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"Peace with Legality": The discursive exit route from the implementation of the Peace Agreement Between Farc-EP and the Colombian State

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Abstract

The Peace Agreement between Farc-EP and Juan Manuel Santos is the result of a complex dialogue, not only between the signing parties but also between the victims, the opposition, the international community and the civil society. The agreement entails a narrative that recognizes the armed conflict and proposes a path to end it while bringing peace and reconciliation. The settlement incorporates legal reform, transitional justice mechanisms and some structural changes designed to promote the end of political violence in Colombia.

The opposition to the Peace Agreement, led by Álvaro Uribe Vélez and the "Democratic Center" won the presidential elections in 2018. Iván Duque Márquez was elected president in representation of the sector that promotes an opposed narrative to the agreement. Since the beginning of his presidency, Duque has been using "Peace with Legality" as the discourse to define the government's version of the agreement's implementation.

Using Critical Discourse Analysis and Critical Transitional Justice Studies this research shows how "Peace with Legality" constitutes the discursive way out that Duque's government found to the Peace Agreement's implementation. While moving away from the idea of a post-conflict scenario it twists the implementation of the agreement into a process of stabilization. "Peace with Legality" is a securitized vision, which promotes a notion of legality, that does not recognize the armed conflict, focusing on retributive justice and the deployment of State's violence to promote peace.

Keywords: Transitional justice, Critical Discourse Analysis, Peace Agreement, Colombia, legality, security, armed conflict

“What if some day or night a demon were to steal into your loneliest loneliness and say to you: ‘This life as you now live it and have lived it you will have to live once again and innumerable times again; and there will be nothing new in it, but every pain and every joy and every thought and sigh and everything unspeakably small or great in your life must return to you, all in the same succession and sequence - even this spider and this moonlight between the trees, and even this moment and I myself. The eternal hourglass of existence is turned over again and again, and you with it, speck of dust!’ Would you not throw yourself down and gnash your teeth and curse the demon who spoke thus?”

Friedrich Nietzsche, *The Gay Science*.

--- The heaviest weight.

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1. INTRODUCTION

After more than 50 years of armed conflict, the Colombian Government, led by President Juan Manuel Santos [2010-2018], signed a peace agreement with the Marxist-Leninist guerrilla "Fuerzas Armadas Revolucionarias de Colombia – Ejército del Pueblo" [Farc-EP, henceforth] in November 26, 2016. The Farc-EP was the oldest guerrilla in America and was confronting the Constitutional Colombian regime since 1964 (CNMH, 2013). After decades of failed negotiations with different governments, the agreement signed in 2016 is the first that successfully resulted in the armed group's demobilization and its transformation to an institutionalized political organization.

The "Final Agreement to End the Armed Conflict and Build a Stable and Lasting Peace" [Peace Agreement, henceforth] incorporates 5 general topics to overcome some of the structural issues that have sustained the armed conflict: i) rural reform; ii) political participation of historically excluded groups; iii) end of the conflict; iv) solution to the illicit drugs problem; and, v) victims of the armed conflict. Moreover, it includes a sixth point related with the implementation and verification of those structural pacts. These six topics were discussed in Havana, in the middle of the conflict and with complete reserve[1] between both parties' delegates, from August 2012 to September 2016. This process was called the "Peace Dialogues Table" or the "Peace Process" (Comisión Histórica del Conflicto y sus Víctimas, 2015; Gobierno de Colombia & Farc-EP, 2016).

The six points of the Peace Agreement are the result of complex communicative processes between the negotiating parties sitting in the Havana's table. It also included the intervention of other political actors, which were directly heard during the talks or recurred to mobilize in different public scenarios to promote it or oppose to it. The victims and civil society organizations, the government the Farc-EP, the

[1] At least till they began to reach agreements on each of the six final points. They began to publish them as soon as they reached an accord (Gómez, 2017: 240)

opposition, most of the international community, the business sector and the militaries were part of a national conversation. All of them expressed their vision about what should be the path to end the conflict, what mechanisms should be implemented, and how the transitional justice should be designed to achieve peace. "Armed conflict", "legal", "transitional justice", "restorative justice", "retributive justice", "impunity", were categories used and defined by the mentioned actors in the public sphere, each of them trying to impose hegemonic definitions adjusted to their interests (Gómez, 2017: 239; Navarrete, 2018: 22; Rowen, 2017: 641; Alviar García & Engel, 2016)

Transitional justice in Colombia is not a fixed category, it is malleable, and actors involved in its processes have historically struggled to fill it with meaning according to their interests. Turner (2015) and Nagy (2008) argue that in places where the armed conflict ended with an agreement that did not solve the structural problems that sustained it, and where its narratives are still actively contested, the category of transitional justice is not necessarily value free (Turner, 2015: 45). In Colombia transitional justice has been a contested space, where all the actors involved, have pushed their agendas through the use of their own vision on how to end war (Rowen, 2017).

During the peace talks with the Farc-EP, the discussion around what is transitional justice and how it should be implemented was framed by the negotiating parties throughout the standardized parameters of international human rights law and criminal law. Not only claiming to guarantee the victims' rights, but also the need to promote the transition from a violent and "undemocratic" society to a liberal democratic model, while seeking for truth, reconciliation and the replacement of a violent *status quo* with the "rule law" (Nagy, 2008: 277; Teitel, 2014: xvii-xviii; McEvoy 2007: 416; Gobierno de Colombia y Farc-EP, 2016).

