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Nina Schniederjahn

The Role of Human Rights in Peace Negotiations

A Functional Analysis of the Colombian
Peace Process and Its Transferability



Wolfgang Metzner Verlag

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und Konfliktmanagement
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Preface

Peace processes and the negotiations that accompany them are among the most complex political undertakings in international relations. In a world where violent conflicts continue to influence global politics and humanitarian crises affect millions of people, the question of how to negotiate peace in a manner that is both politically feasible and normatively grounded has become more pressing than ever. In recent years, the role of human rights in peace negotiations has increasingly moved into focus as scholars and practitioners have recognized that many armed conflicts are rooted in systematic human rights violations and that lasting peace requires addressing these underlying grievances. This work aims to contribute to this evolving debate and the broader effort to understand how human rights can support the creation of more inclusive and sustainable peace processes.

The research and writing of this work benefited from the support and encouragement of many people. I am particularly grateful to Prof. Dr. Lars Kirchhoff for his thoughtful feedback and the inspiring exchange of ideas throughout the development of this project. I would also like to thank those responsible for the Master's programme in Mediation and Conflict Management, especially Prof. Dr. Ulla Gläßer LL.M. and Kirsten Schroeter.

My deepest gratitude goes to my family. I am especially grateful to my husband Till, whose unwavering support, encouragement, and patience were a constant source of strength throughout the writing process and greatly contributed to the completion of this work. I am also grateful to my children, Junis and Milan, whose curiosity and joyful nature constantly remind me of the importance of pursuing peaceful and just societies. I sincerely hope that they will grow up in a world where conflicts are resolved through dialogue rather than violence.

Nina Schniederjahn

Berlin, March 2026

List of Abbreviations

A

AUC Autodefensas Unidas de Colombia

C

CEDAW Convention on the Elimination of All Forms of Discrimination against Women

CNRR National Commission for Reparation and Reconciliation
CPA Comprehensive Peace Agreement (Sudan)

D

DPPA Department of Political and Peacebuilding Affairs (UN)

E

ESCR Economic, Social and Cultural Rights

EU European Union

F

FARC-EP Fuerzas Armadas Revolucionarias de Colombia – Ejército del Pueblo

I

IACtHR Inter-American Court of Human Rights

ICC International Criminal Court

IGAD Intergovernmental Authority on Development

J

JEP Jurisdicción Especial para la Paz

JPA Juba Peace Agreement (Sudan)

L

LGBTI Lesbian, Gay, Bisexual, Transgender and Intersexual

O

OHCHR Office of the High Commissioner for Human Rights

R

RSF Rapid Support Forces (Sudan)

S

SAF Sudanese Armed Forces

SPLM Sudan People's Liberation Movement

U

UN United Nations

UNAMID African Union/United Nations Hybrid Operation in Darfur

UNDP United Nations Development Programme

UNOCHA United Nations Office for the Coordination of Humanitarian Affairs

UP Unión Patriótica (Colombia)

1. Introduction

Human rights violations are often both cause and symptom of violent conflict, making them central to its resolution. Historically, human rights and peace negotiations as well as mediation have evolved independently, with mediators focusing on facilitating dialogue and human rights actors focusing on legal accountability.¹ Over the past decade, the relationship between human rights and peace negotiation has received increasing attention from both scholars and practitioners.² International organizations and policy-oriented research initiatives have increasingly sought to bridge these fields, a development that was consolidated and systematized with the adoption of the UN DPPA Practice Note on Integrating Human Rights into Mediation Processes in 2023.³

Despite this growing body of work, important analytical gaps remain regarding the conditions under which the integration of human rights has been effective or problematic and the lessons that can be drawn from these conditions for future peace negotiations. This study addresses these gaps by examining the role that human rights can play in international peace negotiations and their potential to contribute to the success of such processes. Using the Colombian peace process as a case study, it explores how human rights were integrated into the negotiations between the Colombian government and the FARC-EP, what successes and challenges emerged in the process, and whether transferable best practices for future peace negotiations can be identified. The Colombian process was marked by a strong emphasis on legal norms and international involvement, with human rights playing a central role throughout.

In pursuing this research objective, the study engages with the literature on mediation and human rights, while its analytical focus lies on peace negotiations rather than on mediation. Mediation is introduced as a conceptual entry point because much of the existing debate on human rights in peace processes has developed within mediation frameworks, particularly in United Nations policy and practice.

The empirical analysis, however, concentrates on negotiation processes themselves. This choice reflects the structure of the Colombian peace pro-

¹ See Parlevliet, pp. 18 ff.

² See Månsson; Parlevliet.

³ DPPA-OHCHR Practice Note.

cess, in which formal negotiations between the parties constituted the primary arena in which human rights shaped conflict analysis, trust-building, the definition of legal boundaries and the design of transitional justice mechanisms. Rather than examining the role or perceptions of mediators, the study analyzes how human rights functioned within the negotiations.

To examine these questions, the study begins by outlining the evolving debate on the role of human rights in peace processes. Building on this foundation, it develops a functional framework that distinguishes four key roles human rights can play in peace negotiations: an analytical, relational, normative and strategic function. Before applying this framework, the study provides a brief overview of the armed conflict in Colombia and the negotiation process between the government and the FARC-EP. The main chapter then applies the functional framework to analyze how human rights shaped the Colombian peace process and assess the key successes and challenges that emerged. The subsequent chapter examines the transferability of these findings, with particular focus on the relational function of human rights. Sudan serves as a comparative case, as its evidently different context offers a meaningful contrast to test the relevance and adaptability of the relational elements identified in Colombia. As Sudan is currently experiencing an armed conflict that has resulted in one of the world's most severe humanitarian crises, the need for a peaceful resolution and inclusive dialogue is especially urgent.⁴ This chapter investigates whether the relational elements developed in Colombia, especially the inclusion of victims, civil society and women, could provide useful guidance for future peace efforts in similar fragile contexts. The concluding section summarizes the main findings and considers the broader relevance of human rights in future peace negotiations.

⁴ For an overview of the humanitarian situation in Sudan, see UNOCHA, 2025.

2. The Role of Human Rights in Peace Mediation

Over the past decades, the fields of human rights and conflict resolution have evolved largely independently. While peace mediation practitioners primarily focus on facilitating dialogue and problem-solving through impartial and structured negotiation processes, human rights actors concentrate on the promotion and protection of international legal norms.⁵ This separation has persisted despite the evident interdependence between the two domains, since human rights violations often lie at the origin of violent conflicts and continue to shape its aftermath, placing human rights at the center of any lasting peace effort.⁶

Although human rights are often invoked as fundamental to lasting peace, their concrete role within peace mediation remains mostly underexplored in both theory and practice.⁷ Interviews conducted by *Månsson* with representatives of non-official mediation organizations reveal that human rights were largely absent from their operational frameworks.⁸ This gap is particularly notable given that one of the core objectives of peace mediation is to end and prevent further human rights violations.⁹ The international understanding of human rights, as expressed in the Universal Declaration of Human Rights and reflected in the United Nations Charter, recognizes them as essential to achieving peace and security.¹⁰

In practice, international conflict management necessarily operates within a broader legal and normative framework that includes human rights standards.¹¹ Increasingly, peace mediation is shaped by such normative frameworks, as reflected in key documents like the *UN Guidance for Effective Mediation*, which emphasizes compliance with international humanitarian, human rights and refugee law, as well as international criminal law, including the Rome Statute.¹² However, the question of how, to what extent, and under what conditions these standards should be incor-

⁵ Schmelzle/Dudouet, pp. 5f.

⁶ Manikkalingam, pp. 3f.

⁷ Månsson, p. 35.

⁸ Månsson, *Journal of Human Rights Practice* 15, p. 813.

⁹ Månsson, *Journal of Human Rights Practice* 15, p. 807.

¹⁰ This is already evident in the first sentence of the Preamble to the Universal Declaration of Human Rights, which refers to human rights as the foundation for peace.

¹¹ Kastner, *Swiss Political Science Review* (2021) Vol. 26(4), pp. 368 ff.

¹² See *UN Guidance for Effective Mediation*, p. 16.

porated into peace mediation is still being debated.¹³ Current discussions oscillate between calls for more normatively driven approaches on the one hand, and concerns over the potential rigidity and overload caused by excessive normative expectations on the other.¹⁴ The United Nations, as a key actor in international mediation, is explicitly bound by international law and human rights obligations and thus engages in what has been termed »normative mediation«.¹⁵ The UN's *Guidance for Effective Mediation* reinforces this position by asserting that »consistency with international law and norms contributes to reinforcing the legitimacy of a process and the durability of a peace agreement«.¹⁶

In light of the evolving debate on the relationship between human rights and peace mediation, there is growing scholarly interest in identifying common ground and complementary approaches. Recent literature seeks to identify strategies for better aligning human rights principles with mediation frameworks in order to foster more sustainable and just peace processes. The following section provides the conceptual and analytical foundation for the subsequent case study on the Colombian peace process. It outlines the evolving debate on human rights in peace mediation, tracing the shift from perceived tensions to more integrative approaches. It also examines the various roles that human rights can play in mediation processes, with a focus on their ability to improve conflict analysis, foster inclusion, establish normative boundaries and support transitional justice mechanisms.

2.1. Evolving Debate on Human Rights in Peace Mediation

In recent years, the academic and practical debate on human rights in peace mediation has undergone a significant shift. What was once dominated by narratives of incompatibility is increasingly characterized by efforts to harmonize and integrate the two fields.¹⁷ The evolution of this discourse reflects both a growing awareness of the limitations of isolated

¹³ See Holper/Kirchhoff/Würkert, *Zeitschrift für Friedens- u. Konfliktlösung* 10 (2021), p. 47; Hellmüller, *Swiss Political Science Review* (2021) Vol. 26(4), p. 346; Ozcelik, pp. 93 ff.

¹⁴ Wählich, *Global Policy* (2016) 7:2, p. 265; Kastner (2015), pp. 123 ff.; Ozcelik, pp. 93 ff.

¹⁵ Månsson, *Journal of Human Rights Practice* 15, p. 810.

¹⁶ UN *Guidance for Effective Mediation*, p. 16.

¹⁷ Parlevliet, pp. 36 ff.

approaches and an increasing recognition of the shared goals and complementary functions of human rights and mediation in achieving sustainable peace.¹⁸

2.1.1. Initial Perception of Incompatibility

In the past, the relationship between human rights and peace mediation was often considered problematic or even fundamentally incompatible. Early literature in both fields tended to stress their differences, particularly with regard to different logics, priorities, and methods.¹⁹ This polarization was often described as a conflict between »peace and justice«, reflecting the fact that the two fields frequently adopt different approaches to the concept of justice.²⁰ While human rights actors usually focus on legal accountability for serious violations, mediators often take a more pragmatic approach, viewing justice primarily in terms of what the parties themselves consider fair and acceptable within the context of a negotiated settlement.²¹

These tensions were also reflected in practice, where mediators frequently hesitated to bring human rights into negotiations due to the perception that they are mainly concerned with criminal accountability.²² This view raised fears that rights-based approaches might complicate sensitive negotiations, particularly in transitional justice contexts. Such tensions often became apparent in discussions around amnesty provisions or demands for truth and reparations. In these settings, human rights advocates generally prioritize justice as a foundation for sustainable peace, whereas mediators usually prioritize the immediate cessation of violence and political stability.²³ Consequently, human rights are sometimes viewed as being too legalistic or moralistic, which could potentially restrict the flexibility required to bring parties to the negotiating table.²⁴ Overall, these early views contributed to a widespread perception that human rights and

¹⁸ Parlevliet, p. 18.

¹⁹ Bell, *Journal of Human Rights Practice*, Vol. 9, No. 3, p. 363.

²⁰ Schmelzle/Dudouet, pp. 5 f.

²¹ Hannum, *International Peacekeeping*, Vol. 13 No.4, 2016, pp. 592 f.

²² Månsson, *Journal of Human Rights Practice* 15, p. 806.

²³ See Hannum, *International Peacekeeping*, Vol. 13 No.4, 2016, pp. 591 ff.

²⁴ See Schmelzle/Dudouet, pp. 5 f.

peace mediation were fundamentally different and difficult to integrate into the same process.

2.1.2. Identifying Shared Objectives

Over time, the initially adversarial framing has been replaced by a more differentiated view of the relationship between human rights and conflict resolution. Many scholars and practitioners now highlight the common ground between the two fields, emphasizing that both aim to address the root causes of conflict and reduce the risk of renewed violence.²⁵ This shift reflects a growing awareness that ending armed conflict alone is not enough and that sustainable peace often requires addressing past injustices and structural grievances.²⁶

The debate has also been shaped by the increased focus on human rights violations as key drivers of violent conflict. From this perspective, human rights and mediation are not opposing approaches but can work together to address both deeper causes and immediate dynamics of conflict.²⁷ This view has become more widely accepted as it is increasingly recognized that peace processes benefit from including human rights considerations, especially in long and socially rooted conflicts. In such contexts, sensitivity to local conditions, careful sequencing, and appropriate timing of human rights measures are considered important for achieving just and sustainable outcomes.²⁸ This evolving view has encouraged more integrated peace processes, in which human rights considerations are no longer seen as external constraints, but as essential components of meaningful and lasting conflict resolution.

2.1.3. Towards a More Integrated Approach

In recent years, many scholars and practitioners have moved away from the traditional dichotomy of »peace versus justice« and increasingly support an integrative approach centered on »peace with justice«.²⁹ A rights-

²⁵ See Lutz/Babbitt/Hannum, *The Fletcher Forum of World Affairs* (2003), Vol. 27(1), pp. 179 ff.; Saunders, 2001.

²⁶ Lutz/Babbitt/Hannum, *The Fletcher Forum of World Affairs* (2003), Vol. 27(1), pp. 179 ff.

²⁷ DPPA-OHCHR Practice Note, p. 6.

²⁸ Parlevliet, p. 37.

²⁹ Månsson, pp. 38 f.

based approach is now often seen as beneficial not only for long-term conflict transformation but also for short-term resolution.³⁰ A particularly influential contribution to this shift is *Parlevliet's* holistic and multidimensional understanding of human rights. Moving beyond a narrow legal definition, she conceptualizes human rights as encompassing a broader set of norms, structures, institutions, relationships and processes. This understanding allows for a more integrated use of human rights in conflict resolution and enhances the range of tools available to mediators as well as strengthen the impact of peace processes.³¹

Rather than impeding pragmatic negotiation efforts, human rights and conflict resolution can help clarify each other's goals and strengthen the transition from violence to sustainable peace.³² Promoting human rights can help create openings for negotiations and improve the quality, legitimacy,³³ and long-term stability of agreements.³⁴ As the debate has evolved, the main question is no longer whether human rights should be part of peace processes, but how they can be meaningfully included in ways that support the negotiation process. This requires a closer look at the concrete roles human rights can play, beyond abstract principles, but within different phases of peace mediation.

2.2. Functional Role of Human Rights in Mediation

Building on the evolving understanding of human rights as strategic assets within peace mediation, their potential has been explicitly acknowledged in recent policy developments, particularly within the United Nations system. In 2023, two key UN entities, the Department of Political and Peacebuilding Affairs (DPPA) and the Office of the High Commissioner for Human Rights (OHCHR), jointly issued a Practice Note titled *»Enhancing the Quality and Effectiveness of Mediation Efforts through Human Rights«*. Rather than proposing a single overarching typology, the Practice Note structures the interaction between human rights and mediation along two

³⁰ Papagianni, pp. 62 f.

³¹ Parlevliet, pp. 22 ff.

³² Månsson, pp. 38 f.

³³ On the significance and role of legitimacy in peace processes, see Clements, Accord Issue 25, 2014, p. 13.

