FINAL PROJECT TECHNICAL REPORT

Alternative Justice, Reconciliation and Colombia’s Disarmed Paramilitaries: Beginning the Discussion

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ABSTRACT

Colombia is currently implementing a controversial process of disarmament, demobilization and reintegration (DDR) of paramilitary fighters into local communities. The Colombian justice system is not equipped with sufficient technical, financial or human resources to examine the criminal record of all of the estimated 30,000 paramilitaries who are part of this process. The legal status of almost 19,000 of these paramilitaries has not been defined. Within this group of 19,000 there are some individuals who have perhaps committed what could be categorized as lesser crimes during the conflict. In other countries undertaking DDR processes, alternative justice mechanisms have been used to bring to justice and facilitate the reintegration of this category of demobilized ex-combatants.

The Colombian Constitution and laws recognize the existence of alternative justice methods as socially-accepted practices of conflict resolution at the community level. However, for a variety of complex reasons, the potential to leverage these alternative justice practices to deal with the DDR overload has received very little attention in Colombia to date.

This project undertook an initial exploration of some of the constraints and opportunities -- political, social, legal and security -- that would need to be considered if alternative justice mechanisms were to be used to address some of the less serious conflict-related crimes committed by paramilitaries.

The research used a mixed-methods approach including key informant interviews and focus group consultations in Colombia, to gather information and opinions on the prospects for alternative justice processes as an adjunct to the DDR effort. The preliminary findings show that alternative justice is not well understood among certain sectors in Colombia and that stakeholder perceptions are divided around its potential to address issues of truth-telling, justice and reparation for victims. The study illuminates in particular, the need for deeper research on the legal viability for using alternative justice, the preparedness of alternative justice operators to address conflict-related crimes, and the risks involved for victims, family members, demobilized paramilitaries, judicial operators and other individuals involved in community-based justice.
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Research question

What are the possibilities for using alternative or traditional justice practices to reconstruct the truth about the last decades of violence in Colombia and to promote regional processes of reconciliation and bring to justice those demobilized paramilitaries who have committed only minor crimes?¹

For a variety of complex reasons, the possibilities and challenges of pursuing alternative justice mechanisms to facilitate the reintegration of certain categories of Colombia’s demobilized combatants is virtually unstudied in Colombia today. This research effort used key informant interviews and focus groups to initiate the process of shedding light on some of the major constraints and opportunities – political, social, legal and security -- that will need to be considered if alternative justice mechanisms are to be used in Colombia’s current and highly controversial Demobilization, Disarmament and Reintegration (DDR) process. At the same time it served to stimulate engagement and interest with Colombian stakeholders themselves.²

Background

Although there is no expectation of a military victory or negotiated settlement to the armed conflict in the near future, the current Colombian administration has ratcheted up pressure on leftist insurgent groups by developing and consolidating the process of disarmament, demobilization and reintegration (DDR) of paramilitaries through a controversial legal framework that includes the “Ley de Justicia y Paz” (Justice and Peace Law), passed in July 2005. According to critics, however, this law and its enabling legislation permit a wide margin of impunity, especially in cases of crimes against humanity.

While there may be disagreement about the efficacy and legitimacy of the law itself, there is agreement that it will be impossible to prosecute, judge, punish and reintegrate the almost 30,000 individuals formally recognized as demobilized paramilitaries. This is due to the fact that, among other things, the existing backlogs in the courts (and resulting high levels of impunity) demonstrate that there are not sufficient technical, financial or human resources available to process outstanding or pending cases. More worrying, each new declaration from the paramilitary leaders in prison implicates additional individuals whose participation or collaboration with paramilitaries had been previously unknown. As such, the number of those linked with these judicial processes progressively increases, which in turn increases the backlog of the special prosecutors, making the timely and effective delivery of justice to victims a more distant reality.

Given the overwhelming lack of capacity, the consideration of alternative justice mechanisms -- to deal with those demobilized combatants who committed only lower level crimes -- should be a logical consideration for Colombia. However, as the results of this scoping research project demonstrate, this possibility is fraught with difficulties.

¹ The original research question was modified during the course of investigation to respond to the changing legal environment in Colombia. As explained in this report, a new draft bill was recently introduced – the Principle of Opportunity – that focuses on the legal situation of some 19,000 paramilitary combatants whose legal status is not defined. The project research question was reworked to ask about the possibility of using alternative justice processes in conjunction with the “principle of opportunity” to facilitate reintegration of those who have not committed crimes against humanity and whose legal status will be defined by the law if and when it is passed.

² Bearing in mind the security risks for both victims and returning former combatants one of the major questions of concern in this project has been whether there exists in Colombia today, sufficient guarantees for permitting the operation of alternative justice mechanisms at the community level.
The use of alternative or traditional justice approaches for dealing with conflict-related crimes has been or is being implemented in a number of post-conflict countries (for example Sierra Leone, East Timor, Uganda, Mozambique and Northern Ireland) in which a political process has negotiated the end of hostilities between adversaries. Colombia is in a different situation however, due to the ongoing conflict and lack of real political transition. This calls into question whether alternative justice can be effectively implemented and parallels discussions currently taking in Colombia regarding the viability of implementing transitional justice policies and programs.

