of the broader state obligations during the transition—evaluating it solely based on emotional relief, satisfaction, or recidivism and desertion would be insufficient.

Therefore, **while it is essential to keep these criteria in mind, this Manual proposes basic indicators rooted in the transformative impact of the SJP's Restorative Transitional Justice.**

These indicators can be tracked through satisfaction questionnaires, interviews with participants, and the systematization of **best practices**.

¹⁹⁵ Emotional relief refers to the transformation or lessening of the intensity of negative emotions connected to the victimizing event, such as humiliation, fear, anxiety, resentment, despair, guilt, and shame, among others. See: Derek R. Brookes. *Evaluating Restorative Justice Programs*. *Rev. Humanity & Society*, vol. No. 1, (1998), p. 23-37.

¹⁹⁶ Satisfaction with the implementation of restorative justice programs is often assessed by evaluating the effectiveness of the preparatory processes, the quality of the mediation scenarios (whether direct or indirect), the success of the reparation agreements, the forms of participation offered, and the extent to which reintegration into society is facilitated. See: Bazemore, G., & Schiff, M. (2001). *Satisfaction Guaranteed? The Meaning of Satisfaction in Restorative Justice*. In: *Restorative Community Justice: Repairing Harm and Transforming Communities* (1st ed.). Routledge. p. 47-52 <https://doi.org/10.4324/9781315721347>; Shapland, J.; Atkinson, A.; Atkinson, H.; Chapman, B.; Dignan, J.; Howes, M.; Johnstone, J.; Robinson, G.; & Sorsby, A. (2007). *Restorative justice: the views of victims and offenders. The third report from the evaluation of three schemes*. Available at: <https://acortar.link/Ty2S5h>.

¹⁹⁷ United Nations Office on Drugs and Crime. *Restorative Justice Program Manual*, (2006), p. 83. Available at: https://www.unodc.org/documents/justice-and-prison-reform/Manual_sobre_programas_de_justicia_resta.pdf

tices, which will help guide the development and implementation of new programs¹⁹⁸. To achieve this, it is important to gather information early in the implementation process and maintain ongoing data collection. However, there are limitations in evaluating Restorative Transitional Justice processes: 1) the impact is not always easy to measure; 2) transformations can occur in a non-linear and cyclical manner (restorative processes are not always straightforward); and 3) the sustainability of these transformations over time depends on external factors such as public policies and regulatory frameworks that ensure continuity¹⁹⁹.

Criteria for the construction of restorative justice indicators in the SJP

The evaluation areas of Restorative Transitional Justice in the SJP are outlined below, focusing on three key aspects: (i) formative evaluation—conducted throughout the process, allowing participants to provide feedback during implementation; (ii) summative evaluation—focused on the outcomes of the process; and (iii) impact assessment.

These criteria incorporate adaptations of transitional and restorative justice measurement standards, ensuring they align with the seven pillars presented in *Chapter I*. The areas should be tailored to the specifics of each case and to reflect the availability of data and the capacity of a qualified evaluation team.

Formative assessment

Defendants:

- **Expansion of recognition:** A qualitative assessment of the process of acknowledging responsibility, both in private written versions and during public hearings.

¹⁹⁸ United Nations Office on Drugs and Crime, *Op. cit.*, p. 81.

¹⁹⁹ United Nations Office on Drugs and Crime, *Op. cit.*, p. 83.

- **Acknowledgment of the harm caused:** A qualitative evaluation of the acknowledgment of harm inflicted on victims, previously characterized for each case, presented during public hearings.
- **Building trust in the process:** A qualitative measurement of emotional transitions during the process, such as moving from anxiety to a sense of calm.
- **Responding to collective demands for the truth:** A qualitative assessment of the extent to which collective truth demands from victims have been addressed during the restorative process.
- **Participation:** A quantitative measure of the number of defendants involved in the Jurisdiction's restorative processes, including submission and restorative meetings.
- **Desertion:** A quantitative tracking of defendants who drop out of the SJP process (incidents of non-compliance). A qualitative evaluation of the reasons behind these non-compliance incidents.
- **Process acceptability:** A qualitative evaluation of satisfaction levels at various stages of the process.