³⁴ DPPA-OHCHR Practice Note, p. 8.

broad dimensions: first, by framing their conceptual relationship and second, by organizing a wide range of practical entry points according to how human rights function either as a catalyst for facilitated negotiations or as a multiplier of mediation effectiveness. Across these sections, human rights are shown to contribute to mediation in multiple, partially overlapping ways, including through conflict analysis, confidence-building, agenda-setting, inclusion, accountability, and implementation support.³⁵ Drawing from practitioner insights collected through workshops, semi-structured interviews, and written contributions, as well as the extensive research by *Månsson* on human rights in mediation, the Practice Note sets out practical entry points and concrete examples for mediators.³⁶

Based on this conceptual foundation, this thesis develops a functional analytical framework that systematizes these contributions in a more condensed and analytically coherent form. While the four functions identified here - analytical, relational, normative, and strategic - are closely aligned with core elements already articulated in the Practice Note, they are not intended to replace its detailed practice guidance. Instead, they serve a different purpose. By condensing the wide range of roles identified in the Practice Note into four cross-cutting functions, the framework provides a structured lens for analysis. This enables a clearer examination of how human rights operate within a specific negotiation process, especially the Colombian peace negotiation. In this sense, the framework translates the Practice Note's largely descriptive and practitioner-oriented mapping into an analytical tool suited to systematic case study research. The four functions also broadly resonate with Parlevliet's multidimensional understanding of human rights as embedded in the rules, structures, relationships, and processes that shape conflict dynamics and their resolution.³⁷ Applied to the Colombian peace process, this functional approach allows for a coherent analysis of the multiple, often overlapping ways in which human rights influenced negotiations, while also providing a basis for assessing the extent to which lessons from Colombia may be transferable to other peace processes. Although the categories are analytically distinct, they are interrelated in practice. The framework does not claim universal

³⁵ DPPA-OHCHR Practice Note.

³⁶ DPPA-OHCHR Practice Note, p. 21.

³⁷ See Parlevliet, pp. 22 ff.

validity, it offers a pragmatic tool for analyzing how human rights function in specific negotiation contexts.

2.2.1. Analytical Function: Conflict Drivers and Agenda Setting

One of the most compelling contributions of human rights to peace mediation lies in their potential as an analytical and diagnostic tool. Particularly in the early stages of a mediation process, human rights can enhance the quality of conflict analysis by helping mediators better understand the root and structural causes of violence, identify key grievances, and shape the negotiation agenda accordingly.³⁸ When mediation teams are able to recognize and frame these issues through a human rights lens, they are better positioned to reflect the lived experiences of affected populations, identify meaningful entry points for dialogue, and strengthen the legitimacy and relevance of the overall process.³⁹ Importantly, economic, social, and cultural rights (ESCR) offer additional and often overlooked entry points for conflict analysis and dialogue. Rights related to health, education, land, and housing frequently lie at the heart of social grievances but are often less politically charged than civil and political rights.⁴⁰ As such, especially ESCR can help reframe structural issues in less confrontational terms, identify shared interests, and facilitate agenda-setting in ways that are more inclusive and acceptable to all parties.⁴¹

More broadly, human rights can under certain conditions serve as a reference point for structuring the negotiation agenda. In polarized contexts, they may help reframe grievances in terms of internationally recognized standards rather than personal accusations or political positions.⁴² This depersonalization of claims can enhance the legitimacy of the process and provide a shared normative language that can be more easily accepted by all stakeholders.⁴³ Human rights thus influence not only what issues are brought to the table, but how they are articulated in shaping both the substance and the structure of peace talks.

³⁸ Månsson, pp. 41 f.; Parlevliet, pp. 18 f.; Manikkalingam, p. 3.

³⁹ DPPA-OHCHR Practice Note, p. 12.

⁴⁰ O'Neil, pp. 5 ff.

⁴¹ Månsson, pp. 41 f.; DPPA-OHCHR Practice Note, p. 14.

⁴² DPPA-OHCHR Practice Note, p. 17.

⁴³ Manikkalingam, p. 5.

This potential, however, is contingent on context and perception. Where human rights are perceived as reflecting predominantly Western normative standards, armed actors in post-civil war negotiations may interpret them as implicitly validating victim narratives while delegitimizing the political identities and claims of former combatants.⁴⁴ In such settings, references to transitional justice standards may be understood not as neutral structuring devices, but as premature judgements on responsibility or as signals of future accountability, thereby influencing negotiation dynamics in ways that may prove escalatory.⁴⁵

Where human rights monitoring or investigations have been carried out, by international organizations, national human rights institutions or civil society actors, the resulting documentation can serve as a valuable source of impartial and evidence-based information. This can clarify contested facts, provide a more objective basis for assessing the conflict, and ultimately facilitate dialogue grounded in a shared understanding of reality.⁴⁶ In contexts where narratives are polarized or where parties deny wrongdoing, human rights documentation can help reduce deadlock and establish common ground for negotiation.⁴⁷

The guiding question for this function therefore is whether and how human rights can offer insights into why the conflict exists and how the negotiation agenda should be structured. This function highlights the added value of a human rights lens in deepening conflict analysis and creating a shared foundation for constructive dialogue.

2.2.2. Relational Function: Inclusion and Trust-Building

In deeply divided and post-violent societies, the quality of relationships between actors is often fragile, damaged by violence, exclusion or injustice. Within this context, human rights can serve an important relational function by improving interactions and relationships between different actors in peace mediation processes.⁴⁸ By promoting principles of inclu-

⁴⁴ Sriram, pp. 588 ff.

⁴⁵ Compare Bell, *Journal of Human Rights Practice*, Vol. 9, No. 3, p. 363.

⁴⁶ DPPA-OHCHR Practice Note, p. 17.

⁴⁷ Månsson, p. 39.

⁴⁸ Parlevliet, pp. 26 f.

sion and participation, human rights contribute to the (re-)building of trust between conflict parties and affected communities.⁴⁹

A key contribution of human rights to relationship-building lies in their capacity to promote inclusive participation. Rights-based arguments provide a normative basis for involving women, youth, victims, minorities, and other marginalized groups whose perspectives are often excluded from formal negotiations.⁵⁰ Their participation not only enhances the perceived fairness of the process, but can also contribute substantively by introducing alternative viewpoints and needs that may otherwise remain unaddressed. Particularly in the case of victims and survivors, inclusion can foster broader acceptance and lead to more holistic and sustainable outcomes.⁵¹ Moreover, the exclusion of vulnerable groups, especially minorities, can entrench grievances and undermine post-conflict stability.⁵²

In addition to including affected communities, human rights actors can play a strategic role in peace efforts. Beyond the direct inclusion of affected populations, human rights actors can be strategically involved in peace efforts. Their established local networks can be leveraged to build trust more efficiently, especially in the early stages of mediation. These actors may also function as informal intermediaries, helping to assess parties' willingness to engage and prepare the ground for formal talks.⁵³

Furthermore, human rights can support trust-building between the conflict parties themselves. Agreements on basic human rights issues, such as the protection of civilians or access to humanitarian aid, can provide early entry points for communication and engagement.⁵⁴ These initial understandings, rooted in shared moral baselines, allow parties to build confidence by collaborating on less contentious matters. For example, a mutual commitment to avoid attacks on civilian areas may reduce tensions and demonstrate the practical value of dialogue.⁵⁵ When upheld, such agreements foster mutual trust and especially when embedded in ceasefires

⁴⁹ Månsson, p. 39.

⁵⁰ Månsson, *Journal of Human Rights Practice* 15, p. 810.

⁵¹ DPPA-OHCHR Practice Note, pp. 15 ff.

⁵² Månsson, *Journal of Human Rights Practice* 15, p. 810.

⁵³ DPPA-OHCHR Practice Note, p. 11.

⁵⁴ DPPA-OHCHR Practice Note, p. 10.

⁵⁵ Månsson, pp. 202f, pp. 808 f.; DPPA-OHCHR Practice Note, p. 10.

or humanitarian truces, can pave the way for broader negotiations.⁵⁶ This trust-building effect extends beyond the negotiation table. Demonstrating a commitment to human rights can strengthen public confidence in the process and foster broader societal and international support.⁵⁷

At the same time, the relational function of human rights is fundamentally ambivalent. Although human rights can foster recognition and trust under certain conditions, if they are introduced without sufficient sensitivity to the self-perceptions, power asymmetries and conflict narratives of the relevant parties, they may also disrupt relational dynamics. If human rights are perceived as Western value standards or externally imposed legal expectations, invoking them may generate resistance rather than inclusion.⁵⁸ Whether human rights contribute to relational de-escalation or escalation thus depends not on the norms themselves, but on their timing, framing, and perceived legitimacy within the specific negotiation context.

Overall, the relational function of human rights highlights how normative frameworks shape relationships and perceptions of legitimacy within peace negotiations. When applied in a context-sensitive and carefully framed manner, human rights can positively influence interaction patterns between actors supporting relational dynamics which encourage constructive engagement. The guiding question is therefore how human rights can strengthen the relationships between actors and promote inclusive participation, mutual trust and public confidence in peace efforts?

2.2.3. Normative Function: Legal Boundaries

Beyond their analytical and relational value, human rights also fulfill an important normative function in peace mediation by establishing legal boundaries of negotiations. As universally recognized and binding standards, they provide clarity on what is acceptable and what falls outside the limits of lawful agreement-making. Human rights help define a framework of ethical and legal »red lines,« indicating which issues must be addressed, such as victims' rights, and which outcomes, such as blanket amnesties for international crimes, are impermissible under international law.⁵⁹

⁵⁶ DPPA-OHCHR Practice Note, p. 13.

⁵⁷ Manikkalingam, pp. 5 f.

⁵⁸ Compare Bell, *Journal of Human Rights Practice*, Vol. 9, No. 3, p. 363.

⁵⁹ Månsson, p. 39; Parlevliet, p. 38; DPPA-OHCHR Practice Note, p. 18.

Moreover, the involvement of institutions such as the International Criminal Court or regional human rights bodies, as well as the application of international legal frameworks, can impose clear legal constraints on the negotiating parties. They encourage negotiation within the limits of what is legally and normatively acceptable, requiring parties to confront sensitive issues they might otherwise avoid. For example, to avoid externally initiated human rights or criminal accountability investigations, parties may be motivated to develop domestic solutions that meet minimum international standards.⁶⁰

A common challenge in peace mediation is that conflict parties often hold divergent views on what human rights mean or which standards apply. In such cases, referencing universally recognized norms, such as core UN treaties or regional human rights instruments, can provide a shared foundation for dialogue. Mediators can reinforce this by facilitating training and capacity-building to establish a common vocabulary and foster mutual understanding.⁶¹ In polarized settings, using internationally recognized legal terms, such as genocide, torture, or war crimes, can help humanize discussions and introduce greater clarity. Framing accusations in legal rather than emotional terms offer a more neutral and credible basis for negotiation.⁶²

The normative function is therefore primarily concerned with defining the legal boundaries of peace negotiations. The guiding question is what legal and normative standards must guide the negotiation process to ensure that the outcome is compatible with international human rights obligations.

2.2.4. Strategic Function – Guiding Transitional Justice

In peace mediation, human rights are not only normative guidelines or legal boundaries, they can also serve as pragmatic instruments to shape concrete and context-sensitive outcomes. This strategic function refers to the tactical use of human rights to address transitional justice issues during peace negotiations, including truth-seeking, accountability, reparations, and guarantees of non-recurrence.⁶³

⁶⁰ DPPA-OHCHR Practice Note, p. 12.

⁶¹ DPPA-OHCHR Practice Note, p. 17.

⁶² O'Neil, p. 2.

⁶³ Manikkalingam, p. 4.

Human rights principles can guide the design of transitional justice mechanisms that align with international standards while remaining adaptable to local contexts. This could for example include forming special courts, truth commissions, or reparations programs that address sensitive issues such as amnesties or prosecutions in ways that promote legitimacy and ensure compliance with legal norms.⁶⁴ While the normative function establishes legal boundaries that must not be crossed, the strategic function emphasizes the creative and purposeful use of human rights to shape transitional justice mechanisms that address political realities and demands for justice. International actors, such as the International Criminal Court or UN human rights bodies, may influence this process not only by setting limits, but by creating indirect incentives for the adoption of credible domestic accountability mechanisms. In such cases, human rights are not merely constraints, but become deliberate resources for guiding parties toward constructive outcomes that preempt external legal intervention while addressing internal demands for justice.⁶⁵

Mediators may also use human rights strategically to support transitional justice goals. Rather than presenting rights as fixed obligations, they may frame them in ways that align with the interests of negotiating parties, for instance, by emphasizing how including minority rights can enhance long-term stability, or how rights compliance can improve international legitimacy and facilitate goals such as EU accession.⁶⁶

Therefore, this function highlights how human rights can be used as practical instruments to support effective and credible transitional justice arrangements. The guiding question is how human rights can be used strategically to design transitional justice mechanisms that comply with international norms and are acceptable to the negotiating parties.

2.3. Conclusion

The relationship between human rights and peace mediation is increasingly understood as a mutually reinforcing dynamic that can improve the quality and sustainability of peace processes, rather than a contradiction. While earlier debates were shaped by tensions between legal account-

⁶⁴ DPPA-OHCHR Practice Note, p. 18.

⁶⁵ DPPA-OHCHR Practice Note, p. 12.

⁶⁶ Månsson, pp. 198 f.

ability and political pragmatism, recent approaches emphasize the potential for integration. Human rights are now recognized as context-sensitive instruments capable of enhancing the quality, fairness, and resilience of peace processes.

This chapter has shown that human rights can play multiple functional roles in peace negotiations. They can sharpen conflict analysis by revealing structural causes of violence and help structure negotiation agendas. They can improve relationships among actors by fostering trust and promoting inclusive participation. They also establish legal and normative boundaries for what can be agreed upon, ensuring compatibility with international standards. Finally, they can be used strategically to design transitional justice mechanisms that are both politically viable and legally sound. These four categories - analytical, relational, normative, and strategic - serve as an analytical lens through which this study examines how human rights can contribute to different phases of peace mediation.

3. The Colombian Peace Process – Background and Context

To provide a foundation for the subsequent analysis of human rights in the Colombian peace process, this chapter briefly outlines the historical evolution of the conflict, the nature and extent of human rights violations committed by the parties involved and the core elements of the 2016 peace agreement. This background is essential for understanding the political, social and normative context in which the negotiations took place.

3.1. Origins and Drivers of the Armed Conflict

The Colombian armed conflict has deep historical roots, stemming from long-standing structural inequalities, land disputes, political exclusion, and recurrent violence. The decade-long civil war between Colombia's Liberal and Conservative parties, known as *La Violencia* (1948–1958), played a decisive role in shaping the conditions that later gave rise to the armed conflict.⁶⁷ The assassination of Liberal leader *Jorge Eliécer Gaitán* triggered this brutal conflict, leading to around 200,000 deaths, mostly of rural peasants.⁶⁸ To end the violence, both parties formed the *Frente Nacional*, a power-sharing agreement that lasted from 1958 to 1974. While this initiative brought a degree of political stability, it excluded other political actors, notably the growing leftist and Communist movements, which contributed to the emergence of armed opposition.⁶⁹

This political exclusion, coupled with a highly unequal land distribution and lack of state presence in rural areas, led to the formation of several guerrilla groups. The most prominent was the *Fuerzas Armadas Revolucionarias de Colombia – Ejército del Pueblo* (FARC-EP hereinafter FARC),⁷⁰ founded in 1964 from peasant self-defense groups.⁷¹ Shaped by Cold War dynamics, leftist guerrillas received ideological and material support from the Soviet Union and China, while the Colombian government was backed

⁶⁷ Fabra-Zamora/Molina-Ochoa/Doubleday, p. 2; Bushnell, p. 43.

⁶⁸ Bushnell, pp. 43 f.

⁶⁹ Fabra-Zamora/Molina-Ochoa/Doubleday, pp. 2 f.; Savonitto, pp. 6 f.

⁷⁰ »EP« was added in 1982 to reflect the FARC's transformation into a structured military force with a centralized command, positioning itself as the »People's Army«; Acosta-Olaya, Izquierdas 49 (2020), pp. 546 f.