The Colombian Constitution and laws recognize the existence of alternative justice. Alternative justice includes socially accepted practices of conflict resolution at the community level. It includes rules and norms for bringing situations or behaviours to the attention of the community, symbolically important techniques for dealing with these grievances and pre-supposes certain legal and local knowledge (of the community) by those who are administering this justice. There are currently more than 700 justices of the peace and 3,000 “equity conciliators” (conciliadores en equidad) that offer services of mediation, arbitration, conciliation and more formal direct rulings. In addition, in over 125 indigenous and Afro-Colombian authorities, traditional forms of administering justice are being applied. However, none of these bodies have been legally authorized to undertake the judicial processes involving demobilized paramilitaries, despite the fact that the justices of the peace and equity conciliators have statutory status and even though the formal justice system is not able to guarantee the effective delivery of justice.

Legally speaking, returning paramilitaries who are not being processed by the Colombian judicial system as war criminals or individuals who have committed serious violations of international human rights or humanitarian law are categorized as ‘common criminals’. The absence of any discussion around if and how these individuals’ crimes are to be treated in the communities to which they are returning, throws up specific challenges for both victims and perpetrators, particularly in communities in which both groups are living in close proximity. Victims often want to know the truth about certain events but may also face real security risks in discussing the events in public.

**Evolution of the research question: changes in the legal environment**

During his November 2008 visit to Colombia, the project’s lead researcher learned that the Colombian Congress was studying a bill focusing on the legal situation of the 19,000 paramilitary combatants whose legal status is not defined. By July 2009, Congress had approved the ‘Principle of Opportunity’ bill, but the President has not yet signed it, so it has not passed into law.

This bill is significant for the present research because it addresses the category of offenders who are the principal focus for the project. If passed, the bill would help to fill the current legal void around the issue of the demobilized paramilitaries: currently there is no legal framework that categorizes the differing degrees of seriousness of conflict-related crimes. Such a categorization is an essential first step for enabling appropriate discussion around the prospects for alternative justice mechanisms to deal with lower-level crimes.

Although the bill has not yet passed into law, its very existence required a redefinition of the project’s research question to: *Is it possible to use the mechanisms of alternative justice to apply the “principle of opportunity” and, through this application, facilitate the processes of truth-telling, reintegration and reconciliation of the demobilized paramilitary combatants who committed lesser crimes?* This slight change in the research question had to be reflected in all of the data collection instruments.
Research objectives

General objective:

To explore the potential for using alternative justice approaches to facilitate local level truth-telling, bring voice to victims and contribute to the creation of enabling conditions for reconciliation by reconstituting the social fabric and reintegrating demobilized paramilitaries in Colombia.

Specific Objectives:

1. To facilitate a neutral space where academics, policymakers and victims groups can explore the intellectual (legal and ethical) and practical (social and operative) feasibility for integrating alternative justice systems into the implementation of the Justice and Peace Law with respect to reintegration of paramilitaries.

   Status: Fully achieved. Interviewees for the research held different, and at times opposing, viewpoints. Certain of the focus groups, and a larger March 2009 meeting, brought together people with different views. Although there was no agreement during the investigation or after, the exchanges themselves were vital for putting the issues and viewpoints on the table, and beginning the process of considering the possibilities and challenges of pursuing alternative justice mechanisms in detail. As this research shows, various factors have contributed to a notable silence on the issue of alternative justice methods for dealing with demobilized combatants in Colombia, even for those who committed lesser crimes. This research initiative helped to stimulate dialogue, and to sew the seeds for the development of a possible network of researchers and activists who are ready to engage this topic and further explore its possibilities for concrete action.

2. Elaborate a feasibility study that includes qualitative and quantitative data on Colombia’s DDR process and survey social, legal and political perceptions regarding potential for using alternative justice to process lesser criminals and build the foundations for social reconciliation in Colombian communities.

   Status: Fully achieved. The feasibility study is contained in two research products:

   • A 45-page document that includes a robust theoretical framework, a comparative section on the DDR experiences in other countries, and a synthesis of the main research findings and challenges, which also privileges the “voice” of interviewees, by using extensive quotes from the original interviews conducted in Colombia; and,

   • a 25 page summary document, that focuses more on the findings and which will be revised in the coming month for submission to the International Journal of Transitional Justice (as per their request, see below).

The research reports address the main set of questions outlined in the original project proposal: definition of alternative justice in Colombia; construction of a conceptual framework; current use of alternative justice in Colombia; use of alternative justice in other conflict or post-conflict settings; political, social, legal and security conditions needed to pursue alternative justice in Colombia; current state of the administration of justice to
victims; and, the views of victims’, civil society advocates, legal experts and ex-paramilitary members on the potential for using alternative justice as a path towards sustainable reconciliation and reintegration.