Victims:

- **Participation:** The number of accredited victims. The number of restorative meetings held, and the number of participants involved in each. The number of territories that have been accredited and are hosting participation processes. The number of reports received.
- **Process acceptability:** A qualitative evaluation of victims' satisfaction levels at various stages of the process.
- **Quality of participation:** A qualitative assessment of how the participation of victims in the Jurisdiction contributes to reparative outcomes and influences judicial proceedings and decisions.
- **Direct meetings between victims and defendants:** A qualitative assessment of the outcomes of each meeting in terms of the objectives and satisfaction levels of all parties. It is crucial that these encounters are guided by a strict principle

of voluntary participation. Not all individuals may be ready for direct engagement; such meetings require clear goals and managed expectations through careful preparation of both parties and strong support during and after the interaction.

Victims' representatives:

- **Process acceptability:** A qualitative evaluation of victims' satisfaction levels at various stages of the process.

To enhance formative assessment, data beyond what is available in the SJP's information systems should be gathered through follow-up interviews and survey-based questionnaires. These tools can be administered by an interdisciplinary team of social sciences professionals trained in restorative justice, following a well-defined research plan.

Summative assessment

- **Capacity Building:** The number of people trained in restorative justice and mediation. The number of methodologies developed. This indicator provides a global evaluation of the SJP's efforts but does not reflect the specific outcomes of individual restorative processes.
- **Compliance with agreements:** Percentage of compliance with agreements made during specific procedures, with particular emphasis on the fulfillment of Clear, Concrete, and Scheduled Commitments²⁰⁰.
- **Results of protection measures:** Quantitative indicator to assess the search efforts undertaken (including cases where no bodies are identified, as this is still considered a result). Qualitative and quantitative evaluation of how well state entities comply with orders issued within the framework of precautionary measures.

²⁰⁰ Special Jurisdiction for Peace and the Universidad Nacional de Colombia. Guide on Defendants' Rights and Duties in the SJP, (2020). Available at: <https://nacrtar.link/xck114>.

Impact Assessment

- **Recidivism of defendants in crimes:** Quantitative evaluation of how often defendants reoffend and commit crimes and human rights violations.
- **Reintegration and return to civilian life:** Qualitative assessment of the defendants' efforts to rebuild their plans.
- **Transformation of perceptions about justice:** Measurement of social change in participants' concepts of justice due to their involvement in SJP processes. Establishing a baseline is necessary to determine whether shifts in perceptions occur over time.
- **Restoration of victims and communities:** Compliance with restorative standards related to acknowledgment, rebuilding civil trust, and restoring the social fabric of victims and communities affected by the conflict, including the impact of special restorative sanctions and TOARs. These standards are developed in collaboration with victims and communities through participatory processes, and will be outlined in the section dedicated to measuring the restorative impact of the TOARs.

Additionally, **within the impact assessment framework, restorative processes in the SJP should be evaluated and monitored for their contribution to transforming perceptions, relationships, emotions, and living conditions²⁰¹**. Each of these transformative areas can be further divided into more specific elements, as detailed below in Table 3:

Table 3: Transformation indicators for Restorative Transitional Justice in the SJP

Transformation areas	Aspects
Perceptions	of crime
	of others
	of him/herself
	of the context
Relationships	with others (victim/defendant)
	with the territory
	with the State
	with the family environment
	with the work environment
Emotions	Relief
	Sense of calm
	Hope
	Happiness
	Solace
	Sense of overcoming difficulties
Living conditions	Health and wellbeing
	Goods and services
	Sustenance
	Social and territorial incorporation

Source: Executive Secretariat, Advisory Office of Restorative Justice, 2024.

Changes promoted by Restorative Transitional Justice must align with peace indicators in political terms, but they also need to be felt in everyday life. This is why the proposed transformation areas—perceptions, relationships, emotions, and living conditions—are closely tied to people's daily experiences in the transition process. For instance, the emotion of feeling calm may

²⁰¹ Derek R. Brookes. *Evaluating Restorative Justice Programs*. Rev. Humanity & Society, vol. No. 1, (1998).



be connected to feelings of safety, freedom of movement, or restored confidence. Transformations in perceptions could reflect reduced stigmatization tied to conflict dynamics in day-to-day interactions. Shifts in relationships can be assessed through their impact on social cohesion, such as the emergence of collective practices or cultural and sports activities, or by examining reincorporation into family, social, economic, or political life. These transformations are viewed through an intergenerational lens, with a gender-based and intersectional approach.²⁰²

Evaluating the impacts of the SJP's Restorative Transitional Justice can be achieved through various studies, in collaboration with nationally and internationally recognized research institutions that specialize in measuring transitional and restorative justice processes.