⁷¹ Díaz, p. 472; Lezama/May, pp. 36 f.

by the United States in its counter-insurgency efforts.⁷² The conflict started with violent attacks and small-scale ambushes in rural areas and was of low intensity in its first decades. However, during the 1970s and 1980s guerrilla activity intensified, drug trafficking exploded with new actors entering the conflict.⁷³ Backed by the military and drug cartels, wealthy landowners began forming right-wing paramilitary groups aimed at suppressing guerrilla activity through violence and intimidation. Over time, many of these groups came together to form the *Autodefensas Unidas de Colombia* (AUC).⁷⁴ In response to the escalating conflict, President *Betancur* launched a political initiative in 1982 that included an agreement with the FARC to establish a legal political party, the *Unión Patriótica* (UP), as a means of integrating the group into formal democratic politics. The UP's initial electoral success led to strong resistance from segments of the political and economic elite, resulting in years of targeted violence in which thousands of its members were killed and the party eventually dissolved.⁷⁵ Together with the systematic violence against UP members, a major guerrilla assault on the Supreme Court in 1985 undermined trust in the peace process and ultimately brought the peace process to an end.⁷⁶

In the early 1990s, Colombia experienced moments of hope, with peace agreements leading to the demobilization of smaller guerrilla groups and the adoption of a new democratic constitution. However, the weakening of major drug cartels created space for guerrilla and paramilitary groups to expand, turning Colombia into the world's largest coca producer by the late 1990s.⁷⁷ The rapid growth and consolidation of paramilitary groups escalated the conflict and transformed it into a conflict that affected nearly all regions of the country. In 2002, *Álvaro Uribe* was elected president with broad public support, promising to defeat the guerrillas through military force and labeling them as »narcoterrorists.« His security policy significantly weakened the FARC but led to serious human rights violations and only partial demobilization of paramilitary groups, many of which later

⁷² Centro Nacional de Memoria Histórica, pp. 117 f.

⁷³ Fabra-Zamora/Molina-Ochoa/Doubleday, p. 4.

⁷⁴ Centro Nacional de Memoria Histórica, pp. 34 f.

⁷⁵ Fabra-Zamora/Molina-Ochoa/Doubleday, pp. 5f; Savonitto, pp. 11 f.

⁷⁶ Bushnell, p. 54.

⁷⁷ Bushnell, pp. 52 ff.; Alviar García/Engle, p. 219.

rearmed.⁷⁸ His successor, *Juan Manuel Santos*, distanced himself from this hardline approach and instead initiated peace talks with the FARC, leading to the 2016 peace agreement.⁷⁹

3.2. Human Rights Violations in the Armed Conflict

The Colombian conflict has been marked by widespread and grave human rights violations committed by all parties involved. The National Centre for Historical Memory reported over 260,000 conflict-related deaths by 2018. The majority of these deaths were attributed to paramilitary groups, followed by guerrilla organizations and state forces.⁸⁰ These violations included massacres, extrajudicial killings, forced disappearances, torture, kidnapping and the use of landmines.⁸¹ The most prevalent violation was forced displacement, affecting over eight million people and making Colombia the country with the second-highest number of internally displaced persons globally.⁸² Women, indigenous peoples, Afro-Colombians and rural communities suffered disproportionately.⁸³ Gender-based violence was widespread and took different forms depending on the actor: paramilitary groups used sexual violence as a means of intimidating and controlling local populations; guerrilla forces committed such acts within their own ranks, including through practices like forced abortions and state security forces employed sexual violence to retaliate against communities suspected of supporting insurgents.⁸⁴ A unique and infamous form of state abuse involved the so-called »false positives,« where the military killed civilians and falsely presented them as guerrilla combatants to inflate success metrics.⁸⁵ Moreover, the forced recruitment of children by guerrilla forces and systematic attacks on human rights defenders further exacerbated the human cost of the conflict.⁸⁶

⁷⁸ Savonitto, pp. 14 ff.

⁷⁹ Alviar García/Engle, pp. 231 f.

⁸⁰ Centro Nacional de Memoria Histórica, pp. 20 ff.

⁸¹ Centro Nacional de Memoria Histórica, pp. 42 ff.

⁸² Centro Nacional de Memoria Histórica, p. 71.

⁸³ Balanta-Moreno/Romaña-Rivas, p. 226.

⁸⁴ ECCHR, Special Newsletter, pp. 3 f.

⁸⁵ Bonilla Mora, pp. 11 ff.

⁸⁶ Centro Nacional de Memoria Histórica, pp. 84 ff.

3.3. The Colombian Peace Agreement

Between 2012 and 2016, the Colombian government under President *Juan Manuel Santos* engaged in peace negotiations with the FARC guerrilla movement to end the decades-long armed conflict.⁸⁷ Following a year and a half of secret exploratory talks, the negotiations were officially launched with international support in Havana, Cuba.⁸⁸ The process distinguished itself from previous failed attempts by setting a clear six-point agenda and adhering to the principle that »nothing is agreed until everything is agreed.«⁸⁹ The agenda included rural development, political participation, the end of the armed conflict, illicit drugs, victims' rights, and the implementation and verification of the agreement.⁹⁰ From the outset, the talks emphasized addressing root causes of the conflict and placing victims at the center of the process.⁹¹

After four years of deliberations, the »Final Agreement for Ending the Conflict and Building a Stable and Lasting Peace« was announced on August 24, 2016. The agreement introduced comprehensive reforms, especially in rural development, aiming to reduce rural poverty and improve access to land. It proposed land restitution measures, formalization of land titles, and regionally focused development programs in the areas most affected by violence and state neglect.⁹² The agreement also addressed the country's entrenched problems with drug trafficking, linking the fight against illicit crops to rural development. The proposed National Program for the Substitution of Illicit Crops emphasized voluntary crop replacement and social investment. The approach to drug policy also shifted from a purely punitive model to one focused on public health, prevention, and international cooperation.⁹³

A key component of the agreement was the definitive end to hostilities and the disarmament, demobilization, and reintegration of FARC fighters. This included the handover of weapons under UN supervision and the transition of the FARC into a legal political party. Former combatants were

⁸⁷ Fabra-Zamora/Molina-Ochoa/Doubleday, pp. 8 f.

⁸⁸ CRS Report, p. 16; Ury, pp. 288 ff.

⁸⁹ Pearce, p. 116; Fabra-Zamora/Molina-Ochoa/Doubleday, p. 9.

⁹⁰ Final Agreement to End the Armed Conflict, pp. 7 ff.

⁹¹ Fabra-Zamora/Molina-Ochoa/Doubleday, pp. 8 f.

⁹² Final Agreement to End the Armed Conflict, pp. 10 ff.

⁹³ Final Agreement to End the Armed Conflict, pp. 104 ff.

to receive training and economic support in designated encampments.⁹⁴ Controversially, the agreement guaranteed the FARC a minimum number of seats in both houses of Congress for two legislative terms, a provision that sparked considerable public and political backlash.⁹⁵

Another innovative aspect of the Final Agreement was the creation of a Comprehensive System of Truth, Justice, Reparation, and Non-Repetition. This system includes the Special Jurisdiction for Peace (JEP), tasked with prosecuting those responsible for serious crimes committed during the conflict; a Truth Commission, mandated to clarify the history and causes of the conflict and a Search Unit for Missing Persons. These institutions work independently but collaboratively, guided by a territorial, gender-sensitive and victim-centered approach.⁹⁶

Voters initially rejected the agreement in a national plebiscite by a narrow margin, prompting the government to revise several aspects based on input from various sectors, including opponents of the original deal.⁹⁷ Although its core remained intact, adjustments were made to clarify legal interpretations, limit foreign judicial influence and address controversial gender-related provisions. The revised agreement was signed on November 25, 2016, in Bogotá's Teatro Colón and later ratified by Congress.⁹⁸ Despite ongoing political polarization and challenges in implementation, the Final Agreement remains a landmark in transitional justice and conflict resolution, offering a comprehensive roadmap for building sustainable peace in Colombia.⁹⁹

⁹⁴ Final Agreement to End the Armed Conflict, pp. 58 ff.

⁹⁵ Fabra-Zamora/Molina-Ochoa/Doubleday, p. 10.

⁹⁶ Final Agreement to End the Armed Conflict, pp. 132 ff.

⁹⁷ Ury, pp. 290 ff.; Gallón Giraldo/Ospina, p. 64.

⁹⁸ Fabra-Zamora/Molina-Ochoa/Doubleday, p. 12; CRS Report, p. 30.

⁹⁹ Gallón Giraldo/Ospina, p. 66.

4. Human Rights in the Colombian Peace Process

This chapter applies the four functional categories of human rights previously developed to the case of Colombia. It examines how human rights shaped the peace process by fulfilling distinct but interrelated roles. They have served as analytical tools for identifying the structural causes of conflict and fostering trust and inclusion through relational mechanisms. They have also defined legal boundaries, established non-negotiable principles and guided the design of transitional justice strategies.

4.1. Analytical and Diagnostic Function

In the context of the Colombian armed conflict, human rights served as an analytical and diagnostic lens for understanding and addressing the root causes, dynamics, and grievances that underlie the violence. By exposing the underlying structural conditions of the conflict, such as inequality, marginalization of rural populations and limited access to land and political participation, human rights contributed to identifying these injustices and to develop responses to address them.¹⁰⁰

A particularly significant contribution to the analytical and diagnostic function of human rights in the Colombian peace process came from national legal frameworks that had been established prior to the formal negotiations. In particular, two key laws, the Peace and Justice Law of 2005 (Law 975) and the Victims and Land Restitution Law of 2011 (Law 1448), played a central role in facilitating this process.¹⁰¹ The insights generated through these legal instruments, especially concerning structural causes and power asymmetries including forced displacement, social and institutional exclusion and the complicity of economic and political elites, were subsequently drawn upon during the peace process.¹⁰²

The Peace and Justice Law, enacted in the context of negotiations with paramilitary groups under the administration of *Álvaro Uribe*, sought to balance the demobilization of these groups with victims' rights to truth, justice and reparation and introduced two major institutional mecha-

¹⁰⁰ Månsson, *Journal of Human Rights Practice* 15, p. 812.

¹⁰¹ ICTJ, 2; Savonitto, p. 93.

¹⁰² ICTJ, p. 3.

nisms.¹⁰³ First, it created special judicial chambers, known as the Justice and Peace Chambers, dedicated to prosecuting demobilized individuals for human rights violations.¹⁰⁴ Second, it established the National Commission for Reparation and Reconciliation (CNRR), which was responsible for investigating the origins of illegal armed groups, monitoring demobilization and reparation efforts, ensuring the participation of victims in justice processes and promoting national reconciliation.¹⁰⁵ Building upon this framework, the Victims and Land Restitution Law of 2011 aimed at institutionalizing a comprehensive approach to reparations for victims of the armed conflict. Rather than focusing solely on compensation, the law also provided for a broad range of restorative and symbolic measures, including access to decent housing and higher education and the restitution of land. It institutionalized victim participation and reframed reparations as a response not only to individual suffering but also to the structural injustices that had fueled the conflict.¹⁰⁶

Both laws explicitly focused on structural human rights violations and brought key drivers of the conflict into focus by drawing attention to long-neglected issues such as land dispossession and the marginalization of victims. By incorporating these topics into national legislation and public discourse, they helped surface and legitimize claims that had long been marginalized.¹⁰⁷ Furthermore, the Justice and Peace Chambers played a crucial role in uncovering how paramilitary violence was often intertwined with elite interests and local power structures, thus revealing the complex dynamics of the conflict and its reproduction through institutional complicity.¹⁰⁸

Moreover, these legal frameworks created a factual foundation for the peace process through systematic truth-telling and documentation efforts. The Historical Memory Group, initially established under the Peace and Justice Law and later transformed into the National Centre for Historical Memory, produced a series of analytical reports that traced fifty years of

¹⁰³ ICTJ, p. 13.

¹⁰⁴ ICTJ, pp. 13 f.

¹⁰⁵ ICTJ, p. 13.

¹⁰⁶ Langmack, pp. 124 f.; ICTJ, pp. 33 f.; Savonitto, pp. 93 f.

¹⁰⁷ ICTJ, p. 3.

¹⁰⁸ ICTJ, pp. 16 ff.

armed conflict.¹⁰⁹ In particular the *Basta Ya!* report, offered a comprehensive account of the extent of the violence, the responsibilities of different armed actors and the impact on society.¹¹⁰ This extensive documentation provided an unprecedented empirical basis for understanding the broader social and institutional dynamics behind the conflict and the patterns of abuse.¹¹¹

Equally important was the role of these legal instruments in fostering the recognition and inclusion of previously underrepresented groups. By institutionalizing the participation of victims, they created spaces for actors such as ethnic minorities and women to voice concerns that had long been ignored or sidelined, thereby laying the groundwork for their involvement in the subsequent peace process.¹¹²

At the international level, these domestic efforts were complemented by the work of the Office of the United Nations High Commissioner for Human Rights, which contributed to creating the conditions for the use of human rights as an analytical lens in the Colombian peace process. Present in the country since 1997, the OHCHR documented human rights violations committed by all parties to the conflict, thereby providing a credible and widely accepted factual basis for both the peace negotiations and efforts to ensure accountability. Its impartiality made it a trusted actor for the negotiating parties and civil society, facilitating a shared understanding of the conflict's human rights dimensions.¹¹³

The documented record of violations and rights-based analysis played a central role in shaping the early stages of the peace process. In response to these findings, the Colombian government proposed that the negotiation agenda explicitly include victims' rights to truth, justice, reparation and guarantees of non-repetition.¹¹⁴ In contrast, the FARC emphasized economic, social, and cultural rights, arguing that structural conditions such as poverty, lack of public services, and rural exclusion were root causes of the conflict.¹¹⁵ While these diverging perspectives led to intense debate,

¹⁰⁹ Herbolzheimer, p. 4; ICTJ, pp. 15 f.

¹¹⁰ See Centro Nacional de Memoria Histórica, pp. 30 ff.

¹¹¹ Herbolzheimer, p. 4.

¹¹² ICTJ, p. 3.

¹¹³ Månsson, pp. 173 f.

¹¹⁴ IFIT, p. 105.

¹¹⁵ IFIT, p. 106.

they ultimately contributed to an agreement that placed victims at the center and acknowledged both the immediate and structural dimensions of the conflict.¹¹⁶

The Colombian case demonstrates that human rights can meaningfully contribute to understanding why a conflict exists and how a negotiation agenda should be structured. Legal frameworks such as the Peace and Justice Law and the Victims and Land Restitution Law did not merely provide retrospective assessments of harm, but offered forward-looking insights into the social, political and institutional drivers of violence. These insights shaped both the conflict analysis and the priorities of the negotiation agenda. Participatory mechanisms and victim-oriented provisions established under these laws served as reference points for civil society and victim involvement during the peace talks.¹¹⁷ At the same time, the recognition of structural injustices contributed to the inclusion of specific provisions on rural reform, political participation, and ethnic rights in the final agreement. The fifth chapter of the agreement regarding victims enshrines the principles of truth, justice, reparation and guarantees of non-repetition, building on earlier legal advances of the Victims and Land Restitution Law.¹¹⁸ Human rights thus helped deepen conflict analysis and supported the creation of a common reference point for shaping the peace process.

4.2. Relational Function

Human rights can also contribute to peace processes by fostering trust between parties and promoting inclusive participation. The Colombian peace process has become widely recognized for its inclusive design, which aimed to involve those most affected by the conflict. Following decades of armed violence and widespread human rights violations, there was increasing pressure, particularly from victims and civil society, for greater accountability, transparency and meaningful participation. Since peace processes often result in fundamental transformations of governance, resource allocation and state institutions, the question of who participates

¹¹⁶ IFIT, p. 107.

¹¹⁷ ICTJ, p. 2.

¹¹⁸ ICTJ, p. 3.

and how is critical to their legitimacy and long-term success.¹¹⁹ These demands for participation resonated with international human rights law, which establishes participation as a binding obligation rather than a mere aspiration. The right to participate is enshrined in Article 21 of the Universal Declaration of Human Rights and Article 25 of the International Covenant on Civil and Political Rights, both of which Colombia has ratified. In addition, Article 7 of the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) obliges states to ensure women's equal participation in political and public life. This chapter examines how human rights contributed to improving relationships among different stakeholders, enhancing the credibility of the process and fostering inclusive participation. It analyzes the integration of victims into the talks, civil society involvement and the inclusion of women and ethnic minorities.

4.2.1. Victim Inclusion at the Center

The inclusion of victims in the peace negotiations was one of the most significant achievements of the Colombian peace process. From the outset of the secret talks, the government emphasized that no agreement would be possible without a dedicated agenda item on victims, which was unprecedented in Colombia's previous peace efforts.¹²⁰ This commitment was formalized in a Declaration of Principles and a ten-point plan issued jointly by the Government and the FARC, which laid the foundation for discussions around victims' rights to truth, justice, reparation and guarantees of non-repetition. Crucially, both parties acknowledged that peace could only be achieved on the basis of recognizing past human rights violations, restoring victims' rights and ensuring their participation in the peace process.¹²¹ This commitment translated into procedural and substantive innovations. Procedurally, victims were invited to share their views and experiences through various participatory mechanisms. Substantively, the parties agreed to address the complex and sensitive issues related to victims' rights and the impact of past violence as a distinct agenda item in the negotiations.¹²²

¹¹⁹ McKeon, p. 1.