3. Provide information and analysis for the Canadian government, the international donor community, Canadian citizens and other stakeholders interested in peace and justice in Colombia, both of which are necessary conditions for wider socio-economic development and which are assuming greater importance to Canada due to the nexus between the areas of peace, security and development.

Status: Partially achieved, with more activities pending. Dissemination and discussion of preliminary findings took place in meetings with Colombian stakeholders during the second field visit. Engagement of Canadian and international audiences and stakeholders has been limited to date. However, the research products have just been produced, and are currently undergoing a process of translation and editing. As the research dissemination plan below outlines, it is hoped that the findings of this research will be presented in a variety of Canadian venues, including at IDRC. In addition, two formal publications are envisaged: a five page executive summary of findings, which will be circulated to key audiences and stakeholders this Spring; and, an article in the International Journal of Transitional Justice.

Methodology

The study used a mixed method approach that included desk-top research and data collection in the field, using key informant interviews and focus groups. The research process began with a literature review (secondary sources) on DDR processes, alternative/traditional justice, restorative justice and transitional justice, including:

- Definitions of transitional justice, restorative justice, alternative/traditional justice, disarmament, demobilization and reintegration;
- Experiences in using traditional justice mechanisms in other countries undergoing transitions from or legacies of mass violence (Burundi, Guatemala, Northern Ireland, Mozambique, Rwanda, Sierra Leone, Uganda and Timor Leste);
- The current transitional justice process in Colombia; and,
- The state of implementation of transitional and restorative justices in the context of the DDR process in Colombia.

The literature review produced a basic conceptual framework that guided the second part of the research process, namely field research in Colombia for the collection of additional data on the perceptions of key stakeholders on issues of alternative justice. Given the limited scope of the project and resources available, the lead researcher opted to use qualitative methods and a purposive sample of approximately 125 stakeholders in Colombia for the field research portion of the study. As discussed with IDRC, the lead researcher contemplated using Social Analysis Systems tools, but ultimately, these tools were not employed due to time the restrictions of interviewees in Colombia and other contextual factors that influenced the research process.
While the purposive sample and qualitative data collection tools used yielded rich data and multiple perceptions of the different stakeholder groups consulted, these methods placed a limitation on the number and range of key stakeholder groups included in the study. A more broad-based survey methodology would have been a helpful compliment to this work – helping to contextualize the range of perceptions discussed in-depth – but was impossible due to budgetary limitations.

Research activities

As noted above, a literature review undertaken during the first three months of the project resulted in the construction of a conceptual framework (see figure 1) that allowed the lead researcher to structure the purposive sample and better design data collection instruments.

The leader researcher undertook two trips to Colombia (November 2008 and March 2009) for the purposes of data collection and presentation of initial study results to stakeholders for feedback. While in Colombia, he received institutional assistance in the form of logistical support and the provision of pro bono secondary researcher support from Corporacion Nuevo Arcoiris, Asociacion Colombiana de Conciliadores en Equidad, Instituto para la Formacion y la Investigacion en Justicia y Democracia (IUSDE) and Fundacion Social. Site visits and interviews were conducted in Bogota. Interviews were also conducted from Canada via skype, telephone and written questionnaire.

Overall, perspectives and insights were collected from key informants in the cities of Bogota (Cundinamarca), Medellin (Antioquia), Bucaramanga (Santander), Cartagena (Bolivar) and Sincelejo (Sucre). The lead researcher is particularly grateful to Luis Eduardo Celis, Director of the
Public Policies of Peace Program of the Corporación Nuevo Arco Iris, Carmen Anachury, former employee of the National Commission of Reparation and Reconciliation (CNRR), Luis Enrique Sanchez, former president of the Colombian Association of Equity Conciliators and Florian Huber, doctoral student with the University of Gottingen (Germany)

A total of nine focal groups (41 participants) were conducted with lawyers, academics, political and social activists, representatives of NGOs and international cooperation agencies and victims of conflict related violence. In addition eighty-four (84) key informants were consulted via interview and questionnaire. Key informants included civil servants, members of the National Commission of Reparation and Reconciliation (CNRR) at the national and regional levels, victims, demobilized paramilitaries, equity conciliators, peace justices, lawyers, activists and promoters of transitional and/or community justice and men and women involved in indigenous and Afro-Colombian processes of traditional justice.

In March of 2009, initial research findings were presented in a meeting in the offices of Fundacion Social in Bogota. Observations and feedback from this meeting were incorporated as appropriate during the months of May – August 2009. The draft manuscript was also reviewed by seven expert peers in Colombia and Canada.

It should be noted that in December of 2008, the lead researcher experienced significant health problems. These resulted in some delays in project implementation, which were discussed with IDRC in September 2009. IDRC kindly approved a project extension to March 2010.

Key research findings

- **Lack of common terminology.** In the academic and practitioner communities of alternative justice, there is no agreement about the definition of alternative justice. What is more: the same conflict resolution practices are called by different names. This makes the discussion around the application of alternative justice more complicated. (See further discussion below on the terminological confusion within Colombia itself – Challenges and Learning section).