Moreover, in 2015, the Farc-EP and Santos government installed a commission composed by highly renowned academics from diverse political ideologies. The

"Historical Commission of the Conflict and its Victims" (2015) made a consensus amongst three structural issues that needed to be addressed by the agreement: Firstly, the extreme inequal access to agricultural land and the lack of institutional presence in many parts of the rural national territory. Secondly, the political nature of the armed conflict, as well as the exclusion of left-wing movements and other social groups out of the political system. Thirdly, a change of the illicit drugs policy, which is aligned since the eighties to the United States' "war on drugs" (Comisión Histórica del Conflicto y sus Víctimas, 2015; Gómez, 2017; Acosta, 2018).

Hence, the Peace Agreement settles the route to achieve peace towards the reform of some [not all] of the historical structural issues that have produced and reproduced the conflict for over 50 years (Comisión Histórica del Conflicto y sus Víctimas, 2015; Gómez, 2017; Acosta, 2018). The pact recognizes the political nature of the conflict, the need to reform the extremely inequal rural land distribution, the political exclusion of left-wing political movements and the failed approach that the State has had on the illicit drug policy. Additionally, the agreement gives legitimacy to the victims of the armed conflict and the demobilized combatants within the legal system (Comisión Histórica del Conflicto y sus Víctimas, 2015; Gobierno de Colombia & Farc-EP, 2016; Gómez, 2017; Navarrete, 2018).

The inclusion of points that go beyond justice mechanisms, like those regarding rural reform [point 1], political participation [point 2], the solution for the illicit drugs problem [point 4], and the implementation and verification [point 6], are included within a dominant globalized view of *bureaucratized* transitional justice that connects several legal reforms, policies, combined with administrative and judicial measures (Teitel, 2014). Regarding this view, achieving peace and not repeating the armed conflict is defined by a series of policies, mechanisms, international interventions, regulations and institutional reforms. On the one hand, the Peace Agreement pretends to change what the negotiating parties defined as the underlying conditions that have sustained war for over five decades. On the other

hand, the Peace Agreement seeks to promote a transit to a consolidated liberal democracy towards transitional justice and reconciliation (Teitel, 2014: xvi; Uprimny, 2014; Turner, 2015; Gobierno de Colombia & Farc-EP, 2016).

Accordingly, point five of the agreement, related with the victim's rights and justice mechanisms, has a strong emphasis on truth and reparations, promoting a restorative transitional justice perspective (Tonche & Umaña, 2017; Acosta, 2018). The different agents involved in the armed conflict have the obligation to recognize the committed crimes, to do symbolic reparations to the victims and actively participate in the judiciary and transitional institutions within the created "Integral System for Truth, Justice, Reparations and Non-Repetition" [ISTJRNR]. The institutions in charge of this point, namely, the Commission of Truth, the Special Jurisdiction for Peace, the National Search Commission for the Disappeared, and the Special Unit to Investigate Criminal Organizations, were given a limited time period to comply with their mandate (Gobierno de Colombia & Farc-EP, 2016; Congreso de Colombia, 2017).

The agreement is far from perfect and it does not solve all the structural causes of the conflict. For instance, as it was approved by the Constitutional Court in 2017, the Special Jurisdiction for Peace has not compulsory competence over civilian parties within the judicial mechanisms[2]. This makes it difficult to demand accountability from companies, businesspersons, politicians and other civilians that have historically associated or financially supported the non-state armed groups involved in the conflict (Gobierno de Colombia & Farc-EP, 2016; Corte Constitucional, 2017).

Nevertheless, the Peace Agreement pushes forward the peacebuilding agenda, proposing the change of some structural issues that have reproduced the conflict:

[2] The Constitutional Court (2017) decided that the Special Jurisdiction for Peace is not their "natural judge", therefore the transitional justice does not hold compulsory jurisdiction for the civilians that committed crimes related with the armed conflict. However, the civilian parties involved in the conflict can access to the Special Jurisdiction for Peace voluntarily.

rural reform, political participation of the excluded, victim's rights or the drug policy. Furthermore, one of the most important evidences that the pact constituted a step forward, is the fact that it terminated the violent confrontation between the Farc-EP and the Colombian State, transforming the armed group into a political organization (Gobierno de Colombia & Farc-EP, 2016; Gómez, 2017; Lemaitre & Restrepo, 2018).

Since the beginning of 2016 the Farc-EP began a demobilization process: over 7.000 combatants, more than 90% of the armed structures, handed their weapons to a United Nations [UN, henceforth] special commission and moved to designated protected areas to commence their re-integration process. In 2017 the Farc-EP became a political party and the phase of implementation began (Acosta, 2018; Gobierno de Colombia & Farc-EP, 2016).

Juan Manuel Santos, the president that negotiated and signed the Peace Agreement with the Farc-EP, left office in 2018, the first year of its execution. Iván Duque Márquez, the elected president for the period 2018-2022, changed the discourse regarding the implementation of the pact. Duque is member of the "Democratic Center", the leading opposition party to the peace negotiations. Since the beginning of his presidency, he began referring to the agreement's implementation as "Peace with Legality", which seems as the institutionalization of the opposition's discourse in order to move away from some of the document's core elements.

As I will further argue in the text, Duque has defined peace as the result of legality, and legality as a result of security and justice (Duque, 2018 a), which seems like a discursive detour that distances his government from promoting the transitional justice model, the reforms and mechanisms established by the Peace Agreement (Gobierno de Colombia & Farc-EP; Baker & Obradovic-Wochnic, 2016).