¹²⁰ Jaramillo Caro, p. 36.

¹²¹ Månsson, p. 175; Herbolzheimer, p. 4.

¹²² Easterday, pp. 336 f.

To incorporate the perspectives of victims, four regional forums were organized across Colombia. The outcomes of these forums were substantial: negotiators received twelve volumes of comments and suggestions, offering deep insights into victims' thoughts, demands, and experiences. Additional proposals were submitted through a »virtual postbox« hosted on the peace talks' official website.¹²³ In total, the process generated approximately 66,000 submissions on the various agenda items.¹²⁴

However, the negotiation teams felt that written contributions alone were not sufficient. As a result, 60 victims were invited to Havana to engage directly with the negotiators. To ensure diversity and regional representation, the process was preceded by consultations with victims' groups, which were organized by the United Nations following a request from Congress and with the approval of the Government.¹²⁵ The selected victims were divided into five delegations of 12 individuals, carefully chosen by the United Nations, the Catholic Church, and the National University. The fact that both the Government and the FARC expressed dissatisfaction with the selection was seen as an indication of the neutrality and integrity of the process.¹²⁶ These face-to-face meetings, held in camera, had a powerful symbolic and emotional impact.¹²⁷ Over the course of several days, victims gave testimonies about the atrocities they had endured. These sessions resembled a truth commission, with the key difference that it was the negotiators themselves, some of whom were responsible for the crimes being described, who listened directly to the victims. Several members of the FARC were reportedly moved to tears in the corridors.¹²⁸

While there was initial skepticism about including victims, because negotiators feared it might provoke tensions or hinder the progress, these concerns proved unfounded. Many victims used the opportunity to urge the negotiators to maintain the dialogue, demonstrate willingness to compromise and work toward an agreement. Rather than slowing down the

¹²³ Jaramillo Caro, p. 37.

¹²⁴ Easterday, p. 336.

¹²⁵ Månsson, pp. 175 f.; Hayner, p. 14.

¹²⁶ Jaramillo Caro, p. 37.

¹²⁷ Månsson, p. 176.

¹²⁸ Jaramillo Caro, p. 37.

process, the hearings invigorated the negotiations and encouraged the parties to stay engaged and move discussions forward.¹²⁹

The effects of victim participation went beyond moral support or symbolic significance. As participants repeatedly emphasized, listening to victims' stories affected the mindset of the negotiators and encouraged broader recognition of human rights violations committed by both sides. This helped shift the focus away from individual perpetrators and fostered a willingness, by both the state and the FARC, to acknowledge collective and institutional responsibility.¹³⁰ Many observers for example credit the victims' visits with prompting a significant change in the FARC's position on responsibility and reconciliation. Early in the negotiations, FARC commander *Jesús Santrich* dismissed the idea of offering an apology with a sarcastic singing of the song »perhaps, perhaps, perhaps.« By the end of the peace talks, however, a notable transformation had occurred: FARC leader *Timoleón Jiménez* issued a public apology to the Colombian people during the official signing ceremony in Cartagena. In addition, members of the FARC leadership took part in local events where they expressed remorse directly to victims of some of their most serious crimes.¹³¹

The inclusion of victims thus became a defining element of the Colombian peace process, shaping both its substance and the relationships between the negotiating parties.

4.2.2. Civil Participation and Referendum

Besides the inclusion of victims, the involvement of civil society was a central concern for the negotiators in the Colombian peace process.¹³² To ensure societal input, various channels were established, most notably the organization of public forums facilitated by the United Nations Development Program (UNDP) and the National University of Colombia. These forums were held in different regions of the country and provided structured opportunities for engagement.¹³³ For earlier agenda points addressed in Havana, more than a thousand people and organiza-

¹²⁹ Ury, p. 236.

¹³⁰ Pearce, p. 118.

¹³¹ Segura/Mechoulan, p. 21.

¹³² For a definition of the term civil society, see Federal Ministry for Economic Cooperation and Development (BMZ), 2025.

¹³³ Pearce, p. 116.

tions around the country were invited to convene in Bogotá under clearly defined guidelines for submitting proposals. Although the process was logistically demanding, it created a structured and inclusive space for civil society to contribute to the peace negotiations.¹³⁴ In addition to the forums, the congressional Peace Commission, especially Senators *Iván Cepeda* and *Gloria Inés Ramírez*, asked UNDP in late 2012 to organize local consultations to bring the talks in Havana closer to the Colombian public. UNDP then conducted working tables in all thirty-two departments of Colombia, focused on three agenda items: agrarian development, political participation, and illicit crop cultivation. The resulting proposals were systematized and submitted to Congress, as well as to the Cuban and Norwegian envoys and then forwarded to the negotiating parties for consideration.¹³⁵ Other non-governmental organizations and social movements also began organizing events and facilitating public debate.¹³⁶

Beyond these mechanisms, several civil society organizations had the opportunity to engage directly with the negotiating parties, not only to offer expert advice, but also to voice the concerns of the communities and groups they represented. In May 2013, for example, a coalition of organizations led by *Viva la Ciudadanía* met with the High Commissioner for Peace, *Sergio Jaramillo*, to request that the process remain confidential, but no longer be clandestine. The call for more open communication was positively received by the government, and although access remained tightly regulated, the number of civil society visits to Havana increased.¹³⁷ The government also created a public website to allow citizens to submit suggestions for the negotiations.¹³⁸ Participation extended also beyond national borders. Colombians living abroad increasingly asserted their right to participate in the process, forming platforms such as the International Victims' Forum and the Truth, Memory and Reconciliation Commission of Women in the Diaspora.¹³⁹

A central objective of these participatory mechanisms was to bridge the gap between the negotiating delegations and the public by bringing

¹³⁴ Jaramillo Caro, p. 37.

¹³⁵ Segura/Mechoulán, p. 28.

¹³⁶ Pearce, p. 116.

¹³⁷ Segura/Mechoulán, p. 29.

¹³⁸ Pearce, p. 116.

¹³⁹ Flamtermesky/Ardila/Carry, *Accord Issue 28*, 2019, pp. 57f.; Herbolzheimer, pp. 8f.

the conversations taking place in Cuba closer to Colombian citizens. The forums provided not only a space for incorporating civil society input into the peace process, but also served as an opportunity to explain the negotiations to the public.¹⁴⁰ While it is difficult to determine exactly how many of the proposals from the forums were incorporated into the final agreement, one UN staffer estimated that approximately 73 percent were included. However, opinions within the government differed on how much this input actually shaped the outcome. Some members of the drafting commission said they frequently revisited the proposals, while others admitted that most suggestions were gradually sidelined as the pace of negotiations intensified.¹⁴¹

The broad inclusion of civil society enhanced the perceived legitimacy of the peace process and encouraged a sense of collective ownership. Still, the participatory mechanisms faced criticism, particularly for failing to represent the full diversity of views within Colombian society. Many observers dismissed the forums as purely symbolic, arguing that they primarily involved individuals and organizations in favor of the process, while excluding both opponents and newer civil society actors who had not yet mobilized. Although organizers such as the UN and the National University attempted to include dissenting voices, especially from the conservative sectors, limited preparation time and logistical challenges meant that participation was mostly limited to those already supportive of the peace process.¹⁴² As a result, it remains uncertain whether the forums succeeded in expanding support beyond the circle of existing allies.¹⁴³ Furthermore, it was criticized that the process lacked a mechanism for direct dialogue between the negotiation delegations and the broader Colombian population, as well as a structured approach to incorporating civil society input. The process therefore fell short of being fully participatory.

The negotiators' awareness of these participatory limitations led to the decision to hold a national referendum on the peace agreement. The aim was to enhance the democratic foundation of the process and foster a stronger sense of inclusion and shared responsibility among the pop-

¹⁴⁰ Segura/Mechoulan, p. 28.

¹⁴¹ Segura/Mechoulan, p. 28.

¹⁴² Segura/Mechoulan, p. 29.

¹⁴³ Segura/Mechoulan, p. 29.

ulation.¹⁴⁴ Although there was no legal requirement for a vote, since the government already held the authority to enforce an agreement to end the conflict, the parties viewed the plebiscite as essential, particularly for legitimizing the structural transformations in the agreement.¹⁴⁵ Another motivation was to reduce the gap between the confidential negotiations in Havana and the broader Colombian society. Despite significant efforts by the government's chief negotiator, *Humberto de la Calle* to inform the population, many Colombians remained disconnected from the process. A national vote was seen as a means to directly engage citizens in shaping the future of the country.¹⁴⁶ This was the first time in Colombia's history that a peace agreement was submitted for democratic approval. While some warned of the risks of submitting the agreement to a majority vote, the parties believed that popular endorsement was vital for normative and practical reasons.¹⁴⁷

However, the outcome of the plebiscite revealed the downside of this strategy. On October 2, 2016, a narrow majority of Colombians voted against the agreement, with only 60,000 votes out of 13.5 million.¹⁴⁸ Many Colombians expressed frustration that FARC leaders would not serve prison time and would be allowed to participate in politics, including guaranteed congressional seats for the first two years.¹⁴⁹ The public campaign in favor of the agreement was late, poorly executed and relied on citizens reading a highly technical 300-page document, whereas the opposition successfully reframed the vote as a referendum on President *Santos's* popularity.¹⁵⁰ Beyond these factors, findings from surveys conducted in 2014 and 2015 highlight that trust was a crucial factor. Even Colombians who opposed President *Santos* or abstained from voting were potentially open to supporting the peace process, if trust in the government and the FARC could be built. However, concrete trust-building measures directed at the broader public were largely missing at this stage.¹⁵¹

¹⁴⁴ Jaramillo Caro, Accord 28, 2019, p. 53.

¹⁴⁵ Saffon Sanín, pp. 75 f.

¹⁴⁶ Jaramillo Caro, pp. 41 f.

¹⁴⁷ Gallón Giraldo/Ospina, p. 64.

¹⁴⁸ Jaramillo Caro, p. 41; CRS Report, p. 29; Gallón Giraldo/Ospina, p. 64.

¹⁴⁹ Pearce, pp. 120 f.

¹⁵⁰ Segura/Mechoulan, p. 34; CRS Report, p. 30.

¹⁵¹ McCoy/Subotic/Carlin, p. 104.

Following the defeat, the negotiators spent several weeks listening to the concerns of the »No« campaigners. As both the government and the FARC were genuinely committed to an inclusive peace process, they engaged in renewed dialogue, revising some of the most contested provisions and taking into account the views expressed by those who had voted against the agreement.¹⁵² These discussions culminated in a revised accord that incorporated 58 out of 60 proposed changes.¹⁵³ This response illustrated the parties' strong commitment to the peace process, their willingness to engage with criticism and the importance they placed on democratic legitimacy.

The Colombian case thus illustrates both the potential and the limits of participatory approaches for civil society in peace processes. It shows that participation alone is not enough and that without clear strategies for inclusion and public engagement, these approaches may fall short of their intended impact.¹⁵⁴

4.2.3. Gender Perspectives in the Peace Process

Alongside strong participation by victims and civil society, women played an unprecedented role in the peace negotiations in Colombia, setting an important milestone in conflict resolution.¹⁵⁵ This shift was particularly significant given that women and LGBTI persons were especially affected by the armed conflict in Colombia, yet were largely excluded from previous peace processes in the country.¹⁵⁶ Initially, however, the Colombian peace talks reflected the gender exclusion common in many negotiations. Despite the growing international focus on including women in peace negotiations, particularly since the adoption of UN Security Council Resolution 1325 in 2000, which stressed the importance of women's involvement in peacebuilding, the practical implementation of these principles has been limited.¹⁵⁷ Later resolutions, such as the UN Security Council Resolution 2122, reinforced this normative framework by calling for stronger

¹⁵² Easterday, p. 343.

¹⁵³ Jaramillo Caro, p. 42.

¹⁵⁴ See Segura/Mechoulan, p. 32.

¹⁵⁵ See Easterday, p. 339; Boutron, *Journal of Peacebuilding & Development*, Vol. 13 No.2, 2018, p. 116.

¹⁵⁶ Bouvier, pp. 6ff.

¹⁵⁷ UN Security Council Resolution 1325 (2000), S/RES/1325; UN Women, p. 14.

participation of women in all phases of peace processes.¹⁵⁸ Yet these standards had little immediate impact on the early stages of the Colombian peace process. When the talks began in Oslo in 2012, all seats but one - that of the Norwegian moderator - were held by men. When formal negotiations started a month later, only one of the thirty official negotiators was a woman.¹⁵⁹

This initial exclusion, however, did not prevent women from finding alternative ways to contribute. They actively engaged in civil society forums, working groups, and regional peace meetings across the country and submitted recommendations on the provisional accords.¹⁶⁰ Organizations such as *Ruta Pacífica* produced independent truth and memory reports from the perspective of women's experiences.¹⁶¹ Networks like *Coalición 1325* played a central role in bringing together a broad spectrum of women's groups. In 2013, nine women's alliances convened over 400 women from across Colombia for the first National Summit of Women for Peace in Bogotá, which issued concrete recommendations for incorporating gender perspectives into the negotiations.¹⁶² The summit played a decisive role in initiating a shift toward greater inclusion of women in the peace process. In the months that followed, two women were added to the government's negotiation team, the gender subcommission was created and the FARC also began appointing female delegates. Women were formally consulted during the talks in Havana and assumed key roles in commissions, subcommissions and the Office of the High Commissioner for Peace.¹⁶³

Especially the gender subcommission, established in 2014, was a central innovation of the Colombian peace process and has been described as having »few global precedents«. ¹⁶⁴ Between December 2014 and March 2015, the subcommission organized three delegations comprising 18 representatives from women's and LGBTI organizations. These representatives participated directly in the peace talks, emphasizing the gendered

¹⁵⁸ UN Security Council Resolution 2122 (2013), S/RES/2122.

¹⁵⁹ Pearce, p. 116; Easterday, p. 339.

¹⁶⁰ Easterday, p. 339.

¹⁶¹ Pearce, p. 117; Bouvier, p. 26.

¹⁶² Boutron, *Journal of Peacebuilding & Development*, Vol. 13 No.2, 2018, p. 117.

¹⁶³ Easterday, p. 339.

¹⁶⁴ Easterday, p. 340.

dimensions of the conflict and presenting gender-sensitive proposals. Notably, the subcommission included representatives from both sides of the negotiating table, most of whom were women.¹⁶⁵ Although it had no decision-making authority, its consultative role was significant. The subcommission was tasked with reviewing all components of the peace agreement through a gender lens. It submitted recommendations for both linguistic and substantive revisions to the draft texts, ranging from gender-inclusive terminology to the establishment of a unit within the Special Jurisdiction for Peace to address sexual violence. While not all proposals were adopted, the subcommission nevertheless had a significant impact.¹⁶⁶ The final agreement incorporated gender-sensitive measures across all six thematic pillars and included gender-inclusive language throughout. It mandated gender mainstreaming across all newly established plans, programs and institutions. By explicitly including terms such as »men and women,« »sexual orientation,« »gender identity,« and »LGBTI,« the agreement took a comprehensive and inclusive approach to peacebuilding.¹⁶⁷

The participation of women and LGBTI persons was crucial in rebuilding trust and promoting greater inclusion in the Colombian peace process. The consistent involvement of gender advocates in Havana created opportunities for meaningful dialogue and helped shift the attitudes of negotiators, especially within the FARC, who had previously been accused of violating women's rights. These interactions not only helped to address deeply rooted patterns of exclusion, discrimination and violence against women and LGBTI communities, but also paved the way for social recognition and reintegration.¹⁶⁸

However, the gender perspective embedded in the agreement did not resonate with all parts of society. In the context of the 2016 referendum, conservative and religious groups expressed firm opposition to the use of terms such as »gender« and »sexual orientation«, claiming that they conflicted with traditional social and family values.¹⁶⁹ In response, the revised agreement adjusted some of the language around gender equity to appease these groups. References to LGBTI rights and the promotion

¹⁶⁵ Easterday, p. 340.