- **Comparative research is not necessarily helpful.** What in Colombia is understood and has developed as the DDR process, and transitional and/or restorative justice, is not the same as similar practices and processes undertaken in other parts of the world. Indeed, many in Colombia question whether the current situation can be called "a transition."

- **Fears that alternative justice may contribute to impunity.** Victims and human rights activists fear that any agreements eventually reached through alternative justice won’t be binding, and these will allow more impunity.

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3 As testament to the interest within Colombia of the current research effort, it should be noted that the lead researcher met with Dr. Angelika Rettberg, Director of the Political Science Program of the Universidad de los Andes, Bogota (UNIANDES). Dr. Rettberg is currently finishing a research study that includes justice experiences in Canadian First Nations communities and expressed strong interest in the present project being undertaken by The SecDev Group in Colombia. She expressed interest in developing a partnership with SecDev to design a research project that would build upon and further explore the initial findings from this project. A letter of agreement was drafted between SecDev and UNIANDES. However, in December of 2009, Dr. Rettberg decided that her current heavy workload precluded her from taking on another new research effort at this time.
• **Lack of security.** There is considerable fear that the paramilitaries might threaten the operators of alternative justice, and so corrupt the process. In addition, the government’s current inability to guarantee individual security means that alternative justice methods may incur high risks for victims and their family members, demobilized paramilitaries, judicial operators and other individuals involved in community-based justice.

• **Lack of legal framework.** In Colombia there is a legal framework in place and some historical use of alternative justice to resolve some lesser criminal acts. However, further changes to the existing legal framework are likely needed to allow alternative justice mechanisms to address lower-level conflict-related crimes. The current lack of any official legal framework that categorizes the differing degree of seriousness of conflict-related crimes significantly inhibits discussion about the potential for using alternative justice mechanisms for dealing with low-level crimes (as these are not defined). For their part, demobilized combatants fear that any agreements eventually reached through alternative justice means would not be definitive and that they could still be prosecuted through the courts.

• **The potential of alternative justice operators is not supported by sufficient capacities to guarantee their functioning in DDR-related cases.** There is evidence that some operators of alternative justice have been involved in addressing conflicts in which at least one of the parties involved is a demobilized paramilitary. However, there is also concern that operators of alternative justice may not be fully prepared (e.g. trained; with sufficient resources, protection and official legal sanction) to address conflict related crimes.

• **Lack of political will at the top.** Most members of the political class do not seem to be concerned about the rights of victims, nor the need to reintegrate demobilized combatants.

• **Significant interest amongst stakeholders.** There is a group of people fully aware of the need to use alternative justice to resolve the situation of those demobilized paramilitaries who have not committed serious violations of international human rights and humanitarian law, and promote truth telling and reconciliation at the local level.

• **Potential for nurturing and encouraging an alternative justice stakeholder network in Colombia.** There is significant potential for creating and nurturing an alternative justice research and advocacy network in Colombia, comprised of members from universities, think tanks, NGOs and community organizations. There is also potential to undertake joint Canadian-Colombian research ventures with some of these organisations.
Project outputs

The project produced the following outputs:

- a literature review;
- a 45 page draft research study report (in Spanish);
- a 25 page draft manuscript (in Spanish, currently undergoing translation into English) for presentation to an international peer reviewed journal; and,
- a powerpoint presentation that presents project background, rationale and major research questions and findings.

The lead researcher was asked by the International Journal of Transitional Justice\(^4\) to submit an article based on this research for its “Notes from the Field” section. The 25-page manuscript noted above is currently being re-worked for this submission.

Project outcomes

The most significant outcome achieved to date is:

The research project helped to identify the existence of a broad-based interest group within Colombia around the issue of using alternative justice methods to deal with paramilitaries who have committed lesser crimes.

The project opened up new spaces for discussion of alternative justice issues amongst academics, legislators, members of the Colombian government, judges and magistrates, practitioners of traditional or informal of justice, as well as ex-paramilitaries.

Interest in the research agenda of this project has been, and remains, high. This is evidenced through the keen engagement displayed by key stakeholders, the pro bono support given to the project and lead researcher by NGOs, research organisations and researcher-activists, and the fact that many actively sent the lead researcher new data and kept him abreast of legislative developments around the ‘Principle of Opportunity’ draft legislation (discussed above). The lead researcher has received a number of requests from Colombia and from outside for the final results of the study.

A fuller discussion of project outcomes requires fulfillment of the proposed research dissemination plan (see below).

\(^4\) Published by Oxford University Press in partnership with the Human Rights Centre of University of California at Berkley and the Center for the Study of Violence and Reconciliation in South Africa.)
Challenges and learning

Issues of language and terminology

The long history of judicial pluralism in Colombia is a double-edged sword – what is understood as alternative justice in Colombia has grown out of a legacy that could be termed as a combination between popular, leftist approaches, indigenous mechanisms (in Indian and afro-Colombian communities) and alternative dispute resolution theory and practice. Literature on and understandings of the working of these mechanisms and approaches are uneven. The international literature reviewed for this study generally defines these mechanisms as examples of “traditional justice.” However, as the lead researcher engaged in the field work portion of the study, he quickly came to understand that for most Colombians “traditional justice” is understood to mean formal, State-administered justice.