1.1. Aim and Research Questions

The purpose of the thesis is to describe how the "Peace with Legality" discourse has been used by the current Colombian government in relation to the implementation of the Peace Agreement. The research aims to investigate, using Critical Discourse Analysis, what are the meanings that the current government has been assigning to the "Peace with Legality" discourse and how it relates to previous discourses. How the president, his high-level officials and the most influential members of the "Democratic Centre" have been using it to frame the official position towards the implementation of the Peace Agreement. Furthermore, I aim to check if "Peace with Legality" detours from the agreement's narrative in relation to peacebuilding and transitional justice.

In order to meet this goal, the selected data is composed by the legal documents produced by Iván Duque's government regarding the implementation of the Peace Agreement. Moreover, I will analyze the public speeches given by Duque and his official tweets. Additionally, I selected communicative events made by Álvaro Uribe Vélez, the head of the "Democratic Center", Duque's political leader and the main promoter of the opposition to the Peace Agreement. In the data section I will go in depth about the validity and the reliability of the chosen data.

The main research question that will guide the thesis is: *How is the "Peace with Legality" discourse being used by the current government in relation to the implementation of the Peace Agreement signed with the Farc-EP?*

Further subsidiary questions are: What does legality and peace mean in "Peace with legality"? Where does the "Peace with Legality" discourse comes from/relates to other discourses? How is "Peace with Legality" related to the Peace agreement discourse? What implication might have in the attempt to achieve peace in Colombia?

1.2. Scope, Importance of the Research and Limitations

The Peace Agreement between the government and the Farc-EP is a very broad topic that can be studied from different social sciences perspectives. This thesis project subscribes to socio-legal studies, because it analyses legal documents with the lenses of the social sciences (Banakar, 2009). In order to conceptualize and analyze the "Peace with Legality" discourse it will use Critical Discourse Analysis as a method.

Amongst the many aspects of the Peace Agreement, I will focus in the relation established by Iván Duque's government between "peace" and "legality" regarding the implementation of the agreement. This research is a case study about the "Peace with Legality" discourse that looks into the relationship between peace, transitional justice and legality in Colombia.

The importance of the research is given by inexistent literature analyzing "Peace with Legality" in direct relation to the Peace Agreement's implementation. The thesis provides a description of that discourse and a critical analysis that can be used for further research in social sciences studies on the issue. Furthermore, I hope that it serves, as Critical Discourse Analysis proposes, to promote social change.

1.3. Background

1.3.1. The Opposition to the Peace Dialogues Table and to the Peace Agreement

Since the beginning of the Habana talks in 2012, the Peace Process dealt with a strong opposition. The antagonist discourses were mainly led by the members of the right-wing party "Democratic Center" ["Centro Democrático", in Spanish], headed by the ex-president Álvaro Uribe Vélez [2002-2010]. After eight years in power, and with very high levels of acceptance during his presidency, Uribe consolidated a political force in Colombia called "Uribismo" (Caicedo Artehortúa, 2016: 20). Using his political capital, in order to continue with his legacy, Uribe created the "Democratic Center" in 2014 with notorious regional and national right-wing leaders and some new figures (Gómez, 2017; Valencia Agudelo, 2019; Acosta, 2018).

From the beginning of the talks between the Santos government and the Farc-EP guerrilla, Uribe publicly opposed to them, by insisting that the agreement will lead to impunity for the crimes committed by the armed organization. For example, in April 2013, during an interview to "Caracol Noticias", one of the biggest media outlets in Colombia, Uribe said:

> "Our opposition to the peace process, is not focused on the "peace" but in the impunity. (…) Our opposition is to the eligibility of drug traffickers and children recruiters. (…) when the government gives impunity to these criminal actors, it loses moral authority to construct a culture of legality." [Own Translation] (Uribe, 2013).

In May 2014, Uribe got a seat in Congress, accompanied by other 18 members of his party. The "Democratic Centre" became the strongest opposition to the peace process with the discourse of "Peace without Impunity", which was used to contest the Peace Dialogues Table and the Peace Agreement. Consequently, as part of the

opposition to the Peace Dialogues Table, the party led by Uribe, on 13 December 2014, organized a "Peace without Impunity" national march (Navarrete, 2018: 27). The idea of this manifestation was to construct and promote their discourse, and to consolidate the opposing social force to the peace process. Uribe Vélez said about the mobilizations that:

> "(…) it [the marches] tells the Government that the impunity that they are offering to the Farc-EP is the midwife for new violence and the beginning of the bad example to new generations. (….)". [Own translation] (Uribe, 2014a)

Amongst the new figures of the "Democratic Center" was Iván Duque Márquez, a newcomer in national politics who was elected Senator due to Uribe´s huge electoral support. After years of working in the World Bank, he became one of the most notorious politicians during his period in Congress, from 2014 to 2018 (Wallenfeldt, 2019). In a column written in October 01, 2015, for a national newspaper, Iván Duque said about the negotiations:

> (…) But if the commanders of the Farc, those from the secretariat, do not go to jail, however, on the contrary, they end up having symbolic punishments and reassuring their political participation, we will be standing in front of an outrageous **impunity**." [Own translation. Emphasis mine] (Duque, 2015).

The "Peace Without Impunity" discourse contested the essence of the negotiation by denying the political status to the Farc-EP and by promoting a punitive vision of justice. Nevertheless, after the negotiations ended and the agreement was signed by the government and the Farc-EP, on October 02, 2016, Juan Manuel Santos government decided to legitimate the pact with the guerrilla by holding a national plebiscite. The plebiscite asked the simple question if the Colombians supported the peace agreement or not. The "Democratic Centre" promoted the "No" vote. By

a short margin, 50.21% of the votes for "No" won the plebiscite (Acosta, 2018: 4). This result led to re-negotiation regarding some aspects of the first signed pact. After one month, on November 26, 2016, the peace agreement was signed again. This time including some of the modifications demanded by the opposition without changing any of its core elements (Gobierno de Colombia, 2016).