¹⁶⁶ Segura/Mechoulan, pp. 16 f.; Easterday, p. 340.

¹⁶⁷ Easterday, p. 340.

¹⁶⁸ Bouvier, p. 20.

¹⁶⁹ Boutron, *Journal of Peacebuilding & Development*, Vol. 13 No.2, 2018, p. 116; Easterday, p. 343.

of LGBTI social movements were softened or removed. Nonetheless, the integrated gender approach remained intact, providing Colombian women's organizations with a continued political and institutional framework to pursue their claims in all six pillars of the agreement.¹⁷⁰ Moreover, the peace process opened space for public debates on Colombia's social values and future direction, brought gender-related issues into public focus and encouraged more open discussions on violence against LGBTI persons.¹⁷¹

4.2.4. Inclusion of Ethnic Communities

Although the inclusion of Afro-Colombian and indigenous communities in the Colombian peace process was delayed, it was an important step towards making the process more inclusive and representative. In the early years of the Havana negotiations, representatives of ethnic groups were absent, prompting strong national criticism. For many, the idea of reaching a peace agreement without their participation was inconceivable, given their constitutionally protected autonomy and the severe impact that the conflict had on their communities.¹⁷² In response, the three largest organizations representing Afro-Colombian and indigenous populations formed the Ethnic Commission for Peace and the Defense of Territorial Rights to lobby for their involvement.¹⁷³ They based their demand on the disproportionate human rights violations they had suffered as well as their legitimate interest in shaping transitional justice mechanisms that would directly affect them.¹⁷⁴ A proposal to establish a dedicated subcommission, similar to the gender subcommission, was initially rejected by the government, which considered existing participation channels sufficient.¹⁷⁵ Nevertheless, sustained advocacy by the Ethnic Commission and supporting organizations led to a formal hearing with the negotiating parties in June 2016, during the final phase of the peace talks.¹⁷⁶ On August 24, 2016, just hours before the negotiations concluded, representatives of indigenous communities arrived in Havana and insisted that their per-

¹⁷⁰ Boutron, *Journal of Peacebuilding & Development*, Vol. 13 No.2, 2018, p. 116; Easterday, p. 343.

¹⁷¹ Pearce, p. 117; Easterday, p. 340.

¹⁷² Segura/Mechoulan, p. 29; Balanta-Moreno/Romaña-Rivas, p. 226.

¹⁷³ Segura/Mechoulan, p. 29.

¹⁷⁴ Balanta-Moreno/Romaña-Rivas, p. 226.

¹⁷⁵ Jaramillo, *Accord 28*, 2019, p. 53; Segura/Mechoulan, p. 29.

¹⁷⁶ Segura/Mechoulan, p. 29.

spectives be included in the agreement. With only a few hours left before the talks concluded, they worked alongside the negotiation team to draft Chapter 6.2 of the Final Agreement, commonly known as the Ethnic Chapter. This section commits the state to implementing the peace accord in a way that takes account of ethnic diversity and obliges institutions such as the Truth Commission, the Search Unit and the Special Jurisdiction for Peace to incorporate the particularities, worldviews, and experiences of Afro-Colombian and indigenous communities.¹⁷⁷

This example shows how meaningful participation can strengthen the relationship between those involved in negotiations and historically marginalized communities. Including the Ethnic Chapter in the peace accord was more than just a symbolic act. It formally acknowledged the concerns and rights of Afro-Colombian and indigenous peoples. By committing to an implementation process that considers ethnic diversity, the agreement gained additional legitimacy and began to address long-standing patterns of structural exclusion.

However, despite being formally included in the final stage of the negotiations, many ethnic leaders criticized the process as rushed and insufficiently inclusive. Although Afro-Colombian and indigenous representatives publicly supported the peace accord during the referendum campaign, their last-minute involvement left unresolved tensions and concerns with the government.¹⁷⁸ Nevertheless, the Ethnic Chapter is an important achievement in advancing the human rights of minorities within a peace agreement and demonstrates that even limited participation can create space for marginalized voices to shape post-conflict frameworks.

4.2.5. Conclusion

The Colombian peace process illustrates how human rights can fulfill a relational function by rebuilding trust between conflict parties and broader society. By including victims, women, ethnic minorities and civil society actors, the negotiations moved beyond elite-driven diplomacy and adopted a more participatory model of peacebuilding. Efforts such as the victim hearings, civil society forums, the creation of the gender subcommission and the inclusion of the Ethnic Chapter embedded human rights

¹⁷⁷ Balanta-Moreno/Romaña-Rivas, p. 227.

¹⁷⁸ Segura/Mechoulan, pp. 29 f.

not only in legal commitments but also in interpersonal and institutional relationships. The peace process reached an unparalleled level of participation, to the point that it nearly exhausted the possibilities of inclusion.¹⁷⁹

However, the relational function of human rights in Colombia was not without limitations. Inclusion was often reactive rather than proactive, with many participatory mechanisms only established in response to sustained advocacy from affected communities. Women, Afro-Colombian and indigenous representatives had to struggle for recognition and their involvement was in some cases delayed, constrained or rushed, such as the drafting of the Ethnic Chapter. These dynamics reveal a tension between the normative ideal of inclusive participation and the political realities of limited access and time pressures.

Moreover, while the participatory formats encouraged dialogue and mutual recognition, they were not always sufficient to overcome deeply rooted mistrust. The rejection of the peace accord in the 2016 referendum demonstrated that trust and acceptance cannot be generated through formal inclusion alone. This must be achieved through transparent, sustained and genuinely reciprocal engagement, an aim that was only partly achieved in Colombia.

In sum, the Colombian case illustrates the potential and limits of human rights as a relational function in peace processes. When human rights are translated into concrete participatory mechanisms and trust-building measures, they can facilitate transformative relationships. Yet their effectiveness depends on early inclusion, genuine commitment from political actors, and continuous dialogue with society at large. Without these elements, the relational power of human rights remains uneven and contested.

4.3. Normative Function

Furthermore, human rights played a crucial role in shaping the structure of the Colombian peace process by offering negotiators clear normative guidance, especially with regard to two key issues: the commitment to victims' rights to truth, justice, reparation and guarantees of non-repetition and the obligation to ensure judicial accountability for the most serious crimes committed during the conflict. From the very beginning,

¹⁷⁹ Segura/Mechoulan, p. 27.

the importance of human rights was embedded in the architecture of the negotiations and was formalized in the »General Agreement for the End of the Conflict and the Building of a Stable and Lasting Peace,« adopted following exploratory talks held between February and August 2012.¹⁸⁰ This agreement established the agenda for the peace negotiations between the two parties and made it clear that respect for human rights was a priority that needed to be promoted.¹⁸¹

This commitment was particularly evident in the approach to victims' rights, which shaped the normative foundation and direction of the negotiations. In June 2014, as the parties turned to the contentious agenda on victims and truth, they issued a joint framework, including a Declaration of Principles and a ten-point plan, that affirmed their shared recognition that a sustainable agreement required serious engagement with victims' rights.¹⁸² The explicit inclusion of these rights helped broaden the scope of the negotiations and enabled the active involvement of victims, women, indigenous peoples, LGBTI communities and other marginalized groups. Their participation aligned with international regulations, but was also rooted in domestic demands for recognition and justice.¹⁸³ Moreover, placing victims at the center of the peace talks created a space in which even the gravest crimes could be addressed without impeding the negotiation process.¹⁸⁴ As a result, both the Colombian state and the FARC acknowledged responsibility for past human rights violations, including those committed by state actors, thereby embedding accountability into the very structure of the negotiations.¹⁸⁵ This helped the guerrillas accept that war crimes and crimes against humanity were not eligible for amnesty and that they would be required to face justice and provide reparations. Accountability was thus framed as a shared responsibility, not a burden solely on the FARC.¹⁸⁶

This shift was not only the outcome of political negotiation but also rooted in binding international human rights and criminal law standards,

¹⁸⁰ The general agreement is available at <https://www.legal-tools.org/doc/133811/pdf> (accessed July 22, 2025).

¹⁸¹ Borda/Gutiérrez, p. 224.

¹⁸² Månsson, p. 175; Herbolzheimer, p. 4.

¹⁸³ Ozcelik, p. 98.

¹⁸⁴ Jaramillo Caro, p. 36.

¹⁸⁵ See Månsson, p. 175.

¹⁸⁶ Jaramillo Caro, Accord 28, 2019, p. 55.

which set clear limits for the negotiation and necessitated a minimum degree of judicial accountability for serious international crimes. Consequently, accountability, particularly with regard to amnesties and criminal punishment, emerged as one of the most contentious issues on the agenda.¹⁸⁷ While the FARC initially rejected any agreement that would involve imprisonment of its leaders, international law required a minimum level of accountability for grave crimes such as crimes against humanity and war crimes.¹⁸⁸ The government's legal team responded therefore by presenting the FARC with a comprehensive legal dossier outlining the evolution of international and domestic norms regarding transitional justice, particularly the emerging legal consensus against blanket amnesties for such crimes.¹⁸⁹ In the following debates concerning the balance between justice and peace, international human rights NGOs and judicial bodies, particularly the International Criminal Court (ICC) and the Inter-American Court of Human Rights (IACtHR) played an important role in shaping the legal and normative context of the negotiations.¹⁹⁰

The ICC was especially influential, as the Colombian peace process marked the first time that peace negotiations were conducted under the framework of the Rome Statute.¹⁹¹ As a State Party to the Statute, Colombia is subject to the Court's jurisdiction, and under Article 17, the ICC may intervene if it determines that there are no genuine national proceedings addressing serious human rights violations. From the beginning, the Court made it clear that it would closely monitor any final agreement to ensure compliance with the Rome Statute, particularly with regard to amnesties and reduced sentences for those responsible for serious human rights abuses. It signaled that suspended sentences would be deemed unacceptable and that reduced penalties would only be permissible under strict, case-specific conditions, such as full acknowledgement of responsibility, active cooperation in truth-seeking processes and guarantees of non-repetition. Moreover, any reduction in sentencing would have to be proportionate to the gravity of the crimes committed.¹⁹² The ICC Prosecutor even

¹⁸⁷ Piccone, p. 14; Pearce, p. 113.

¹⁸⁸ Pearce, p. 119; Alviar García/Engle, p. 233.

¹⁸⁹ IFIT, p. 105.

¹⁹⁰ Borda/Gutiérrez, p. 223; McCoy/Subotic/Carlin, pp. 101 f.; Alviar García/Engle, pp. 233 f.

¹⁹¹ Jaramillo Caro, p. 36.

¹⁹² McCoy/Subotic/Carlin, p. 101; Jakobsen, *The International Journal of Transitional Justice*, Vol. 18, 2024, pp. 432 f.

played an active role through informal channels, such as meetings with state and civil society actors, public statements and submitting an amicus curiae brief to the Colombian Constitutional Court during its review of the transitional justice framework.¹⁹³ In addition to the ICC, the Inter-American Court of Human Rights (IACtHR) influenced the peace negotiations through its jurisprudence, particularly by setting normative limits on the use of amnesties.¹⁹⁴ The Court's case law repeatedly emphasized that general and unconditional amnesties for gross human rights violations are incompatible with the American Convention on Human Rights.¹⁹⁵ At the same time, the Court accepted the possibility of limited amnesties and proportionate alternative sanctions in transitional contexts, as long as serious human rights violations were excluded and the measures served the goal of sustainable peace.¹⁹⁶ To ensure that the peace agreement complied with international human rights law, the Inter-American human rights system closely monitored the negotiations and ultimately welcomed the signing of the agreement.¹⁹⁷

The influence of the ICC and the IACtHR on the negotiation process is evident through explicit references to international legal norms and the jurisprudence of the Inter-American Court of Human Rights, both within the Agreement itself and in statements by domestic and international parties involved in the process.¹⁹⁸ These legal considerations set clear boundaries for the design and mandate of the Special Jurisdiction for Peace (JEP), which was established to address the most serious crimes committed during the armed conflict. The parties agreed that international crimes, such as genocide, war crimes, extrajudicial killings, enforced disappearances, sexual violence and the recruitment of child soldiers would be explicitly excluded from any form of amnesty.¹⁹⁹ Furthermore, the JEP was granted the power to impose alternative sanctions on individuals who confessed

¹⁹³ Ozcelik, pp. 99 f.; Alviar García/Engle, pp. 231 f.

¹⁹⁴ Alviar García/Engle, pp. 237 f.

¹⁹⁵ *Barrios Altos v. Peru*, Merits, Judgement of March 14, 2001; *Gomes Lund v. Brasil*, Preliminary Objections, Merits, Reparations, and Costs, Judgement of November 24, 2010; *El Mozote v. El Salvador*, Merits, Reparations and Costs, Judgement of October 25, 2012.

¹⁹⁶ *Rochela Massacre v. Colombia*, Merits, Reparations, and Cost, Judgement of May 11, 2007.

¹⁹⁷ Savonitto, p. 128.

¹⁹⁸ Ozcelik, pp. 100 f.

¹⁹⁹ Final Agreement to End the Armed Conflict, Clause 40.

early, including liberty restrictions for 5–8 years and prison terms of up to 20 years for those who failed to cooperate.²⁰⁰

The application of international human rights norms to the Colombian peace process was not without controversy. Although the JEP did not grant amnesties, its design, particularly the use of alternative sanctions and reduced sentences for those who made full confessions, was nonetheless strongly criticized by international institutions and NGOs.²⁰¹ This gave rise to debates about whether human rights norms were restricting the necessary flexibility for negotiating a sustainable peace agreement or could even risk destabilizing the process altogether.²⁰² A core tension emerged: efforts to ensure accountability through international law often clashed with the political realities of negotiating with armed groups who demanded guarantees in return for disarmament. At the same time, while the FARC and the government invested considerable time and effort under significant political pressure to reach a victims' rights agreement broadly aligned with international law, fundamental issues such as land reform and socio-economic justice were largely neglected. The narrow focus on legal accountability may have contributed to the sidelining of broader questions of distributive and social justice, despite their central role in the conflict and their significance for large parts of the population.²⁰³ Nevertheless, the Colombian case remains unprecedented in the level of accountability agreed upon by a guerrilla movement. No other group had previously accepted that crimes against humanity could not be amnestied, that they would have to face trial, and that they would be required to make reparations using their own assets.²⁰⁴

In conclusion, human rights law shaped the Colombian peace negotiations in two key ways. Firstly, it established binding normative boundaries, particularly with regard to victims' rights and accountability. Secondly, it generated external legal pressure through institutions such as the ICC and the IACtHR to uphold these standards. Many of these limits originate in international criminal law, such as the exclusion of amnesties for international crimes and the requirement of effective punishment, but they

²⁰⁰ Final Agreement to End the Armed Conflict, Clause 60.

²⁰¹ Alviar García/Engle, p. 236.

²⁰² Borda/Gutiérrez, p. 231; Elster, p. 50.

²⁰³ Alviar García/Engle, pp. 238 f.

²⁰⁴ Jaramillo Caro, p. 39.

are closely intertwined with human rights principles. In the Colombian case, rather than functioning independently, human rights law and international criminal law converged to form a mutually reinforcing normative framework that defined the limits of the negotiations. Human rights norms thus served as a compass, distinguishing between what could be negotiated and what had to remain non-negotiable. Although these norms may have introduced constraints, they ultimately ensured that the peace agreement respected core legal and ethical standards, that could not be disregarded for the sake of a negotiated settlement. The highly legalized nature of the talks, particularly with regard to the design of the transitional justice component of the Final Agreement, demonstrates how international human rights law can offer practical guidance in determining the legitimate scope of peace agreements.

4.4. Strategic Function

In the Colombian peace process, human rights not only served as normative boundaries aimed at ensuring alignment with international legal standards, but also as flexible and strategic tools used to shape pragmatic and context-sensitive mechanisms of transitional justice. Human rights principles were deliberately invoked by the negotiators to develop solutions that were adaptable to the Colombian context while maintaining international legitimacy.