The lead researcher also encountered different understandings of terms such as “transitional justice”, “restorative justice” and “alternative justice”. These differing understandings may spring from the peculiar circumstances which surround what is currently termed “transitional justice” in Colombia (e.g., while a political process appears to have been brokered with the paramilitaries and this has been accompanied by a DDR process and an accompanying legal framework, the armed conflict continues with other illegal groups. There are no accompanying actions for democratic institutional reform, a process that generally tends to be part-and-parcel of most transitional justice experiences. In this scenario, many question whether Colombia is in fact, in the midst of a process of political transition). For a number of those consulted, transitional justice is imperfect justice that is translating into impunity for perpetrators with no benefits for victims. Coming up with terms and a common language that resonates with interested stakeholders in Colombia (and outside) has been an ongoing challenge faced in the project and will no doubt continue to throw up complexities in any future research on this subject.

Issues of sequencing, “voice” and security

Sequencing: “Alternative” processes not yet considered. Currently in Colombia, it is difficult to engage in any conversation (academic or otherwise) around the thorny issue of `what to do with demobilized paramilitaries.` Many Colombians distrust (with good reason) the process that has been brokered with the paramilitaries and many stakeholders consulted believe that the process has been set up to guarantee either de jure or de facto impunity. In this polarized atmosphere, many Colombians are unable or unwilling to discuss any sort of alternative justice, including for ‘low level perpetrators.’ This includes the human rights community, who continue to believe that every last paramilitary should be tried and jailed through the courts. This issue is made even more intractable due to the lack of any legal framework that categorizes crimes according to levels of seriousness (a framework which exists in many other countries that are using alternative justice methods as part of the DDR process).

Public “voice”: Not necessarily representative. Human rights organizations in Colombia do exemplary work, and often speak for those who cannot speak for themselves. However, they also dominate the conversation with the international donor community, directly influencing discussions and debates about what alternative justice processes might be possible. As already noted, these organizations tend to be very negative towards the idea of alternative justice. The
lead researcher sometimes found that what NGO and victims organisations were willing to discuss in public differed significantly from what the victims themselves would say in private.

**Security: On-going threats to victims, families and perpetrators.** There is very little information available about the individual identities and whereabouts of most of the paramilitaries who have been demobilized. Some interviewees stated that some of the demobilized were joining up into a new generation of paramilitary groups, and there is certainty that these groups are actively recruiting by offering economic incentives to demobilizing individuals. In this climate, security is a real problem for victims, perpetrators and families. Would there be sufficient guarantees for those who choose to engage with alternative justice mechanisms? Is it too early to put this hypothesis to the test? The answers remain unclear.

**The insider-outsider researcher dilemma**

The lead researcher of this project is a Colombian lawyer who spent more than 25 years working with civil society organisations and NGOs on issues of human rights, local justice and conflict resolution, prior to immigrating to Canada in 2005. Living farther away from the difficult and dangerous conditions that his fellow Colombian researchers face on a daily basis, he has had the opportunity to view and study the Colombian conflict through different lenses. The research project itself and its central question were greeted with varying degrees of acceptance and enthusiasm by his Colombian colleagues. This research project on Colombia has in fact emerged as a result of his privileged position, away from the day-to-day stress of doing research in Colombia. This insider-outsider tension has had to be balanced in order to maintain credibility vis-à-vis his Colombian colleagues.

**Overall assessment and issues for further consideration**

Applying any kind of alternative justice in Colombia right now will be difficult. Much more research work and discussion is required to prepare the way for widespread consideration of this approach. Moreover, security continues to be a significant problem, presenting risks for victims, judicial operators and for some demobilized paramilitaries. Amongst other issues, more research is needed on the legal viability for using these mechanisms for conflict-related crimes. As already noted, other international cases of the use of alternative justice mechanisms in the aftermath of conflict/mass violence indicate the presence of sophisticated legal frameworks that categorize conflict related crimes according to seriousness. The absence of such a typology in Colombia is a significant gap. Key informant interviews also surfaced contradictory views about the legal feasibility of using alternative justice. Interviewees indicated that it is unclear whether these mechanisms can be used or not for these circumstances.

Further research is also needed on the capacity of existing community level alternative justice operators to address conflict related crimes. Do they have sufficient technical and legal training? Resources? Training in addressing the trauma of victims that will inevitably surface in the course of participating in these processes? Protection?

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5 As noted, there is evidence that paramilitaries are re-arming and a number are now re-offending.

6 Who fear retribution from family members of victims, etc.
The engagement of stakeholders with this present project indicates an opening and willingness for further dialogue on the potential for using of alternative justice in Colombia; but this opening is tentative and fragile. The atmosphere in Colombia is very polarized and discussion of any sort of justice that is not justice through the courts understandably generates strong feelings; clearly, this is not a mere technical issue which can be discussed dispassionately, particularly with the human rights community and victims organizations.

By the same token, we must recognize that this project included a small, limited sample of interested stakeholders and so the results themselves, are preliminary.