1.3.2. Incorporation of the Peace Agreement to the Legal System

Despite the negative results of the plebiscite and the strong opposition of the "Democratic Centre" and other conservative sectors, in April 2017, the Congress approved to elevate the core elements of the agreement to constitutional law. This included the alignment of the Peace Agreement to the national law, the international humanitarian law, international human rights law and criminal law standards. All of which was approved, in its majority, by the Constitutional Court's previous constitutional control procedure (Congreso de Colombia, 2017; Corte Constitucional, 2017).

The first point, which is related with rural reform, establishes the activation of citizenship for rural inhabitants and a series of institutional reforms that conduce the state's presence in the countryside. The second point aims to give political representation and political participatory mechanisms to these rural -traditionally excluded- citizens in the Congress and other regional and local institutions. The third point settles the ceasefire: it creates or strengthens judicial and security public agencies to fight the armed organizations that would take the territorial power void left by the Farc-EP demobilization. Point four gives institutional solutions to the illicit drug problem from a social perspective, twisting the traditional securitized vision of the "war on drugs", which implies the territorial presence of new government agencies, programs and subsidies. The fifth point aims to guarantee the victims' rights; thus, it creates a complex judicial system, including a transitional tribunal, a truth commission and a new agency to find those persons disappeared during the armed conflict. Finally, point six entails the implementation and

verification mechanisms, which contains a series of local interventions across the rural Colombia by national and international institutions (Lemaitre & Restrepo, 2018; Gobierno de Colombia & Farc-EP, 2016).

Afterwards, during the second semester of that year, a bulk of legislation was passed to incorporate most of the transitional mechanisms, in order to regulate the provisional institutions and to approve the broader legal reform needed to frame the six points within the juridical system. Hence, creating legal obligations for the State, the Farc-EP, those responsible for the crimes committed during the war and all the parties involved in its implementation (Congreso de Colombia, 2017a).

The transitional institutions of the "Integral System for Truth, Justice, Reparations and Non-Repetition" started to function in 2018 with the political and economic support of the international community: the European Union -and most of its state members, the United Nations, the Organization of American States and many countries in the region and around the globe (Gómez, 2017; Navarrete, 2018).

However, as I argued before, on the one hand, transitional justice has been a contested category and it has been filled with meaning by the different actors involved (Rowen, 2017; Navarrete, 2018; Gómez 2019). On the other hand, transitional justice mechanisms and processes have been mediated by the law, validated by the international and national law, institutions and mechanisms. Many of the agreement's policies have already been implemented, such as the reincorporation processes of the demobilized combatants or the political participation of the FARC[3] political party. Therefore, for Duque's government it has been difficult to effectively execute its opposed policy and legal reform to the agreement (Nagy, 2008; Teitel, 2014; Turner, 2015; Valencia Agudelo, 2019)

[3] The FARC party is the extinct Farc-EP guerrilla political organization, created as a result from the Peace Agreement. They transformed from a non-state armed rebellious organization into a political institution. They decided to keep the same acronym they used as their battleground name. They changed from the "Revolutionary Armed Forces of Colombia-People's Army" [Farc-EP, in Spanish] to "The Common Alternative Revolutionary Force" [FARC, in Spanish].

1.3.3. Definition of the Research Problem: Iván Duque's Election as President and the Emergence of the "Peace with Legality" Discourse

Since the Peace Dialogues Table was on course, the current President Iván Duque Márquez, as congressman and member of the opposition party, "Democratic Centre", strongly opposed to the peace process with the Farc-EP. He was one of the main political figures that promoted the "No" vote in the 02 October 2016 plebiscite. Furthermore, in his presidential campaign, he promised legal reforms to the laws that introduced the peace agreement of his predecessor with the Farc-EP into the legal system (Duque, 2018).

In June 2018, Iván Duque Márquez was elected president for the period 2018-2022, as the candidate of the "Democratic Centre", promising several changes to the agreement (Duque, 2018c). Álvaro Uribe Vélez, the party leader, during the presidential campaign, continued promoting the idea that the agreement with the Farc-EP had settled impunity for the crimes committed by the demobilized guerrilla members. Additionally, the main concern of the "Democratic Center" was the excess of benefits, for example, allowing its top commanders to present to national and local elections while still having pending judiciary processes (Acosta, 2018). In March 2018, while Duque was presidential candidate, during a public event in Washington sponsored by an organization called "Inter-American Dialogue", talking about the Peace Agreement, Duque Márquez outlined the Democratic Centre's "Peace without Impunity" discourse:

> "We are all friends of the peace, but I conceive peace as the result of the "rule of law", making the criminals pay for the crimes they committed and not awarding the criminals, because that generates a major lack of social confidence in the institutions.
> (…) everything related with the justice framework must be reformed, in order to stop the **impunity** to those accountable for crimes against humanity and **they cannot participate in politics**, which is a monstrosity without

> having repaired the victims, without having told the whole truth and serving their [criminal] penalties." (Duque, 2018)"

The "Peace without Impunity" discourse has continued being used by the "Democratic Center" and the main opponents to the Peace Agreement. Nevertheless, since Duque began his presidency in August 2018, he has been using the "Peace with Legality" discourse in public speeches and within policy documents about the implementation of the Peace Agreement. This discourse appears to operate in direct contrast to the previous official discourse, used by Santos administration, which plainly used "peace". For Santos, by the implementation of the Peace Agreement Colombia was entering into a post-conflict scenario, through which society will achieve peace and reconciliation (Gobierno de Colombia & Farc-EP, 2016).