²⁰² See: EPI Codebook – Antioquia, Colombia. Available at: <https://www.everydaypeaceindicators.org/>.

Indicators for measuring the restorative content of TOARs

Based on the above, a set of indicators has been developed to assess the restorative content of the TOARs. These indicators were previously noted as criteria for the design of restorative projects (see *Chapter II* on the Restorative System), but here they are expanded to reflect their potential as indicators.

- **Participation:** Effective participation within restorative justice involves creating spaces for dialogue, consultation, and collaborative work between victims, defendants, and in some instances, entire communities. The process of building TOARs must explore victim expectations for reparation and restoration, along with concerns, conceptions, commitments to non-repetition, and mutual perceptions. This participatory process must be in harmony with the traditions, customs, stories, narratives, and cultures of the communities involved, thereby enriching the proposed measures of reparation and restoration.

While victims and their organizations play a crucial role, restorative justice broadens participation to include communities, territories, local leaders, and other relevant actors. This inclusivity aims to reshape perceptions of the defendants, challenging deeply entrenched pre-conceptions and transforming them in a way that strengthens social bonds. In doing so, it builds broader measures that contribute to reparation and restoration, creating lasting impacts in the affected territories.

For Indigenous, NARP, or Romani victims, it is essential to integrate the reparative and restorative practices of their justice systems, respecting and valuing their unique perspectives in the process of reparation and restoration.

- **Victim-centeredness:** The restorative meaning assigned to any TOAR project is built together with the victims and communities. This approach must be implemented through a participatory process involving the defendant, affected communities, territories, and relevant institutional entities.

- **Dialogue about harm and/or impacts:** Unlike retributive justice, restorative justice bases sanctions on an acknowledgment of responsibility, a meaningful contribution to truth, and a focus on restoring the dignity of the victims and repairing harm caused. For this reason, the TOARs must address the different types of harm experienced by victims, their communities, and territories, which are often multidimensional due to the nature of the armed conflict.

The SJP's Restorative Transitional Justice does not seek direct reparation for specific harm experienced by an individual or group that was caused by a defendant or group of defendants. However, it does promote the creation of measures with a significant restorative impact on groups of victims that is centered on memory, dignity, and the acknowledgment of the victims and their families.

- **Link with reintegration, the return to civilian life, and creation of a plan for the future:** The process of reincorporation and the return to civilian life for defendants is structured to promote actions that contribute to rebuilding the social fabric damaged by the conflict and ensuring guarantees of non-repetition. It is essential that the TOARs be designed in a way that does not disrupt the reintegration process, whether on an individual or collective level, as defendants transition back to civilian life. The planned activities should support the continuation of resocialization efforts and ensure compliance with the commitments made with the SJP.

Moreover, it is essential to ensure that those involved, recognized as subjects of rights, enjoy dignified conditions while contributing to reparation and restoration. This includes ensuring their safety, access to adequate living conditions, healthcare, food, hydration, and basic needs, as well as logistical support such as transportation, provision of necessary supplies, medical check-ups, and risk coverage (through the Occupational Risk Administrators and/or insurance) for the safe and effective implementation of project activities.

- **Accountability. Incorporation of moral, social, and symbolic sanctions:** A key pillar of restorative justice is the assumption of responsi-

bility by the defendant for their actions and a deep understanding of the consequences, including the harm caused to victims, communities, and territories. In the context of transitional justice, this responsibility is expressed through multiple channels: the judicial authority that upholds the victims' rights, the voice of the victims recounting their experiences, and, crucially, the defendant's own reflection, ethical awareness, and public acknowledgment of their actions. Within the TOARs, acknowledging responsibility goes beyond a judicial requirement; it is a profound process involving reflection, ethical consciousness, and a genuine commitment to a restorative journey that prioritizes the dignity and reparation of the victims.

If a particular initiative does not initially include this element of accountability, it will be integrated into its design and implementation. This ensures that the defendant's acknowledgment of harm becomes a fundamental aspect of the process, fostering active participation by the victims and respecting their central role in their own reparation.

- **Dignification and memorialization:** It is essential for initiatives to include elements of memorialization and dignification that respect plans and mourning practices of the victims and communities involved. The collaborative creation of meaning within each project allows dignity to be restored to the victims, the affected territories, and their communities. This process honors their memory, safeguards their reputation, fosters non-repetition, and delegitimizes the dynamics that fueled the conflict. Symbols, rich in emotional and transformative potential, are pivotal in the recovery of memory and reshaping perceptions, playing a key role in reconstructing both the social fabric and the territories ravaged by the conflict.