A central outcome of this approach was the creation of the Comprehensive System of Truth, Justice, Reparation and Non-Repetition (Sistema Integral de Verdad, Justicia, Reparación y No Repetición), as established in Chapter 5 of the Final Peace Agreement. The system was developed in direct response to international legal expectations, particularly with regard to the rights of victims, as set out in the 2005 UN Basic Principles and Guidelines on the Right to Remedy and Reparation and in the Commission on Human Rights' report on combating impunity, which affirms victims' right to the truth.²⁰⁵ In addition, the jurisprudence of the Inter-American Court of Human Rights has consistently recognized victims' entitle-

²⁰⁵ UN General Assembly, A/Res/60/147, March 21 2006; UN Commission on Human Rights, E/CN.4/2005/102/Add.1, February 8, 2005.

ment to truth, judicial remedies and reparations.²⁰⁶ At the same time, the design of the system reflected the parties' early and explicit commitment to placing victims' rights at the center of the peace negotiations.²⁰⁷

Nevertheless, designing a transitional justice framework that would be acceptable to the FARC while complying with international legal obligations was a complex and sensitive issue at the negotiating table. Due to the difficulty of the topic, transitional justice required a separate and parallel track within the overall negotiation process.²⁰⁸ The resulting Comprehensive System was designed to achieve several legal and political objectives simultaneously: upholding victims' rights, providing truth to society, offering legal certainty to those involved in serious violations of international humanitarian and human rights law and supporting stable and lasting peace. The system's legal basis explicitly encompasses international human rights law, international humanitarian law, Colombian criminal law and the Rome Statute.²⁰⁹

The system is composed of the Truth Commission, the Unit for the Search of Persons Disappeared, the Special Jurisdiction for Peace (Jurisdicción Especial para la Paz) and an administrative reparation program for victims, which continues and expands the frameworks established by Laws 1448 and 2001.²¹⁰ It integrates both judicial and extrajudicial mechanisms to uncover the truth, provide reparations to victims and ensure accountability for serious human rights violations.²¹¹

The right to truth is primarily fulfilled through the Truth Commission, which functions as an extrajudicial body responsible for creating a comprehensive account of the conflict. The Commission's goals include promoting recognition of victims and the responsibilities of those involved in

²⁰⁶ While the American Convention on Human Rights does not explicitly enshrine a right to truth, judicial remedies or reparations for victims of gross human rights violations, the Inter-American Court of Human Rights has consistently derived these rights from other provisions of the Convention, particularly Articles 8 (Right to a Fair Trial) and 25 (Right to Judicial Protection), read in conjunction with Article 1(1) (Obligation to Respect Rights); see *Barrios Altos v. Peru*, Merits, Judgement of March 14, 2001; *Castillo-Páez v. Peru*, Merits, Judgement of November 3, 1997; *Bámaca-Velásquez v. Guatemala*, Merits, Judgement of November 25, 2000.

²⁰⁷ See Chapter 4.2.1.

²⁰⁸ Segura/Mechoulan, p. 17.

²⁰⁹ Borda/Gutiérrez, p. 226.

²¹⁰ See Chapter 4.1.

²¹¹ Gallón Giraldo/Ospina, p. 58; Borda/Gutiérrez, pp. 226 ff.

the violence, as well as fostering peaceful conflict resolution.²¹² Notably, the Commission was deliberately designed to provide a platform for the voices that are often excluded from official accounts of the conflict.²¹³ Furthermore, institutional safeguards were introduced to encourage cooperation with the truth-seeking process and reduce fears of prosecution. While the JEP may share information with the Truth Commission and the Search Unit, information obtained by these two bodies, apart from forensic evidence, cannot be transmitted to the JEP.²¹⁴ In 2022, the Truth Commission presented its Final Report, drawing on 785 reports, 121 cases, over 25,000 testimonies and nearly one million judicial documents.²¹⁵

Furthermore, reparations for the victims constitute a core component of the Comprehensive System of Truth, Justice, Reparation and Non-Repetition. Based on the foundation laid by the 2011 Victims' Law, the 2016 Peace Agreement significantly expanded and institutionalized Colombia's reparation framework.²¹⁶ It guarantees victims access to a broad set of measures including health and psychosocial services, financial compensation, land restitution, housing, restoration of livelihood, access to credit and community-based reparation projects. In addition, the agreement introduced the redistribution of assets confiscated from the FARC to support reparative efforts.²¹⁷ The program addresses both individual and collective harm. It offers a comprehensive set of reparations, including restitution, compensation, rehabilitation, satisfaction and guarantees of non-repetition. Particular emphasis is placed on differentiated treatment for women, ethnic minorities, and other particularly affected groups, alongside a strong focus on survivor participation. With over nine million individual victims and 754 collectives affected, Colombia's reparation program is unique worldwide in terms of its scale, complexity, and dedication to inclusive and participatory justice.²¹⁸

The Special Jurisdiction for Peace forms part of the Comprehensive System's judicial component. While influenced by international actors such

²¹² Piccone, p. 10.

²¹³ Duplat/Molina-Ochoa, pp. 184f.; Savonitto, p. 101.

²¹⁴ Piccone, pp. 11f.

²¹⁵ Truth Commission of Colombia, Executive Summary.

²¹⁶ See Chapter 4.1.

²¹⁷ Piccone, p.16.

²¹⁸ Langmack, pp. 125f.

as the ICC and the IACtHR, its sanction model remained acceptable to the FARC within the political context of the negotiations.²¹⁹ Human rights standards were strategically interpreted with a degree of flexibility, particularly regarding the notion of »effective punishment«. Instead of relying exclusively on traditional imprisonment, the concept of justice was expanded to incorporate alternative sanctions grounded in restorative justice and aimed at achieving victim satisfaction.²²⁰

Building on this flexible approach, the JEP's sanctioning system has been recognized as one of the most innovative features of Colombia's transitional justice framework.²²¹ It introduced a graduated system of accountability based on perpetrators' willingness to cooperate, particularly their willingness to acknowledge responsibility and contribute to truth and reparation.²²² Those who fully admitted their responsibility at the outset were eligible for so-called »special sanctions«, which consisted of five to eight years of restricted liberty for direct perpetrators and two to five years for those with indirect involvement. Rather than involving imprisonment, restricted liberty entails limitations on movement and residence, such as designated zones, fixed schedules and travel restrictions.²²³ Convicted individuals are also required to actively contribute to reparative efforts within the affected communities, for example by repairing the damage caused by the war.²²⁴ Those who confessed at a later stage, but before a judgement was delivered, were subject to »alternative sanctions«, involving five to eight years of imprisonment. Finally, those who denied responsibility and were convicted faced »ordinary sanctions« of 15 to 20 years in prison.²²⁵ The JEP also considers crimes committed against individuals belonging to vulnerable and specially protected groups such as women, LGBTI persons, indigenous peoples, internally displaced persons, minors and elderly people as particularly serious.²²⁶

²¹⁹ See Chapter 4.3.

²²⁰ Alviar García/Engle, p. 217; McCoy/Subotic/Carlin, p. 99; Jakobsen, *The International Journal of Transitional Justice*, Vol. 18, 2024, p. 430.

²²¹ For differing views on the innovative nature of Colombia's transitional justice model, see Jakobsen, *The International Journal of Transitional Justice*, Vol. 18, 2024, pp. 430 f.

²²² Borda/Gutiérrez, pp. 229 f.; Gallón Giraldo/Ospina, p. 59.

²²³ Final Agreement to End the Armed Conflict, Clause 60.

²²⁴ Savonitto, p.104.

²²⁵ Final Agreement to End the Armed Conflict, Clause 60; Rojas Betancourth, p. 164.

²²⁶ Ozcelik, p. 102.

This structured model of sanctions reflects a restorative rather than a retributive approach. As emphasized in the constitutional amendment establishing the JEP, the focus lies on forward-looking justice, prioritizing the dignity of victims, truth-telling, and preventing recurrence.²²⁷ Compliance with this model is subject to strict conditions: beneficiaries must actively participate in the Comprehensive System, contribute to truth and reparation and refrain from further criminal activity. Notably, those receiving special sanctions remain eligible to run for public office, a provision that sparked controversy but was seen as necessary to reconcile accountability with the reintegration of former combatants.²²⁸ Thus, the JEP's approach demonstrates the flexible and context-sensitive application of international human rights standards, especially those of the ICC and the IACtHR, without compromising fundamental obligations such as truth, justice and reparation.²²⁹

Despite these innovations, the JEP's sanction model faced criticism from domestic political actors and international human rights organizations such as Amnesty International and Human Rights Watch.²³⁰ Critics argued that the alternative sentences did not adequately reflect the gravity of the crimes committed, particularly given that FARC members could receive non-custodial penalties for acts like kidnapping or planting landmines. The comparatively mild sanctions did not align with what many Colombians considered a fair response to the serious crimes committed during the conflict.²³¹ In response to such concerns, key political figures, including President *Juan Manuel Santos* and Prosecutor General *Eduardo Montealegre*, defended the JEP's approach by advocating for a more flexible, context-sensitive understanding of justice in the aftermath of armed conflict. *Montealegre* stressed the practical impossibility of prosecuting every offense and emphasized that international standards allow for nuanced interpretations. *Santos*, in turn, called on the international community to support a model that balanced the demands of justice with

²²⁷ Legislative Act 1 of 2017, transitory Article 1, subsection 4.

²²⁸ Rojas Betancourth, pp. 164f.; Piccone, p. 14.

²²⁹ Alviar García/Engle, p. 217; Jakobsen, *The International Journal of Transitional Justice*, Vol. 18, 2024, p. 436.

²³⁰ Ozcelik, p. 102; Borda/Gutiérrez, p. 231.

²³¹ Piccone, p. 14.

ensuring peace, arguing that such flexibility was indispensable for securing a sustainable agreement.²³²

Despite the contested nature of its sanctioning regime, the international community, most notably the ICC, ultimately endorsed Colombia's transitional justice model. In 2021, the ICC Prosecutor acknowledged that Colombia's transitional justice mechanisms fulfilled the four key pillars of truth, justice, reparation and non-repetition and consequently announced the closure of the Court's preliminary examination.²³³ This marked the first time the ICC formally recognized a national transitional justice system as being in line with the requirements of the Rome Statute. This endorsement signaled that Colombia's unique system satisfied the principle of complementarity under the Rome Statute, meaning that the country was both willing and able to investigate and prosecute the most serious international crimes. It also lent support to the JEP and implicitly validated the use of reduced and alternative sanctions as a legitimate means of pursuing sustainable peace.²³⁴

The Colombian peace process demonstrates how human rights norms can be employed as strategic tools to design complex and context-sensitive mechanisms of transitional justice. In particular, victims' rights to truth, justice and reparation provided a normative foundation that legitimized a rights-based institutional framework, while allowing for sufficient flexibility to reach a negotiated settlement. This enabled the negotiating parties to develop a system that was both politically viable and consistent with international standards. However, the strategic use of human rights was not without trade-offs. While it enabled a careful balance between accountability and political possibility, it also gave rise to criticism, particularly regarding the perceived leniency of sanctions and the risk of undermining victims' rights if justice objectives are not fully met. While human rights can help balance the demands of peace and justice, their normative force may be weakened if they are used primarily as tools of compromise, as this can undermine the credibility of the justice process in the eyes of victims and the broader public. Ultimately, the Colombian model aims to achieve three interlinked goals: to establish responsibility for past crimes, to enable the reintegration of former combatants and to fulfill the rights of

²³² Alviar García/Engle, p. 217.

²³³ ICC Prosecutor, pp. 8 ff.

²³⁴ Månsson, pp. 180 f.

victims. Whether this ambitious system will succeed in doing so remains an open question. Failure to meet these objectives could not only result in renewed violations of victims' rights, but also increase the risk of future conflict due to persistent perceptions of impunity.

4.5. Conclusion

This chapter examined the ways in which human rights norms were integrated in the peace negotiations in Colombia and analyzed what role they played throughout the process. The findings suggest that human rights made a substantial contribution to the success of the negotiations. They provided a shared legal basis that helped bridge the divide between the negotiating parties, who had long been separated by civil war and mistrust. The agreement's legitimacy and substantive depth were not achieved despite the presence of human rights standards, but rather because these norms were meaningfully integrated at all stages, from the formulation of the agenda and the design of participatory mechanisms to the development of transitional justice structures and implementation planning.

In the early phase of the negotiations, human rights served as a valuable framework for identifying the underlying causes of violence, such as land dispossession, political exclusion and systemic marginalization. Legal frameworks adopted before the talks, especially the Peace and Justice Law of 2005 and the Victims and Land Restitution Law of 2011, created institutional mechanisms to document these injustices and reveal patterns of victimization. These laws' systematic truth-telling and documentation efforts, together with reports by the OHCHR, established a solid factual foundation for the peace process. These efforts contributed to a more accurate understanding of human rights violations, including state complicity and helped shape the conflict analysis and negotiation priorities.

The Colombian peace process demonstrates how human rights can foster trust, promote meaningful participation, and help build more constructive relationships between negotiating parties and affected communities. By placing victims at the center of the negotiations, participation moved beyond symbolic recognition and enabled direct engagement, most notably through the victim hearings in Havana, which influenced both the tone and the substance of the talks. Women and ethnic minorities also played a role, not only through advocacy but through institutionalized mechanisms such as the gender subcommission and the Ethnic Chapter. These

innovations expanded the inclusivity of the process and gave visibility to historically marginalized perspectives. Nonetheless, participation was not without its limitations. The involvement of women and ethnic groups began relatively late in the process, with time constraints posing a particular challenge for the involvement of ethnic communities. Their inclusion by the negotiators was often reactive, responding to external pressure rather than stemming from a proactive commitment to diversity from the outset. Furthermore, while civil society actors were included throughout the negotiations, the rejection of the peace agreement in the 2016 plebiscite underscored that formal inclusion mechanisms do not automatically translate into broad societal legitimacy. This highlights the need for ongoing and inclusive engagement that extends beyond structured consultation formats. Still, the participatory architecture anchored in human rights contributed to rebuilding trust and supporting de-escalation after decades of armed conflict.

Furthermore, human rights shaped the structure of the negotiations by establishing non-negotiable legal boundaries. For example, the exclusion of amnesties for the most serious crimes, such as crimes against humanity, war crimes, and sexual violence, set clear limits on what could be agreed upon. These boundaries were strongly influenced by international legal frameworks, particularly those of the International Criminal Court and the Inter-American Court of Human Rights. At the same time, both parties committed to upholding victims' rights to truth, justice, reparation and guarantees of non-repetition. These commitments were essential to ensuring that the peace process remained aligned with Colombia's constitutional standards and international obligations. However, the strong influence of international law, especially the perceived pressure from the ICC, sparked debate. Critics voiced concern that strict adherence to human rights norms would reduce the flexibility necessary for negotiating a politically viable and lasting peace.

Human rights also functioned as strategic tools to design pragmatic and context-sensitive mechanisms of transitional justice. Rooted in victims' rights to truth, justice, and reparation, they provided a normative basis that legitimized the institutional framework of transitional justice while leaving room for negotiated solutions. A key example is the Special Jurisdiction for Peace, which established an innovative system of sanctions that linked accountability to cooperation, replacing traditional imprisonment with liberty-restricting measures. This approach reflected a restorative

rather than retributive logic and aligned with international legal standards. Although some critics viewed the sanctions as too lenient, the model was ultimately recognized by the ICC as a legitimate compromise between accountability and political feasibility.

In sum, the case of Colombia demonstrates that human rights can play a constructive and multidimensional role in peace negotiations when they are contextually embedded rather than externally imposed. Their integration helped diagnose the structural causes of conflict, foster trust and inclusive participation, define normative boundaries for what could be negotiated and guide the development of innovative transitional justice mechanisms. Notably, victims' rights are a structural pillar of the entire Colombian peace process. Victims' rights are present in all four functional roles of human rights and actively shaped the process from conflict analysis to implementation. This demonstrates that human rights were not merely external constraints or normative requirements but rather an integral part of Colombian negotiation logic, with victims' rights serving as the central connecting element throughout. At the same time, the process faced limitations in terms of inclusion and political resistance. These dynamics underscore that Colombia's model should not be seen as a universal blueprint. Instead, its key lessons offer valuable insights for adapting human rights-based approaches to the specific conditions of other peace processes.