**Issues for Future Research**

This project has confirmed the existence of large gaps in the knowledge and awareness-base, as well as the political and legal environment, for supporting alternative justice mechanisms to deal with certain categories of conflict-related crimes. Given the stark incapacity of the state system to deal with the backlog of demobilized combatants, the potential for pursuing alternative justice processes represents a vital area for future research across a wide arena of related topics.

From the specific perspective of this preliminary study, there is strong potential for building upon the knowledge and networking base that has been initiated. Two inter-related avenues are particularly worthy of consideration:

1. **In-depth documentation of alternative justice processes already underway.** Alternative justice operators interviewed for the present study indicated that alternative justice mechanisms to process less-serious conflict related crimes are already underway within certain Colombian communities. It would be a vital contribution to evidence-based knowledge and understanding to document these processes to shed light on: where and how they are working; under what conditions; with what capacities; how they are perceived; and, the outcomes of the efforts. The lead researcher has already entered into preliminary discussions with the Corporacion Universitaria del Caribe (CECAR) in Sincelejo, Sucre about the value of such a project. Documentation of this kind would be vital to:
   - build the knowledge-based of how alternative justice mechanisms are being used in Colombia, and how their application may be widened (opportunities, constraints, capacities, risks, perceptions);
   - raise wider awareness on the potential of these mechanisms;
   - build political will at various levels and within different communities to further engage and explore this potential.

2. **Alternative Justice Research and Advocacy Network: Capacity-building Initiative.** This project demonstrated the existence of a varied stakeholder base (across government, academia and NGOs) that are interested in further exploring the potential for using alternative justice mechanisms within the Colombian DDR context. However, these different stakeholders are not
necessarily in contact with each other. There would be enormous value to harness the different capacities and energies of these different groups to stimulate the formation of an Alternative Justice Research and Advocacy Network. A follow-up project could provide funding to enable the constitution of such a network, with network members defining an overarching research project with sub-components (such as the documentation of already existing AJ practices, as per point 1 above) undertaken by different network members according to their capacities and expertise. Nurturing this effort would certainly advance Colombian research capacity around these issues, while increasing the awareness and knowledge of the potential and constraints for pursuing AJ in Colombia, and building political will.

Research dissemination strategy

The initial research results underwent preliminary discussion with key Colombian stakeholders (during second field visit). Feedback from this process shaped the final research products. These final products will be finalized and translated during March 2010. Four dissemination vehicles are currently envisaged:

1. **Production of an Executive Summary of key findings for circulation in Canada and Colombia.** This five-page summary will be tailored to busy researchers, activists and policymakers. We intend to desk-top publish this document and print some 200 copies in Spanish and English. This document, along with the longer 25 and 45 page papers (for those who are interested) can form the basis for the “discussion” venues proposed below.7

2. **IDRC Workshop or Brown Bag.** Depending on interest level, we would like to call on IDRC to host a small workshop or brown bag presentation of the research results to interested Canadian audiences sometime in early Spring 2010.

3. **Possible expert workshop in cooperation with one of the Ottawa-based universities (St Paul’s, Ottawa U or Carleton).** We are currently engaging in discussion with colleagues at the three universities to determine whether there is interest in co-running an expert seminar based on the research findings.

4. **International Journal of Transitional Justice.** As already mentioned, this journal approached the author requesting an article based on the research results. The 25-page short paper is currently being translated and re-worked for this purpose.

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7 The original project budget did not include monies for desk-top publishing and printing of results. In the event, we have managed some project savings by using in-house talent for translation of the 25-page document into English (so the translation effort represents a SecDev contribution in-kind). We have requested and received approval from IDRC to use any excess translation monies to help cover the desk-top publishing and printing costs of the Summary.
ENTREVISTA ESTRUCTURADA

El objetivo de esta entrevista es conocer su opinión acerca del contenido del proyecto de Ley que actualmente está en el Congreso de la República que permitiría definir la situación jurídica de 19000 personas registradas como paramilitares desmovilizados. También nos interesa conocer su opinión acerca de la mejor manera de aplicar esa propuesta en caso que ella se convierta en Ley.

Sus respuestas y su identidad son absolutamente confidenciales. Lo que Usted conteste sólo será utilizado para escribir el informe final del proyecto “Justicia Alternativa y reconciliación en el proceso de desarme, desmovilización y reconciliación de los paramilitares en Colombia” que está desarrollando Secdev Group de Canada, con el apoyo de IDRC (Centro Internacional de Investagaciones para el Desarrollo) y con la dirección de César Torres.

El proposito de este proyecto es explorar las posibilidades sociales, jurídicas y políticas que existen para utilizar diversos mecanismos de justicia con los que se pueda: a.) Resolver la situación jurídica de los paramilitares desmovilizados, b.) Conocer la verdad acerca de la violencia que estos hombres y mujeres protagonizaron, c.) Promover la reparación y la reconciliación en el nivel local.

El informe preliminar de esta investigación se le hará llegar a las personas que dieron la información para que revisen, conozcan que se hizo con los opiniones que dieron y hagan sugerencias. Luego se presentará al IDRC y se publicará.