The symbolic value of these initiatives should not be viewed as secondary. The material aspects of a project are insepa-

table from the significance that emerges through dialogue between the involved parties. In fact, when the material outcomes are the result of collective consensus and joint effort, they inherently carry profound symbolic meaning.

- **Prospective vocation and contribution to non-repetition:** Initiatives must go beyond addressing the immediate harm and aim for a sustained, long-term impact that benefits both the present and the future. Their core objective should be active accountability, contributing to the reconstruction of the social fabric and fostering conditions for a dignified life, with positive effects on future generations and the prevention of future conflicts. This long-term approach is vital for non-repetition, as TOAR initiatives should aim to transform relationships at multiple levels:



- At the individual level, promoting changes in perceptions, emotions, and living conditions for both victims and defendants.
- At the community level, encouraging shifts in ethical and cultural norms that perpetuate conflict, such as the glorification of violence or lack of peaceful conflict-resolution skills.
- At the institutional level, contributing to the transformation of practices and power structures that sustain discrimination, exclusion, and revictimization within institutional frameworks.

This comprehensive approach not only repairs the harm caused but also lays the groundwork for peaceful coexistence, helping ensure that future conflicts do not arise.

- **Contribution to reconciliation:** Reconciliation refers to the collective effort behind initiatives, plans, and projects aimed at repairing broken relationships, fostering coexistence, and strengthening civic trust. However, reconciliation is neither straightforward nor rapid. It must be viewed as dynamic and sometimes fluctuating, where individuals and communities gradually shift their perceptions and attitudes toward each other. This path towards reconciliation is delicate, marked by both progress and setbacks, as stereotypes, stigmas, and old wounds are continually reexamined. In this context, reconciliation is a sustained pursuit of common ground.

The TOARs serve as platforms to facilitate these encounters, contributing step by step to the broader process of reconciliation. Initial steps may be modest: from basic tolerance and recognition of the other, to coexistence without direct engagement, or even a contentious coexistence where conflicts can be resolved peacefully. While TOARs may not lead to full reconciliation, they can act as catalysts for these crucial beginnings.

It is essential to acknowledge that reconciliation does not equate to forgiveness. Requiring victims to forgive would create an imbalance, shifting the burden of acknowledgment from the defendants to the victims. Forgiveness, if it occurs, must arise naturally from the process of reconciliation, not as an imposed condition.

- **Recognition and integration of differential approaches and intersectionality:** The armed conflict has impacted victims, communities, and territories in distinct ways, making it essential for TOARs to incorporate differential and intersectional approaches. This acknowledges how structural violence has affected various populations differently within the context of the conflict. Consequently, it is critical for plans, programs, and projects to be tailored to these diverse realities, actively ensuring the inclusion of victims, communities, and defendants, and implementing approaches that respect and respond to these differences.

Following an analysis of Restorative Transitional Justice within the specific contexts and procedures of the SJP in *Chapter III*, this section introduces indicators and monitoring strategies to evaluate the effectiveness of the SJP's Restorative Transitional Justice initiatives.

Key areas covered by these indicators include emotional relief for victims, participant satisfaction with the process and outcomes—such as reparation agreements—and rates of desertion and recidivism among the defendants. Special attention is given to the quality of victim participation and the success of direct meetings between victims and defendants, emphasizing their importance as key indicators of success of the restorative process. Additionally, the Restorative Transitional Justice evaluation process should track changes in perceptions, relationships, emotions, and living conditions brought about by these processes.

In conclusion, the ongoing monitoring and assessment of Restorative Transitional Justice within the SJP are crucial for ensuring that the goals of reparation, reconciliation, and peacebuilding in Colombia are met. This analysis ensures that implemented measures effectively contribute to the overall objectives of Restorative Transitional Justice.

FINAL CONSIDERATIONS

The following points summarize the central themes discussed across the four chapters of this Manual:

Restorative Transitional Justice in the SJP:

The Special Jurisdiction for Peace (SJP) integrates both transitional and restorative justice in its processes, aiming not only for lasting peace but also accountability for serious crimes. It emphasizes the reparation of harm and the fulfillment of rights of the victims of the armed conflict in Colombia. Additionally, the SJP seeks the reintegration of those responsible for crimes, as well as the restoration of affected communities' social fabric. Through its focus on victims' needs, the acknowledgment of responsibility, and the pursuit of the truth, the SJP paves the way toward community reintegration for defendants, while victims receive validation, recognition, and dignity.

