

The effect of Transitional or Restorative Justice on Physical Security

Effect: No effect (The intervention successfully improved law and order, however, it fell short in resolving systemic problems like human rights framework)

Confidence in study findings: Low (two studies, low confidence)

Summary

The first wave of transitional justice in Colombia, despite effectively enhancing law and order, ultimately failed to adequately address critical systemic issues such as state impunity, judicial inefficiency, and the comprehensive protection of human rights, thereby limiting its impact on the rule of law.

Long summary

The intervention

Colombia's "Justice and Peace" process, established through Law 975 of 2005, represents the nation's first major attempt at transitional justice. This process aimed to address the legacy of its long-running internal conflict, particularly the violence perpetrated by paramilitary groups to provide security for civilians

How is the intervention expected to work

The intervention employed a multifaceted approach. This included special tribunals offering reduced sentences to paramilitaries in exchange for confessions and cooperation, alongside truth-telling initiatives like the National Commission for Reparation and Reconciliation's "Basta YA" report. The process also established a reparation fund for victims to provide security, though inconsistencies arose in the compensation mechanisms. While amnesties encouraged demobilization and contributed to reduced violence, the 2012 Legal Framework for Peace acknowledged the need to address state impunity and prioritize investigations into serious crimes, indicating a recognition of the initial framework's limitations

The evidence base

There are two qualitative studies assessing the **effect of Transitional or Restorative Justice on Physical Security in Colombia**. These studies are by CK Lang (2019) *The Impact of Transitional Justice on Colombia's Rule of Law. Middle Atlantic Review of Latin American Studies*, 3(1); and J. Vargas (2018) *Colombia Mobile Victims Unit Impact Evaluation*.

The study by J. Vargas is ongoing hence no evidence can be drawn from this study. All references are from CK Lang's study.

The evidence

- 1) The 'Justice and Peace' process in the country exhibited significant shortcomings in establishing government subordination to the law and ensuring equality before it. Law 975, the foundational legislation, excluded state actors from the Special Tribunals and truth-telling mechanisms. This exclusion, coupled with the documented history of state crimes, including 'false positives' and the involvement of government officials in paramilitary activities, demonstrated a persistent disregard for the rule of law. Despite the Santos administration's later efforts to address state impunity through the 2016 peace accord, the initial framework failed to effectively deter state crimes (p. 21-23)

- 2) While the process demonstrated some success in improving law and order, this was primarily attributed to the demobilization of over 50,000 paramilitaries and guerrillas (p.23). This led to a decline in political violence, kidnappings, and civilian deaths. The amnesties offered to most combatants played a crucial role in encouraging their withdrawal from the conflict, thereby enhancing civilian security. The improvement in law and order is evidenced by a significant decrease in kidnappings and conflict-related killings, as well as an improvement in the country's Political Terror Scale rating (Gibney et al. 2016, cited on p.24)
- 3) Despite these positive developments, several factors hindered the overall development of the rule of law in Colombia during this period. The judicial processes under 'Justice and Peace' were slow and inefficient, with significant delays in both criminal proceedings and the disbursement of reparations. This, coupled with resource limitations and inadequate legal support for victims, further exacerbated the challenges (p.27). Furthermore, the enforcement of human rights remained problematic, with ongoing victimization, displacement, and attacks against human rights defenders persisting in many regions. These factors, combined with the exclusion of state actors from initial accountability mechanisms, significantly undermined the effectiveness of the intervention (p.28-29)

Confidence assessment

Overall confidence: Low Confidence Qualitative Study (Theoretical framework is not presented; the procedural steps for data analysis is not clearly defined; no triangulation done; sources of potential data bias is not addressed)