Entrevistador: __________________________________________________________
Ciudad y Fecha: _________________________________________________________
Entrevistado/a: Edad___________. Sexo_________. Profesión y oficio_____________
________________________________________________________________________

1. Usted conoce el proyecto de ley con el cual se definiría la situación jurídica de los 19000 paramilitares desmovilizados que hoy están en el limbo jurídico?
   a. Si____ No______

2. Por favor indique los aspectos de ese proyecto de ley que favorecen a las víctimas.
   2.1 Cómo esos aspectos pueden favorecer a las víctimas?_______________________

3. Por favor indique los aspectos de ese proyecto que favorecen la impunidad
   3.1 Cómo esos aspectos pueden favorecer la impunidad?_______________________
4 Por favor indique los aspectos de ese proyecto que favorecen la reconciliación
_____________________________________________________________________
_____________________________________________________________________
_____________________________________________________________________

4.1 Cómo esos aspectos pueden favorcer la reconciliación?
_____________________________________________________________________
_____________________________________________________________________
_____________________________________________________________________

5 Por favor indique los aspectos de ese proyecto que favorecen la reconstrucción de la verdad acerca de las últimas décadas de la violencia en Colombia.
_____________________________________________________________________
_____________________________________________________________________
_____________________________________________________________________

5.1 Cómo esos aspectos pueden favorcer la reconstrucción de la verdad?
_____________________________________________________________________
_____________________________________________________________________

6 Por favor indique los aspectos de ese proyecto que permiten o promueven la reparación.
_____________________________________________________________________
_____________________________________________________________________

6.1 Cómo esos aspectos pueden favorecer la reparación?
_____________________________________________________________________
_____________________________________________________________________

7 En caso de que esa propuesta sea aprobada, cómo cree Ud que se debe aplicar?
_____________________________________________________________________
_____________________________________________________________________

_____________________________________________________________________

_____________________________________________________________________

_____________________________________________________________________

_____________________________________________________________________

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8 Usted cree que los operadores de justicia informal (autoridades tradicionales indígenas o afrodescendientes, conciliadores en equidad, jueces de paz, mediadores, etc.) están capacitados para aplicar las medidas que están en esa propuesta?

Si____  No____

9 Por favor explique las razones de su respuesta anterior____________________

_____________________________________________________________________
_____________________________________________________________________
_____________________________________________________________________

Nota: Si una de las personas entrevistadas no conoce el proyecto de Ley, por favor escriba su respuesta y no diligencie las otras preguntas del formato. Esa entrevista en la que sólo estarán los datos introductorios y la respuesta a la primera pregunta será tabulada y analizada junto con las demás.

Para los efectos de esta investigación también es importante saber cuántas personas entrevistadas, de qué edad, de qué sexo, de qué profesión y oficio, no conocen el proyecto de Ley.
Entrevista estructurada con desmovilizados de AUC

El objetivo de esta entrevista es conocer su opinión acerca de la posibilidad de que los operadores de justicia alternativa puedan asumir el conocimiento y definición de la situación jurídica de más de 19000 personas registradas como paramilitares desmovilizados.

Sus respuestas y su identidad son absolutamente confidenciales. Lo que Usted conteste sólo será utilizado para escribir el informe final del proyecto “Justicia Alternativa y reconciliación en el proceso de desarme, desmovilización y reconciliación de los paramilitares en Colombia” que está desarrollando Secdev Group de Canadá, con el apoyo de IDRC (Centro Internacional de Investigaciones para el Desarrollo) y con la dirección de César Torres.

En Colombia existen distintos mecanismos y maneras de resolución pacífica de conflictos que no son operados por funcionarios Estatales. Estos mecanismos y maneras también son llamados “justicia alternativa”. Algunos ejemplos de la Justicia Alternativa se encuentran en las comunidades indígenas y afrocolombianas. Allá hay personas que se encargan de resolver los conflictos o de impartir justicia. También encontramos justicia alternativa en algunos barrios, pueblos y veredas. Ahí podemos encontrar a los jueces de paz, conciliadores y a los mediadores.

El propósito de este proyecto es explorar las posibilidades de utilizar la Justicia Alternativa para los siguientes objetivos a.) Resolver la situación jurídica de los paramilitares desmovilizados, b.) Conocer la verdad acerca de la violencia que estos hombres y mujeres protagonizaron, c.) Promover la reparación y la reconciliación en el nivel local.

El informe preliminar de esta investigación se le hará llegar a las personas que dieron la información para que revisen, conozcan que se hizo con las opiniones que dieron y hagan sugerencias. Luego se presentará al IDRC y se publicará.

1. Antes de hoy, Ud sabía de la existencia de la Justicia Alternativa?
   Si_______  No_____

2. Si su anterior respuesta fue afirmativa, por favor narre cómo y por qué conoció la Justicia Alternativa.

3. Después de la desmovilización Ud ha tenido algún conflicto que haya sido solucionado con Justicia Alternativa?   SI_______  NO______
4. En caso que su respuesta anterior haya sido afirmativa, por favor diga cuál fue el motivo del conflicto.