Duque's discourse adds "legality" as another category into the government's official narrative in relation to the same peace process. "Peace with Legality" discourse has been used to promote legal and political reform to core aspects of the final peace agreement with the Farc-EP. Apparently, "Peace with Legality" aims to transform the opposition's "Peace without Impunity" discourse into the official narrative about the conflict and the transition to peace (Valencia Agudelo, 2019; Gómez, 2017; Duque Marquez, 2019).

Since the beginning of his mandate, Duque's government has been taking action against the peace agreement, trying to modify all the six points. For example, on March 10, 2019, Duque objected the statutory law that regulated the Special Jurisdiction for Peace and returned it to Congress for substantial modifications. However, the Constitutional Court decided against the presidential objections (Corte Constitucional, 2019). Duque wants to reform the restorative justice approach of the agreement, because, as he systematically argued during his years in the opposition to the Peace Process it was a pact of impunity (Duque, 2018b).

Furthermore, the new government never refers to the "armed conflict", nor as a past violent phenomena with deep political and social roots (Revista Semana, 2019; Presidencia de la República de Colombia, 2019). Instead the government refers to "violent conditions and marginality" that are caused by "instability". Thus, Duque avoids the term "armed conflict" which is not only the term within the Peace Agreement, it is also used by the victims, the civil society, the former government, the NGO's, the international community and the actors involved in the political violence phenomenon.

One of the main distances Duque has taken from the Peace Agreement's implementation can be seen within the National Development Plan 2018-2022 [NDP, henceforth]. This document constitutes the principal policy framework that his government will use towards its four years period. The government pillar is the formula "Legality and Entrepreneurship = Equity". According to the document, peace will emanate from legality, which is a result of the enduring relationship between security and justice. This vision of legality is described in the NDP as the way to overcome the "illegality", which, according to the document, is nourished by violence. To explain this vision of legality as essential to transform violence with the focus on security and justice, the document quotes Iván Duque's inaugural address:

> The pact for peacebuilding finds its principal founding in the legality culture, fruit of the unbreakable relationship between security and justice, to contest the multiple illegality factors, which, fed by violence, impede the healthy coexistence between Colombians. This is about the construction of a country in which over all of its territory, in a medium term, there is a future that has inserted the culture of 'legality, promoted entrepreneurship and, finally, equity exists'(Duque, 2018b)" (NDP, 2018: 847).

Additionally, there is a budget reduction in the NDP for several programs of the peace process implementation. In its four years plan, the government also proposes a process for stabilization and the path to guarantee "legality", focused in the

reintegration of the Farc-EP base ex-combatants, excluding the main commanders of the dismantled organization (Congreso de la República de Colombia, 2019: 3; Valencia Agudelo, 2019: 38-39).

Finally, the armed conflict has not ceased after the agreement started its implementation, it is an ongoing phenomenon unrecognized by the current government. There are several armed organizations that every day are challenging the state's legitimate power in big portions of the national territory, committing massive human rights violations (Congreso de la República de Colombia, 2019; Defensoría del Pueblo, 2020; OHCHR, 2020; Unidad de Víctimas, 2020).

It seems like "Peace with Legality" is being used to institutionalize the opposition's discourse to the Peace Agreement within the official narrative of the Colombian government. Now that Duque and the "Democratic Center" have the government's power, the implementation of the Peace Agreement has found a contested narrative coming directly from the head of the State. This discursive twist may affect the possibilities for the country to continue through a transition from war to peace. My concern is that the mechanisms, institutional reforms and policies established in the agreement, which are not complete or perfect -but surely a step forward-, are in risk of not being implemented by a discourse that hides behind "legality" (Comisión Histórica del Conflicto y sus Víctimas, 2015; Gómez, 2017; Acosta, 2018).

1.3.4. Outline of the Text

The order of the text is determined by the order of the research process. First, I will describe the literature review, which will serve to understand the main aspects of transitional justice, how it has historically developed and the critical studies within the field. Moreover, the section will describe the previous discourse analysis literature related with transitional justice in Colombia. Second, the text will elaborate on the methodological aspects of the research, including the theoretical framework, the critical discourse analysis methods, the data and its analysis. Third,

I will present the results of the analysis. Finally, I will present the discussion of the results and the conclusions of the investigation.

2. LITERATURE REVIEW

In this chapter I will describe two main bodies of previous literature: Firstly, literature related with transitional justice historical evolution, the role of law and justice in peacebuilding and the critical studies of the field. Secondly, literature concerning the Colombian processes in relation with transitional justice, mainly selected texts that analyze the discourses regarding the transitional justice development in Colombia.

The first bulk of literature gives the general framework to understand how transitional justice has been constructed as an institutionalized, global, liberal and Western "tool-kit" of legal and institutional mechanisms. All of which are applied around the world in order to promote the transition from violence to peace, and the consolidation of the "rule of law". Moreover, the critical studies of the field show how this mainstream model may fail to attend the deep changes needed to produce real peace.

The second bulk of literature provides a deeper understanding of the Colombian context. Using authors that have studied transitional justice from a critical perspective and analyzing the discourses of the peacebuilding processes in the country, I will frame the main antecedents to the Peace Agreement. Furthermore, this section will describe the previous legislation and the social discussions that were part of the dialectical construction of the agreement.