However, this transitional restorative justice model also presents challenges. The SJP must ensure that the integration of transitional and restorative justice remains consistent, particularly given the complexity of addressing the vast number of crimes committed over decades of conflict. Due to the sheer volume of crimes, restorative justice cannot be achieved solely through individual victim participation. Consequently, collective victim participation becomes crucial to comprehensively meet both individual and community needs.

Restorative Transitional Justice as a process:

Restorative Transitional Justice is a gradual and evolving process that requires thorough preparation from all actors involved. It focuses on providing both victims and defendants with the tools needed to cultivate an atmosphere of constructive dialogue, active listening, and effective communication. Beyond merely imposing sanctions aimed at reparation and restoration, the SJP strives to create a judicial process that signifies a profound shift—a before and after moment—with transformative effects. Therefore, every restorative measure implemented by the SJP is seen as a vital contribution to comprehensive reparation.

Restorative Transitional Justice as a framework for collective reparation and restoration:

The SJP highlights the collective approach to victim reparation and the restoration of the harm caused, aimed at addressing the lasting effects of the armed conflict. While the SJP does not directly provide individual reparations or financial compensation, it places obligations on defendants to contribute to broader reparation and restoration efforts. These responsibilities are fulfilled through TOARs, which address varying degrees of harm within restorative projects.

Restorative Transitional Justice as a set of procedures:

The success of restorative elements in the SJP depends on how procedures and actions are carried out across its various processes. Each procedural stage, whether specific or overarching, is aligned with restorative objectives that can be achieved through best practices, which should be systematically reviewed and continuously improved.

Restorative Transitional Justice as a driver of measurable transformations:

The integration of transitional and restorative justice principles not only poses challenges in the design and implementation of procedures and specific mechanisms, but also leads to significant challenges in measuring their impact. The Manual proposes indicators that blend typical transitional justice standards with restorative justice metrics. It stresses that the evaluation of these processes of Restorative Transitional Justice should focus on their ability to transform perceptions, relationships, emotions, and living conditions, capturing the true extent of their impact.

Acronym index:

- **AFP:** Final Agreement to End the Armed Conflict and Build a Stable and Lasting Peace
- **ARN:** Agency for Reincorporation and Normalization
- **CEV:** Commission for the Clarification of Truth, Coexistence, and Non-Repetition
- **CCCP:** Clear, Concrete, and Scheduled Commitments
- **GRAI:** Information Analysis Group
- **JEI:** Special Indigenous Jurisdiction
- **SJP:** Special Jurisdiction for Peace
- **LGBTI:** Lesbian, gay, bisexual, transgender, or intersex
- **RC:** Conditionality Refime
- **SA:** Appeals Chamber
- **SAAD:** Autonomous Advisory and Defense System
- **SAI:** Judicial Panel for Amnesty or Pardon
- **SARVR or SAR:** First Instance Chamber in Cases of Absence of Acknowledgement of Truth and Responsibility
- **SDSJ:** Judicial Panel for Determination of Legal Situations
- **SE:** Executive Secretariat
- **SIP:** Comprehensive System for Peace.
- **SR:** Review Chamber
- **SeVR:** First Instance Chamber for Cases of Acknowledgment of Truth and Responsibility
- **SRVR:** Juducual Panel for Acknowledgment of Truth, Responsibility, and Determination of Facts and Conduct
- **TOAR:** Activities, Works, and Actions with Reparative-Restorative content
- **UARIV:** Unit for Comprehensive Assistance and Reparations for Victims
- **UBPD:** Unit for the Search of Persons presumed to be Disappeared in the context and due to the armed conflict

Index of figure

Figure 1. Actors and Objectives of Restorative Justice in Ordinary Contexts	32
Figure 2. Actors and Objectives of Restorative Justice in Transitional Contexts	37
Figure 3. Actors of Restorative Transitional Justice in the SJP	47
Figure 4. Process for dialogic construction of proposals and actions with reparative-restorative content	81
Figure 5. Dialogic contribution to truth	89
Figure 6. The restorative aspect of acknowledgment in the SJP	91
Figure 7. From the contribution to the truth to the acknowledgment of responsibility	94

Index of tables:

Table 1. Types of harm addressed in the contributions to reparation and restoration in the SJP	57
Table 2. Examples of contribution to comprehensive reparation in the SJP	59
Table 3. Transformation indicators	195

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