5. Si se pudo llegar a una solución, cual fue? Por favor narre la solución.

6. Usted cree que la Justicia Alternativa puede resolver la situación jurídica de algunos desmovilizados de las AUC? SI_____ NO____

7. En su opinión, cuáles casos de desmovilizados pueden ser resueltos por la Justicia Alternativaz?

8. Por favor diga al menos tres requisitos que Usted esperaría que cumpliera la Justicia Alternativa en caso de ella pudiera resolver la situación de algunos desmovilizados.

9. Si algunos desmovilizados aceptaran que su situación fuera resuelta por la justicia alternativa, por favor diga qué compromisos podrían ellos asumir.

10. Según su opinión, qué ventajas tendría la Justicia Alternativa sobre la Justicia Estatal para resolver la situación de algunos desmovilizados?

11. Según su opinión qué desventajas tendría la Justicia Alternativa frente la Justicia Estatal para resolver la situación jurídica de algunos desmovilizados?

12. Según su opinión cuáles serían los riesgos mas graves que correría la Justicia Alternativa, si resolviera la situación jurídica de algunos desmovilizados?

13. Según su opinión cuáles serían los riesgos mas graves que correrían los desmovilizados, si la Justicia Alternativa resolviera su situación jurídica?
Entrevista estructurada con operadores de justicia y activistas sociales.

El objetivo de esta entrevista es conocer su opinión acerca de la posibilidad de que los operadores de justicia alternativa puedan asumir el conocimiento y definición de la situación jurídica de más de 19000 personas registradas como paramilitares desmovilizados.

Sus respuestas y su identidad son absolutamente confidenciales. Lo que Ud. conteste sólo será utilizado para escribir el informe final del proyecto “Justicia Alternativa y reconciliación en el proceso de desarme, desmovilización y reconciliación de los paramilitares en Colombia” que está desarrollando Secdev Group de Canadá, con el apoyo de IDRC (Centro Internacional de Investigaciones para el Desarrollo) y con la dirección de César Torres.

El propósito de este proyecto es explorar las posibilidades sociales, jurídicas y políticas que existen para utilizar diversos mecanismos de justicia con los que se pueda: a.) Resolver la situación jurídica de los paramilitares desmovilizados, b.) Conocer la verdad acerca de la violencia que estos hombres y mujeres protagonizaron, c.) Promover la reparación y la reconciliación en el nivel local.

El informe preliminar de esta investigación se le hará llegar a las personas que dieron la información para que revisen, conozcan que se hizo con las opiniones que dieron y hagan sugerencias. Luego se presentará al IDRC y se publicará.

Entrevistador: ________
Puche__________________________
Ciudad y Fecha: ________________________________
Entrevistado/a: Edad________. Sexo_______. Profesión y oficio__________
________________________________________________________________________

1. Por favor defina qué es la Justicia alternativa.

2. Por favor indique en qué casos se puede utilizar la justicia alternativa en Colombia.

3. Usted ha tenido que resolver o ayudar a resolver algún caso en el que al menos una de las partes sea un desmovilizado de las AUC?   Si___   No___
4. Por favor narre el caso o casos indicando claramente: motivo del conflicto, actitud de las partes, forma de llegar a la solución, contenido de la solución y cumplimiento de la misma desde esa fecha hasta ahora.

5. Usted conocía los siguientes datos? Si___ No___
   - Total desmovilizados de las AUC: 35.353 desmovilizados
   - Total miembros de las AUC privados de la libertad: 3.760
   - Miembros de las AUC postulados para recibir los beneficios de la Ley de Justicia y Paz: 3.576
   - Desmovilizados beneficiados por resolución inhibitoria de la Fiscalia: 12.315
   - Desmovilizados sin definición de su situación jurídica: 19.462

6. Usted cree que los operadores de Justicia Alternativa pueden conocer y resolver la situación jurídica de algunos de los 19.462 desmovilizados? Si____ No__
   Por favor explique su respuesta.

7. Por favor diga al menos tres cosas que necesitarían los operadores de Justicia Alternativa para poder conocer y resolver la situación jurídica de los 19.462 desmovilizados? __________

8. Por favor diga por lo menos tres dificultades y tres riesgos que correrían los operadores de Justicia Alternativa si asumieran el conocimiento y trámite de la situación jurídica de los 19.462 desmovilizados.
ANNEX 2. BIOGRAPHY OF LEAD RESEARCHER

Cesar Torres Cardenas is Colombian-Canadian lawyer who works as a consultant and researcher. He has more than twenty-five years of professional experience in humanitarian, human rights and justice issues including civil society debate for judicial reform, community level and popular education, mechanisms for community justice and non-judicial alternative dispute resolution in conflict zones. He has worked with the Colombian government at the national and municipal level and has consulted with national and international NGOs, bilateral development actors and the United Nations system. His research interests include judicial reform, alternative justice, alternative conflict resolution, reintegration of former combatants and reconciliation processes.