I used different searching engines to seek for the mentioned literature, always using the keywords "transitional justice", "conflict", "rule of law", "justice", "Colombia", "critical discourse analysis", "discourse analysis", mixed in different ways to find different results. I also used the same words categories in Spanish "justicia transicional" "imperio de la ley", "conflict armado", "legalidad", "paz", "justicia", "análisis crítico del discurso", "análisis del discurso". I used Lund University

platform, LUBsearch; Google Scholar; the database from the National University of Colombia, SINAB; and the University of the Andes library search engine.

2.1. Literature on Transitional Justice and its Relationship with "Law", "Legality" and the "Rule of Law"

Within the bulk of literature that has developed theoretical advancements about transitional justice and its relationship with legality, I have divided my findings in two approaches to the field: the "mainstream" and the "critical". The first one shows the evolution of the field, what are its main characteristics and how its international construction relates to the Colombian Peace Agreement. The second approach works to conceptualize a critical perspective of transitional justice, which provides theoretical tools for the application of Critical Discourse Analysis as a method.

2.1.1. Transitional Justice "Mainstream" Literature

Authors within the mainstream label are those who trust the law's capacity to guarantee successful transitions, relating the idea of achieving "peace", peacebuilding or ending conflict with the consolidation of a liberal state founded in the "rule of law". In this group I will include: Ruti Teitel (2014), Alex Boraine (2006), Rodrigo Uprimny (2007 & 2014) and De Greiff (2010). Their major contribution is the description of the field and how it developed during the 20th Century to construct the current model of transitional justice, what Teitel (2014) calls the *bureaucratic model*.

For these authors, the law is the most reliable instrument to produce successful transitions. First, because the incorporation of international law, as a supposedly neutral mechanism to the parties involved in the conflict, serves to fill the transitional notions of justice, differentiating them from the past regime. In addition, it helps to produce change to a new understanding of legality and justice (Turner, 2015: 40). Law in the past has been insufficient, unfair, that is why a new concept of justice and legality is needed to transit from a previous violent context

to the rule of law. Second, because law regulates the particularities about the mechanisms to be implemented. It serves as a tool to establish the adjustments to the constitutional national systems, aligned to the universal principles enshrined in international law. According to Teitel (2014) the use of law with these two purposes facilitates the transition from an "illiberal" state to a liberal one (Teitel, 2014: xvi).

The field of transitional justice has been constructed, in the past three decades, throughout new meanings given to justice in different peace-making processes, with a marked intervention of international law. Practitioners and theorists have been constructing the field through research and doctrine, where the law receives the normative basis to establish the parameters to transitional justice implementation. Ruti Teitel (2014) coined the term "transitional justice" to refer to the distinctive understandings of justice that, after oppressive and violent ruling, were being implemented during the radical political changes at the end of the eighties. Mainly in the post-soviet countries and after the dictatorships in Argentina and Chile (Teitel, 2014: xii).

According to Elster (2004), Teitel (2014) and Uprimny (2014), there are three main transitional justice models, or waves, that have been applied since the end of World War II. Not always in a linear or consecutive form, but contingently and constructed by the specific contexts where they have emerged. These models incorporate different mechanisms, but they are characterized for being implemented between the binaries of "truth versus justice", "punishment versus impunity"," retributive vs. restorative" or "justice versus peace" (Teitel, 2014: xiii).

The **first** model, the *international law model*, incorporated the retributive perspective of the Nuremberg and the Tokyo tribunals after World War II. The main characteristic of this model is the application of retributive justice from the positivistic Western liberal legal tradition, where the "law" is conceived as universal. Within this vision, legality serves as the guarantee to punish those

accountable for “crimes against humanity”, mainly the top commanders, for the genocide committed throughout the second world war (Teitel, 2014: 104).

The *international law model* has a focus on punishment, framing this model within retributive justice approaches. Under the retributive paradigm, justice is seen as retribution for the damages caused during the war and it will be fulfilled by providing an equivalent punishment to the harm done. In direct contrast to the retributive justice, the restorative approach seeks to go further from punishment. The restorative justice paradigm promotes reparations for the damage done, seeks to reconstruct the social thread broken by the committed crimes and to find reconciliation between the parties involved in the conflict (Teitel, 2014: 46; Uprimny et al, 2014).

The **second** model can be located in the transitions made, according to Teitel (2014), in three main contingencies. First, after the South American military regimes, mainly in Argentina and Chile. Second, those made by the eastern European countries as part of their transitions into liberal democracies after the fall of the USSR. Third, in the South African case after the apartheid. These processes portrayed a “constitutional approach”, characterized by marked State and institutional restructuration, strongly intervened by legal reform. In the justice level, it is characterized by the recognition of individual responsibilities, e.g., truth over punishment. The main objective of these transitions was to conceal the past with the future, focusing on the constitutional reform. Moreover, to implement western liberal ideals of democracy and free market, using the “law” as a mechanism of encounter between old and new regimes (Urpimny & Saffon, 2007; Teitel, 2014; Uprimny, 2014).

Within this **second** model, at the beginning of the 1990’s two paradigmatic ways of dealing with the binary “justice versus truth” showed the constant tension between restorative versus retributive approaches to transitional justice. On the one hand, the former Yugoslavia transition adopted a globalized intervention of

international criminal law as the path for justice. Accordingly, the UN ad hoc tribunals were established to prosecute those accountable for massive human rights violations during the war.