5. Transferability of the insights from Colombia

Although Colombia's peace process represents a unique case of integrating human rights into conflict resolution, it offers important guidance for embedding human rights in other peace negotiations. Based on the four-fold human rights functions developed in Chapter two, analytical, relational, normative and strategical, this chapter concentrates specifically on the relational function of human rights.²³⁵ Colombia's peace process gained international recognition for its inclusive approach, particularly the meaningful involvement of victims, civil society and the integration of gender perspectives. This chapter examines to what extent the Colombian case offers applicable strategies for current contexts of armed conflict, with particular attention to the ongoing crisis in Sudan. Although previous peace agreements in Sudan have largely excluded affected populations, demands for the meaningful inclusion of civilians and victims are growing.²³⁶ This chapter therefore examines whether and how the relational approaches applied in Colombia, particularly victim participation, civil society engagement and women's inclusion, can be adapted to foster more inclusive negotiation processes in Sudan.²³⁷

The United Nations has called the current situation in Sudan the worst humanitarian crisis in the world.²³⁸ As of 2025, over 30 million people require humanitarian assistance, and malnutrition rates have risen by 44 percent in 2024, affecting hundreds of thousands of children.²³⁹ The prolonged conflict has continued to exacerbate these conditions and by late 2025 and early 2026 large segments of the civilian population were experiencing extreme food insecurity, with famine-like conditions reported in several regions.²⁴⁰ Despite the gravity of the crisis, international attention has largely focused elsewhere, particularly on conflicts in the Middle East

²³⁵ The Colombian case also offers further valuable insights, particularly in the field of transitional justice, which could be relevant to the Sudanese context, but could not be explored here due to space constraints.

²³⁶ Kurtz, April 2025; Harb, 2025; El Mahdi/Abdelhamied/Mahmoud, p. 43; Booth/Satti, 2024; Mikkawi/Hamdan, p. 6.

²³⁷ Given the current state of accessible literature, specific dynamics concerning LGBTI persons and ethnic minorities in Sudan could not be addressed, but further research in these areas remains essential.

²³⁸ UN News, 2025.

²³⁹ UNOCHA, March 2025; Harb, 2025.

²⁴⁰ WFP, February 2026.

and Ukraine. Yet Sudan's recent history of peace agreements, including the Comprehensive Peace Agreement (CPA) of 2005 and the Juba Peace Agreement (JPA) of 2020, offer important precedents and lessons for renewed efforts. Both agreements attempted to address longstanding grievances related to power-sharing, wealth distribution and transitional justice. However, they were also marked by significant exclusions, demonstrating the relevance of relational approaches to peacebuilding in Sudan.²⁴¹ This context makes Sudan a compelling case for examining the transferability of Colombia's relational peace practices. Although the two countries differ significantly in terms of geography, political culture and institutional capacity, the core principles of inclusive peacebuilding may offer useful guidance for Sudan's deeply divided society.

5.1. The Current Situation in Sudan

Sudan experienced a significant political shift in April 2019, when a popular uprising brought an end to *Omar al-Bashir's* 30-year regime. Under the mediation of the African Union, a transitional arrangement was established between military and civilian representatives. However, this fragile power-sharing agreement collapsed and in April 2023 open conflict erupted between the Sudanese Armed Forces (SAF), led by General *al-Burhan* and the Rapid Support Forces (RSF), commanded by General *Mohamed Hamdan Dagalo*, commonly known as *Hemedti*.²⁴² The resulting humanitarian crisis has been devastating. Both sides have committed serious abuses against civilians, including widespread sexual violence, gang rape and sexual slavery, especially by the RSF.²⁴³ Between early 2024 and March 2025 alone, at least 220 children were documented as victims of sexual violence.²⁴⁴ With over 20,000 civilian deaths and 14 million people displaced, Sudan's health and humanitarian systems are now on the verge of collapse.²⁴⁵

²⁴¹ For further detailed analysis of the Comprehensive Peace Agreement see Brosché (2009) and for the Juba Peace Agreement see Amoroso, *African Conflict and Peacebuilding Review*, Vol. 12, Issue 2 (2022).

²⁴² Nicholson, 2025; El Mahdi/Abdelhamied/Mahmoud, pp. 5 ff.

²⁴³ Amnesty International, pp. 10 ff.; UN Human Rights Office, 2025.

²⁴⁴ Amnesty International, p. 13.

²⁴⁵ Harb, 2025; WHO, pp. 3 f.

Various mediation efforts, including the Jeddah Process, the African Union-led initiative, and the IGAD negotiations, have so far failed to produce any meaningful results.²⁴⁶ These efforts have been undermined by fragmented approaches, lack of coordination, the exclusion of key stakeholders and opportunistic »forum shopping« by the parties in conflict. Moreover, both warring factions have shown little political will to end the violence.²⁴⁷ Consequently, Sudan's peace process is currently characterized by diplomatic deadlock and regional fragmentation, which severely hinder prospects for a sustainable resolution.²⁴⁸

5.2. Transferring the Relational Function to Sudan

Colombia's peace negotiations have been widely praised for setting new standards in inclusive dialogue, particularly through the participation of victims, civil society and women. By contrast, past peace processes in Sudan have generally fallen short of broad-based participation. Both the Comprehensive Peace Agreement of 2005 and the Juba Peace Agreement of 2020 were characterized by a strong top-down dynamic. The CPA, despite its broad thematic scope, excluded civil society actors almost entirely and negotiations were dominated by Track 1 diplomacy between representatives of the central government and the Sudan People's Liberation Movement/Army (SPLM/A), the main southern rebel movement at the time.²⁴⁹ Similarly, the JPA was in practice largely an elite pact among Sudanese leaders with civil society organizations only marginally involved.²⁵⁰ This contrast illustrates why examining participatory approaches from the Colombian peace process may be particularly relevant for Sudan, where the limited inclusion of civil society has been a recurring feature of past negotiations and may have constrained their broader legitimacy and impact.

²⁴⁶ For a detailed account of the mediation efforts to date, see Kurtz, IP 1/2025; Pospisil, 2024.

²⁴⁷ Harb, 2025.

²⁴⁸ Nicholson, 2025; Pospisil, 2024.

²⁴⁹ Rothbart/Brosché, p. 181.

²⁵⁰ Amoroso, *African Conflict and Peacebuilding Review*, Vol. 12, Issue 2 (2022), p. 15.

5.2.1. Victim Participation

One particularly neglected group in Sudan's past peace processes have been victims. In the JPA, attention to victims remained limited and focused primarily on displaced persons and refugees, particularly through the provisions of the Darfur Protocol. The agreement affirmed important rights, such as voluntary return and included concrete provisions like a national resettlement strategy, compensation mechanisms and the establishment of a dedicated commission.²⁵¹ However, these measures were developed without the meaningful participation of those affected. This led to criticism and protests and contributed to the perception among displaced populations that the measures lacked legitimacy.²⁵²

By contrast, the Colombian peace process placed victims at the center of negotiations. Victims were actively involved in shaping the course of the peace talks through regional forums, public hearings in Havana and direct exchanges with negotiators.²⁵³ Adapting this approach to Sudan could involve organizing local or regional victim assemblies, particularly in areas most affected by violence and displacement. Even if such assemblies do not result in immediate legal reforms, they could play an important symbolic role and help rebuild trust between communities and negotiating parties. Moreover, they may counter the perception of an elite-driven process and foster recognition of atrocities committed by all parties, which is an essential step toward long-term reconciliation.

However, the implementation of victim participation in Sudan faces serious limitations. Ongoing security threats, weak institutional structures, and logistical challenges make wide-scale inclusion difficult.²⁵⁴ Nevertheless, the Colombian example shows that the meaningful involvement of victims is not merely aspirational but can be instrumental in unlocking stalled negotiations and creating more lasting outcomes. This is particularly relevant in the context of transitional justice.²⁵⁵ International standards increasingly emphasize the centrality of victim participation

²⁵¹ Amoroso, *African Conflict and Peacebuilding Review*, Vol. 12, Issue 2 (2022), pp. 11 f.

²⁵² Tohnji Samah, *African Conflict and Peacebuilding Review*, Vol. 12, Issue 2 (2022), pp. 123 f.

²⁵³ See chapter 4.2.1.

²⁵⁴ WHO, pp. 3 ff.; Nicholson, 2025.

²⁵⁵ For an analysis of possible transitional justice elements in a future peace process, see Kurtz, *Verfassungsblog*; Mikkawi/Hamdan.

in designing and implementing transitional justice measures.²⁵⁶ Consultations must therefore focus on those directly affected by the violence, especially victims of gross human rights violations and survivors of sexual and gender-based violence. This is especially important in Sudan, where a large proportion of the population has been impacted by the conflict.²⁵⁷ Their inclusion is essential for shaping responses that reflect the realities of the conflict and should directly contribute to the design of transitional justice mechanisms that ensure continued victim participation beyond the initial negotiation phase, for example, through the establishment of a truth commission.²⁵⁸ To achieve this, clear procedural pathways must be established to integrate victims' input into concrete post-conflict justice measures.

5.2.2. Civil Society Inclusion

Sudan has a long history of structural inequality, that profoundly shaped its conflict landscape. Political power has historically been concentrated among Arab-Muslim elites, while African non-Muslim communities, particularly in peripheral regions such as South Sudan, Darfur, and the Nuba Mountains, have faced systemic marginalization.²⁵⁹ These regions were neglected by the central state, resulting in deep disparities in political influence, resource allocation and access to public services. Rather than addressing these grievances, the ruling elite responded to local resistance with violence.²⁶⁰ A peace process that aims at genuinely including a broad spectrum of civilian actors is required to address these deep-rooted injustices. However, past peace efforts in Sudan have largely failed to meet this standard.²⁶¹ Although the JPA was welcomed as a nationally driven initiative, it was in practice shaped mainly by political and military elites. It followed a top-down approach and involved only minimal civil society participation.²⁶² Despite the inclusion of region-specific provisions, intended to address the distinct needs of Sudan's diverse regions, the process lacked

²⁵⁶ UN General Assembly, Ziff. 12 ff.; UN Secretary-General, Principle A.6.

²⁵⁷ Mikkawi/Hamdan, p.6.

²⁵⁸ Redress, p. 8; Kurtz, Verfassungsblog.

²⁵⁹ Ghebremeskel, *Global Change, Peace & Security*, 35:2 2023, pp. 104 f.

²⁶⁰ Ghebremeskel, *Global Change, Peace & Security*, 35:2 2023, pp. 104 f.; Young, pp. 12 ff.

²⁶¹ Back, p. 97.

²⁶² Amoroso, *African Conflict and Peacebuilding Review*, Vol. 12, Issue 2 (2022), p. 15.

formal mechanisms for broader public involvement. As a result, the agreement struggled to generate broad legitimacy, particularly among marginalized communities.²⁶³

In contrast, the Colombian peace process placed civil society inclusion at the center of its approach. Through thematic and territorial forums, digital consultation tools, and formalized participatory structures, negotiators ensured that a wide range of societal voices were incorporated into the process. These efforts increased the perceived credibility of the agreement, grounded it in local realities and enabled affected communities to articulate demands and influence the outcomes.²⁶⁴

The approach taken in Colombia offers transferable lessons for Sudan. Mediators and international actors could actively promote the creation of inclusive spaces for civil society engagement, particularly by amplifying the participation of women, youth and local grassroots actors.²⁶⁵ This might involve the creation of regional civil society forums in various parts of the country.²⁶⁶ The region-specific approach taken by the Juba Peace Agreement, even though the negotiations sidelined civil society, could still serve as a foundation for more inclusive, regionally anchored negotiations.²⁶⁷ Public forums may also help explain and legitimize the peace process, while structured mechanisms for incorporating public input would enhance public ownership of its outcomes. Additional measures such as an online platform for submission of proposals and consultation formats that allow contributions from the Sudanese diaspora could further broaden participation.²⁶⁸ At the same time, many civil society initiatives backed by international actors are led by urban or diaspora elites and do not reflect Sudan's broader social diversity. In order to encourage greater participation, investment is required in leadership development, cross-sectoral networking and dialogue facilitation tools that strengthen diverse voices. This could help to unify fragmented groups and enhance their ability to influence the peace process.²⁶⁹

²⁶³ Amoroso, *African Conflict and Peacebuilding Review*, Vol. 12, Issue 2 (2022), pp. 7 ff.

²⁶⁴ See chapter 4.2.2.

²⁶⁵ Redress, p. 5.

²⁶⁶ Similar ideas see Booth/Satti, 2024.

²⁶⁷ See Amoroso, *African Conflict and Peacebuilding Review*, Vol. 12, Issue 2 (2022), p. 17.

²⁶⁸ Ghebremeskel, *Global Change, Peace & Security*, 35:2 2023, p. 108.

²⁶⁹ El Mahdi/Abdelhamied/Mahmoud, p. 44.

Nonetheless, transferring such a model to Sudan is not without obstacles. Colombia benefited from a relatively strong and interconnected civil society that had the capacity to influence the political process. In contrast, Sudanese civil society has been severely weakened by repression, internal fragmentation and limited resources, but numerous civil initiatives remain active. Despite these challenges, civil society actors have shown remarkable resilience and adaptability, shifting to digital platforms, relocating operations and engaging in international advocacy efforts.²⁷⁰ However, these constraints continue to limit their ability to participate meaningfully in formal peace negotiations.²⁷¹ In spite of these difficulties, the mobilization that emerged during Sudan's 2019 revolution shows that there is a foundation to build upon. Sudanese civil society actors could use existing communication networks to coordinate efforts and formulate a shared agenda that guides peace negotiations and provides a point of orientation for mediators.²⁷² Beyond influencing the negotiation process, such a unified approach could also strengthen democratic participation at the local level.

5.2.3. Women's Participation

The systematic exclusion of women from formal peace negotiations has been a persistent feature of Sudanese political history. This pattern continued during the most recent Juba Peace Agreement, where women were initially completely absent from the negotiation table. Only through intense mobilization by women's rights organizations and activists, supported by international organizations, was a minimal representation of 10 percent achieved in the final talks.²⁷³ This marginal inclusion is particularly striking given the significant role women played in the mass protests that led to the overthrow of *Omar al-Bashir* in 2019.²⁷⁴

Colombia offers a compelling example of how the structured inclusion of women can enhance the legitimacy of a peace process. Gender considerations were integrated into the Colombian negotiation process through the establishment of a gender subcommission, which reviewed the entire

²⁷⁰ El Mahdi/Abdelhamied/Mahmoud, pp. 18 ff.

²⁷¹ Ghebremeskel, *Global Change, Peace & Security*, 35:2 2023, p. 103.

²⁷² Ghebremeskel, *Global Change, Peace & Security*, 35:2 2023, p. 108.

²⁷³ Abbas/Tønnessen, *African Conflict and Peacebuilding Review*, Vol. 12, Issue 2 (2022), p. 92.

²⁷⁴ The Strategic Initiative for Women in the Horn of Africa Network, p. 13.

agreement from a gender perspective and included women as active participants in the peace negotiation. This approach ensured that gender-specific concerns were systematically integrated into the substance of the agreement.²⁷⁵

While the contexts differ, this offers useful insights for Sudan. Despite ongoing structural challenges, Sudan has active women's networks, many of which emerged during the 2019 revolution, that could play a greater role in potential peace processes.²⁷⁶ Similar to Colombia's gender subcommission, establishing a Gender Advisory Board could provide a structured forum to review all elements of a future peace agreement from a gender perspective. Furthermore, a genuinely inclusive peace process in Sudan requires concrete steps to strengthen the role of women. This includes creating platforms for women to express their priorities for peace, ensuring their representation at all levels of decision-making and supporting the active involvement of women from local communities.²⁷⁷ As part of the peace process, it is essential to recognize and respond to the specific needs of women affected by the conflict, including access to justice, economic empowerment, trauma healing and essential services such as health-care and reproductive support. Particular emphasis should be placed on acknowledging and addressing the impact of sexual violence in the context of the armed conflict.²⁷⁸

Nevertheless, the conditions for women's participation in Sudan are more challenging than they were in Colombia. One key obstacle is the limited political experience of many female negotiators, due to conservative gender norms that have restricted women's access to public and political roles across the country, especially in Eastern Sudan. This was already evident during the Juba negotiations, when many women's civil society groups were still in the early stages of formation and lacked the institutional capacity to assert their inclusion effectively. As a result, women's perspectives were frequently marginalized.²⁷⁹ Despite these challenges, the potential of Sudanese women's organizations should not be underestimated. The exclusion of women from formal political structures has in

²⁷⁵ See chapter 4.2.3.

²⁷⁶ The Strategic Initiative for Women in the Horn of Africa Network, pp. 13f.; Elshabik, p. 58.