On the other hand, in the South African transitional processes, the truth was prioritized over punitive justice, promoting a restorative approach. Therefore, recognition of the crimes by those accountable became the principal goal of the transition, focusing on national reconciliation. This process was accompanied by constitutional reforms to overcome the structural injustices of the apartheid regime with an instauration of a liberal democracy (Teitel, 2014; Uprimny, 2014).

During the first decade of the 2000's, the "mainstream" authors have categorized the subsequent, **third** and current model as globalized and *bureaucratic* or *institutionalized* (Teitel, 2014; Turner, 2015: 38). Transitional justice has transcended the adoption of local and national mechanisms and institutions. The *bureaucratic model* has a standardized international approach, strongly attached to security and governance and the consolidation of the "rule of law". It functions throughout the principles of liberal democracies and the human rights discourse.

This model has been promoted to be implemented in global South countries throughout the UN system (Ní Aoláin, 2013: 90). The report published in 2004 made by the UN Secretary General to the Security Council, defined transitional justice as:

> "the full range of processes and mechanisms associated with a society's attempts to come to terms with a legacy of large-scale past abuses, in order to ensure accountability, serve justice and achieve reconciliation. These may include both judicial and non-judicial mechanisms, with differing levels of international involvement (or none at all) and individual prosecutions, reparations, truth-seeking, institutional reform, vetting and dismissals, or a combination thereof" (United Nations, 2004).

Moreover, Alex Boraine (2006) and Pablo De Greiff (2010), promote five pillars for transitions, which complement the mentioned UN definition. Their principles establish 1) a retributive approach to sanction the responsibility for human rights violations, 2) truth seeking, 3) reconciliation, that includes the reintegration of the ex-combatants, 4) non-repetition guarantees and 5) reparations to the victims (Navarrete, 2018; Boraine, 2006).

This *bureaucratic model* pretends a balance between restorative and retributive justice, while punishing the crimes as retribution for the damages caused. Its holistic approach also pretends to build reconciliation and emphasizes on repairing the harm done. This model also involves policy and legal reform to produce structural changes to guarantee non-repetition of the factors that produced systemic violence. Moreover, it supposes a series of legal reforms to promote the instauration of a consolidated liberal democracy (Boraine, 2006; Turner, 2015). The Colombian Peace Agreement is an example of this model of transitional justice, of course, with some localized adjustments.

2.1.2. Critical Transitional Justice Studies

In the past decades, the global institutionalization of transitional justice has constructed it as a "toolbox". It is now a recipe that must be applied in all countries ceasing periods of violence, with a strong intervention of the UN and the international community (McEvoy, 2007). According to critical authors [to the mainstream position], namely Nagy (2008), Bell (2008), Leebaw (2008), Robins (2012) and Sharp (2015), the *bureaucratic model's* western and liberal essence has produced a highly "legalized" process. This trust in the "law" as a neutral mechanism and the faith in its institutions to establish the "rule of law" tends to replicate structural social and gender injustices, detaching the process from reality and do not promote a contextual adjusted model.

Nagy (2008), Bell (2008) and Sharp (2015) problematize the scope of transitional justice, its capacity to effectively fulfill its goals to peacebuilding and to consolidate democratic systems. The assumptions that come with the *bureaucratic model,* for example claims like "break with the past" or "never again", present very broad and simplistic solutions to problems that are present amongst different structures of society, which are exacerbated by the armed conflict.

According to Nagy (2018:230), these liberal assumptions "obscure continuities of violence and exclusion". For instance, in the South African case, after the implementation of the transitional mechanisms, the unequal racist structures, land ownership concentration, structural socioeconomic inequalities based on race, or gender-based violence, continued being part of society. Therefore, constantly reproducing social conflict and exclusion, without achieving the proposed transitional justice goals of peacebuilding and democracy (Nagy, 2008; Bell (2008); Sharp, 2015).

Additionally, according to Ní Aoláin (2013), the contemporary institutionalized global approach to transitional justice comes from a Global North hegemonic position, which deploys an uncritical discourse that has appropriated and codified knowledge: a discursive colonization. Language is used to produce the "toolbox" model, reproducing hierarchies of value, mandating how the transition must be implemented and evaluated in order to be recognized (Ní Aoláin, 2013: 90). In this sense, the different global institutions involved in promoting transitional justice, i.e., United Nations or The International Center for Transitional Justice, use the "tool-box" when advising countries how they should implement the transitions.

The "tool-box" can be mainly found in the United Nations "Guidance Note about Transitional Justice" (2010) and the already mentioned "Report of the Secretary General on the Rule of Law and Transitional Justice" (2004). These two documents contain the main standardized elements of the *bureaucratic model*, which aim to be used in countries going through transition. Mainly Global South countries that must

deal with the asymmetrical powers within the international political and legal systems.

Gready & Robins (2017) show how in different transitions around the world transitional justice relates with elite discourses. For example, in the case of Nepal or East Timor, transitional justice has not been able to effectively achieve its goals under the liberal institutional and constitutional reforms. In those cases, after the implementation of the transitional justice *bureaucratic model's* toolbox, the underlying socioeconomic inequalities that produced violence before the implementation of transitional justice have persisted. The same elites that had access to land ownership, political power and economic capital, are the same ruling the country today. Thus, the structural changes needed to succeed through the implementation of transitional justice, were not implemented (McEvoy, 2007; Robins, 2012: 7; Gready and Robins, 2017).