²⁷⁷ The Strategic Initiative for Women in the Horn of Africa Network, p. 42.

²⁷⁸ The Strategic Initiative for Women in the Horn of Africa Network, p. 42.

²⁷⁹ Abbas/Tønnessen, *African Conflict and Peacebuilding Review*, Vol. 12, Issue 2 (2022), p. 98.

many cases led to local forms of mobilization, often supported by international actors. Previous experiences, such as the assistance provided by organizations like UNAMID during the Juba negotiations, show that external support can help women organize, develop gender-sensitive approaches and gain access to negotiation processes.²⁸⁰ Since the outbreak of war in April 2023, women's groups have continued to mobilize in response to the worsening humanitarian and political situation. These initiatives bring together women from different regions and backgrounds to challenge patriarchal norms, promote peace and advocate for greater inclusion in decision-making. However, their capacity to act remains limited due to lack of funding.²⁸¹ Given the current circumstances in Sudan, sustained international support, both financial and political, is even more important than it was in Colombia. Experience from Colombia illustrates that a combination of local engagement and consistent international assistance can contribute to the establishment of formal structures for gender inclusion in peace process, such as the creation of a gender subcommission. In Sudan, where women's organizations face greater structural constraints and underfunding, international actors can help strengthen local initiatives, support inclusive mechanisms and promote the participation of women in peacebuilding efforts.²⁸²

5.3. Conclusion

Elements of the Colombian peace process could provide valuable guidance for Sudan, but only if they are carefully adapted to the local context. In a country where previous peace agreements have repeatedly failed to achieve lasting results or be implemented, relational peacebuilding, particularly through the meaningful inclusion of victims, civil society and women, is not only a normative ideal but a strategic necessity.

A key component of such an inclusive approach is the participation of victims. In Sudan, those affected by conflict-related violence have long been excluded from formal negotiations and continue to suffer serious violations. Their structured involvement could foster public ownership and build trust, especially in the regions most impacted by the war and

²⁸⁰ Abbas/Tønnessen, *African Conflict and Peacebuilding Review*, Vol. 12, Issue 2 (2022), p. 94.

²⁸¹ The Strategic Initiative for Women in the Horn of Africa Network, p. 13.

²⁸² Compare Kurtz, *IP* 1/2025, p. 93.

facilitate dialogue between affected communities and political actors. The establishment of local or regional victim forums could serve as a starting point for broader engagement and signal a willingness to acknowledge past harm and integrate these experiences into future transitional justice efforts. Furthermore, Sudanese civil society, though currently fragmented and under significant pressure, should nonetheless play a key role in future peace processes. Its potential was clearly demonstrated during the 2019 revolution. Unlike Colombia, Sudan lacks institutionalized platforms for civic participation, but this gap could be narrowed through international support for decentralized and inclusive engagement formats.²⁸³ Regional forums, grassroots consultations and channels for involving the diaspora could help articulate local grievances and connect them to national dialogue, thereby enhancing the legitimacy of a broader peace process. Women's participation, in particular remains a deeply underutilized resource. Despite marginalization and structural exclusion, women's networks in Sudan continue to mobilize and demand inclusion.²⁸⁴ Establishing a Gender Advisory Board, modelled on Colombia's gender subcommission and backed by international political and financial support, could help ensure that women's voices are meaningfully integrated into future negotiations.

Nevertheless, the scope for participation remains limited due to ongoing security risks, weak institutional capacity and a lack of political willingness among key actors.²⁸⁵ Whereas Colombia developed a functioning negotiation framework that allowed for civil society engagement, Sudan currently lacks such a structure. This very absence, however, highlights the importance of early relational investments. International actors must assume a more proactive role than in the Colombian case not only by sponsoring or hosting preparatory or consultative meetings, but also by using their leverage to encourage armed groups and transitional authorities to create inclusive political processes. In addition, international observers, monitors and peacekeepers can help foster the conditions necessary for safe and meaningful participation. Such efforts, however, must be firmly

²⁸³ Elshabik, pp. 57 ff.

²⁸⁴ El Mahdi/Abdelhamied/Mahmoud, pp. 31 f.

²⁸⁵ El Mahdi/Abdelhamied/Mahmoud, p. 32.

rooted in respect for local ownership and popular sovereignty to ensure legitimacy and sustainability.²⁸⁶

Therefore, efforts to involve victims, civil society actors and women can help promote inclusion, transparency and accountability from an early stage. Over time, such engagement may support trust-building, facilitate informal dialogue and enhance the credibility as well as sustainability of future negotiation processes.

²⁸⁶ See McKeon, p. 6.

6. Final Reflections

This thesis set out to explore the role human rights can play in international peace negotiations and to assess how they can contribute to the success of such processes. Using the Colombian peace process as a case study, the research demonstrated that human rights can strengthen peace processes in diverse and complementary ways.

The Colombian peace negotiation illustrate that human rights norms significantly contributed to the talks between the government and the FARC. They served not merely as abstract legal references, but as dynamic tools that actively shaped process and outcome. Human rights helped uncover structural drivers of the conflict, such as political exclusion and historical marginalization. Legal frameworks, such as the 2005 Justice and Peace Law and the 2011 Victims' Law, supported this effort and provided the basis for evidence-based dialogue. Trust-building was fostered through meaningful participation of civil society and victims, most notably during the Havana hearings, as well as through inclusive mechanisms such as the gender subcommission and the Ethnic Chapter. Human rights norms also shaped the framework of the peace agreement by prohibiting amnesties for serious international crimes and by embedding key principles such as the rights to truth, justice, reparation and guarantees of non-repetition. Finally, human rights strategically supported the creation of a transitional justice system that balanced legal standards and political pragmatism by introducing a conditional accountability model with alternative sanctions instead of conventional imprisonment - an approach that was unprecedented at the time.

6.1. Key Insights from Colombia for Future Peace Processes

Several promising aspects of the Colombian peace process could serve as reference points for other peace negotiations and encourage greater attention to human rights in the future.

6.1.1. Building a Shared Understanding through Human Rights-Based Conflict Analysis

The Colombian example illustrates the strategic value of basing conflict analysis on internationally recognized human rights standards. Even

before formal negotiations began, laws such as the 2005 Peace and Justice Law and the 2011 Victims and Land Restitution Law, both rooted in victims' rights and transitional justice principles, were established. They created institutional mechanisms for documenting patterns of human rights violations and addressing structural injustices, including land dispossession and political exclusion. These systematic truth-telling efforts, supported by reports from the OHCHR, provided a shared factual basis that helped shape the negotiation agenda. By linking the peace process to a deeper understanding of the conflict's underlying human rights deficits, particularly inequality in land distribution and political marginalization, which had long fueled the FARC's struggle, this approach enhanced legitimacy, reduced political polarization, and ensured that negotiated solutions addressed core societal grievances. This is especially significant in reducing the risk of renewed social unrest and ensuring the agreement's sustainability.

6.1.2. Centering Victims' Rights

A defining feature of the Colombian peace process was its early and sustained focus on victims' rights. The principles of truth, justice, reparation and guarantees of non-repetition were not merely symbolic commitments; they fundamentally shaped the agenda, structure and substance of the negotiations. Throughout the process, victims' rights served as a constant point of reference to which both parties could return, even during difficult phases of the talks. These rights provided moral guidance, helped bridge political divides, and ensured continuity throughout the process. Thus, they became a key structuring element of the peace process and a shared foundation that shaped all four functional roles of human rights, from conflict analysis and agenda setting to designing transitional justice measures. Public victim hearings held in Havana further strengthened this approach by fostering empathy among negotiators and reinforcing the process's legitimacy. By placing victims' rights at the heart of the negotiations, the Colombian peace process moved beyond elite bargaining toward a more inclusive, rights-based approach. This experience highlights the potential benefits of centering victims in other peace processes, particularly as a means to strengthen legitimacy, build common ground and guide negotiations through moments of political tension.

6.1.3. Inclusive Participation

The Colombian peace process also demonstrated the power of inclusive design to strengthen peace negotiations. Despite initial hesitation, the meaningful participation of affected groups became a defining feature of the talks. Institutional innovations, such as the gender subcommission and the Ethnic Chapter, ensured that gender and ethnic perspectives were not only acknowledged, but also systematically integrated into the process. These mechanisms strengthened the voices of historically excluded communities, resulting in a more representative and substantively robust final agreement. However, the Colombian experience also revealed the limitations and risks of inclusive approaches. For participation to be effective, all relevant stakeholders must be involved in a timely and equal manner. In the case of ethnic minorities, for example, delayed engagement led to frustration and risked the deepening of existing divisions. Additionally, it became apparent that civil society participation tends to attract individuals who already support the peace process, while more skeptical voices may be excluded. This highlights the need to consider formats that can also reach those parts of society that are otherwise hesitant or critical. Furthermore, using a referendum as a form of direct democracy proved to be a high-risk strategy because it could have caused the entire negotiation process to fail. Nevertheless, inclusive mechanisms can strengthen legitimacy and representation, but they require careful design to prevent negative consequences such as backlash and polarization. These insights can guide other peace processes that aim to balance participation with political viability.

6.1.4. Defining Negotiation Space through Human Rights

The Colombian peace process offers a compelling example of how human rights can be meaningfully integrated into peace negotiations without undermining political compromise. International legal norms, particularly those of the Rome Statute and the Inter-American Court of Human Rights, defined clear boundaries, such as the exclusion of amnesties for serious international crimes, while still leaving room for creative, context-specific solutions. Within these limits, Colombia developed a differentiated accountability model that was ultimately endorsed by the International Criminal Court. Although insisting on accountability during nego-

tiations with armed groups carries the risk of jeopardizing the talks altogether, in the Colombian case, human rights served as a constructive point of reference. They helped both parties avoid extreme or incompatible demands that might have undermined the talks. At the same time, the legal framework remained flexible enough to accommodate specific concerns raised by the state and proposals from civil society actors.²⁸⁷ However, the strong emphasis on accountability and legal justice also carries the risk of sidelining broader issues of social and economic injustice, despite their central role in a conflict and their significance for large parts of the population.²⁸⁸ The Colombian case demonstrates that human rights can serve as constructive limits that strengthen, rather than constrain, peace negotiations. This shows that human rights and peace mediation can effectively complement each other.

6.1.5. Guiding Transitional Justice through Human Rights Standards

Moreover, the Colombian process shows how human rights can guide the design of transitional justice mechanisms that uphold international legal standards while allowing for context-sensitive forms of accountability. The Comprehensive System of Truth, Justice, Reparation and Non-Repetition integrated judicial and non-judicial components to address the complex legacies of violence in a victim-centered way. Its differentiated approach to accountability, replacing conventional prison sentences with restrictions of liberty for those who fully complied, was politically controversial yet it is difficult to imagine how the FARC could have been persuaded to demobilize under the prospect of long-term imprisonment. While this flexibility enabled political compromise, it must be approached with care, as it may risk weakening the normative strength of human rights law. Yet a rigid insistence on traditional punishment could have jeopardized the entire negotiation process. Colombia's transitional justice system, particularly the Special Jurisdiction for Peace, has attracted considerable international attention due to its innovative design. The case thus illustrates how a human rights-based approach can support the development of legitimate and politically viable transitional justice mechanisms.

²⁸⁷ See Savonitto, p. 135.

²⁸⁸ See Alviar García/Engle, pp. 238 f.

6.2. Contextual Constraints and Transferability

While Colombia's peace process offers valuable insights, its implementation is still ongoing and cannot be fully evaluated. After the initial momentum of the 2016 Agreement, political changes slowed progress significantly. The administration elected in 2018 openly opposed key aspects of the peace deal, particularly the Special Jurisdiction for Peace.²⁸⁹ Although the *Petro* government, in office since 2022, has renewed its commitment to the agreement, implementation of core provisions, such as land reform and the inclusion of ethnic minorities, are still delayed. In response, President *Petro* announced in 2024 plans to extend the implementation timeline.²⁹⁰ This evolving situation calls for caution when drawing lessons from the Colombian case.

Furthermore, the Colombian model is not easily transferable, as its success was shaped by unique circumstances that may not exist in other contexts. The peace process occurred within a framework of stable democratic institutions and an active civil society where, despite a history of serious human rights violations, human rights were generally recognized as important social norms.²⁹¹ Under different conditions, particularly where armed actors reject international legal frameworks or perceive human rights as instruments of external domination, similar approaches may produce opposite effects. Additionally, Colombia has a functioning legal and institutional infrastructure, supported by prior legislation that provided a normative foundation for victim-centered justice. In addition, the country received substantial international support and was subject to normative pressure, particularly from the International Criminal Court and the Inter-American Court of Human Rights. This dual role of support and constraint helped shape the negotiation outcomes, but it may not be replicable in contexts where states are not parties to the Rome Statute or reject external oversight altogether. At the same time, the Colombian negotiators had to address past abuses that occurred during more than fifty years of armed conflict. However, the relatively binary nature of the conflict,²⁹²

²⁸⁹ Morales, pp. 1 f.

²⁹⁰ Freixes, 2024.

²⁹¹ Månsson, p. 169.

²⁹² Although the hostilities involved not only two factions but a range of actors, including allies of the state armed forces and other guerrilla movements, the negotiations were conducted exclusively between the government and the FARC as the dominant armed group.

with a state negotiating with a single dominant armed group, simplified certain aspects of the process. In many other contexts, peace processes are more complex, involving multiple armed groups, ethnic tensions, or ongoing violence, which makes negotiations much harder to manage.

The comparative analysis with Sudan underscores both the relevance and the limits of the Colombian experience. While Sudan currently lacks a functioning negotiation framework and institutional infrastructure to which human rights mechanisms could be directly attached, this very absence highlights the importance of early-stage investments in trust-building, victim engagement and inclusive consultations. In this regard, the relational function of human rights, fostering participation, recognition, and trust, could provide valuable entry points for future peace efforts. The Colombian case illustrates that human rights can help rebuild fractured relationships and lend credibility to negotiations, but also that these approaches must be adapted to local conditions. Sudan's context which is marked by insecurity, political fragmentation and the presence of multiple armed groups, makes formal inclusion mechanisms more difficult, but also more essential for establishing legitimacy. Unlike Colombia, Sudan lacks prior victim legislation or transitional justice architecture and its limited engagement with the ICC and other international human rights bodies reduces external pressure to uphold global standards. In such settings, locally legitimate and culturally resonant forms of justice may prove more effective than purely legal frameworks. However, due to the country's instability and fragile institutional foundations, stronger support from international actors will be essential, not only to facilitate dialogue and encourage inclusive processes, but also to protect and empower civil society actors whose participation is crucial for a sustainable and rights-based peace.

6.3. Conclusion and Outlook

This study has shown that human rights can play a constructive and multifunctional role in peace negotiations. They help uncover the drivers of conflict, shape inclusive mechanisms, frame legitimate compromises and guide transitional justice. The analysis of the Colombian peace negotiations illustrates that when meaningfully embedded, human rights enrich negotiations rather than impede them.

Several best practices can be derived from the Colombian case. Anchoring conflict analysis in human rights proved effective in identifying structural grievances such as land inequality and political exclusion. Placing victims at the center of the process helped ensure both legitimacy and continuity throughout the negotiations. The establishment of inclusive participation mechanisms, such as the gender subcommission and the Ethnic Chapter, strengthened the voices of historically marginalized groups and broadened societal support. Meanwhile, clearly defined legal boundaries rooted in international law helped shape acceptable compromises without undermining the normative core of human rights. Finally, the Colombian case shows that transitional justice mechanisms grounded in human rights can uphold legal standards while remaining politically feasible.

However, these practices depend on enabling conditions, such as functioning legal institutions, political will, civil society engagement and sustained international support. In fragile settings like Sudan, where such conditions are only partially present or entirely absent, the applicability of certain human rights functions may be limited. Nevertheless, the relational function, which emphasizes trust-building and inclusive participation, remains relevant in fragmented or unstable contexts and may offer valuable entry points for early-stage peace efforts.

This study concludes that human rights can significantly enhance peace negotiations if they are integrated early, backed by broad societal support and handled with political pragmatism. However, the findings also emphasize that achievements in one context cannot be automatically transferred to another, since each peace process is shaped by its own unique challenges and conditions. Therefore, future peace processes should place human rights more firmly at the center, using them as a flexible framework that takes into account the specific political context and local conditions of each setting.

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