Furthermore, the strong liberal foundations of the globalized *bureaucratic model* combine legal reform and the strengthening of the state, in which institutions, politicians and public servants, who may be accountable for the crimes committed during war, continue being active part of the power structures. McEvoy (2007:422) questions the Colombian transitional models applied during the nineties and the beginning of the 2000's, arguing that several state agents have the double status of victimizers and leaders of the transition. Thus, the liberal application of transitional mechanisms tends to replicate the ordinary and traditional institutional forms, which reproduce the historical structural systemic violence. In countries where the justice systems are characterized by corruption, brutality and inefficiency, promoting "state like" institutions will lead to "failure and disillusionment" (McEvoy, 2007: 437).

Leebaw (2008) argues that liberal views consider law as a neutral tool capable of regulating violence and apprehending abusers of power. This view subsequently overlooks the instrumentalization of law as a mean for legitimization of violence

and for sustaining the abuse of power. According to her, the same happens with the *bureaucratic model*, where the institutions have the intention to transform previous political practices by "confronting denial and transforming the terms of debate on past abuses". Nevertheless, they try to establish their own legitimacy without changing those dominant [social, political, economic and cultural] frameworks from the past (Leebaw, 2008:95).

Finally, according to McEvoy (2007) and Nagy (2008), from a sociolegal perspective, political, cultural and social contexts give form to transitional justice. In the same sense, Rowen (2017) argues that the focus of research in the field must be on the instrumentalization of transitional justice as a disputed category, not its conceptualization. Therefore, understanding contexts, upon which political change, transitions and peacebuilding occur, becomes an important issue that needs to be addressed from the academic field.

2.1.3. Law as the Remedy to Violence: A Critical Analysis on Transitional Justice in Colombia

As "Peace with Legality" calls for a version of peacebuilding strongly mediated by law enforcement, I looked for literature that showed this connection in Colombia: peace, legality and violence. Additionally, the Peace Agreement settled international law as the mediator between the parties in conflict, in order to produce peace and reconciliation. In a text called "Law and Violence in the Colombian Post-Conflict: State-Making in the Wake of the Peace Agreement", Lemaitre & Restrepo (2018) show how law has been understood as a mechanism to solve violence but many times in history it has also become the generator of conflict. Colombian culture around legality is determined by its connection to the Republican Latin American tradition and its European continental law inheritance. Thus, by the constant struggle between the opposites "civilization" and "barbarism" (Leamaitre & Restrepo, 2018).

Lemaitre & Restrepo (2018) describe how the Peace Agreement is a middle point between opposing forces -the country's elites and the Farc-EP- regarding the necessity to strengthen the State's presence, in order to promote the rule of law to achieve peace. According to these authors, since the independence from the Spanish empire [1810] in Colombia, the idea of "civilization" is connected to the expansion of the "rule of law", as a way to order society and to fight barbarism. The absence of State's law is equalized to violence and disorder, meanwhile, the law is assumed as source of order and civilization. Nowadays, the 1991 Constitution establishes the "Social State of Law" which has become the incarnation of the "rule of law", which magical powers need to be spread through the whole territory (Lemaitre & Restrepo, 2018: 4). They critically appoint this tradition and link it to the "Peace Agreement", analyzing critically the liberal vision towards the implementation of the "rule of law" as a way of ending the violence in Colombia.

Moreover, according to Lemaitre and Restrepo (2019) in "every major junction" law, understood as a civilizing tool, has been trusted as the solution to violence. Hence, according to them, the six points of the "Peace Agreement" operate under this tradition, where the state's presence is brought by the "rule of law" as a way to end violence and order society. These six points are based on the transversal idea of building what Juan Manuel Santos government called "territorial peace", which translates into the expansion of the State's presence and the "rule of law" beyond the military and police institutions.

One of the main contributions of Lemaitre's and Restrepo's work is the analysis, from a critical perspective, of different previous investigations. The researches they analyzed question the role of law as a tool to end violence, as settled in the "Peace Agreement". They show how the liberal tendency in peacebuilding assumes that taking the "rule of law" to territories where the State had no previous or weak presence will lead to the ending of "barbarism", leading to "civilization".

Furthermore, they argue that in certain territories where the armed conflict has been traditionally intense, namely Ituango in Antioquia and the Northern Cauca, the "rule of law" has arrived through neoliberal development projects that have found resistance from the communities, indigenous, Afro-Colombians and farmers that traditionally have lived in these regions. They all demand policies focused on solving poverty and socio-economic inequalities, access to land, education or healthcare. The State's answer to the resistance of these communities has not been to satisfy their demands but to contest social protest with police and military violence (Lemaitre and Resptrepo, 2018: 12-14).

These phenomena can be complemented with the critique that McEvoy (2007) gives to the liberal trust in law as an effective mechanism to solve violence and social conflict. This author uses the concept of "magical legalism" to explain how some governments discursively instrumentalize the incorporation of international human rights laws into their systems to detour attention from their negligence. Precisely, to hinder the absence of protection to their population against violence, or even to hide the fact that State's institutions can be responsible for the abuses. McEvoy uses Michael Taussig's investigation in Colombia about "law in a lawless land", where the author describes a culture around legality in which for every problem there is a law to solve it. Every international human right treaty is ratified, and the country is part of most of the international community's protection mechanisms and tribunals. Nonetheless the reality experienced is very distant from the law in the books: high levels of violence, corruption and impunity (McEvoy, 2007: 419).

2.2. Colombian Literature on Transitional Justice, Legality and Critical Discourse Analysis

According to Gómez (2017: 239), the academic research regarding transitional justice in Colombia are atypical because of two main reasons. First, there has not been a complete transition from war to peace. Moreover, there has not been a regime change like, for example, in the former soviet countries or in the Argentinian and Chilean cases (Uprimny, 2014). Second, because the mechanisms applied during the Colombian armed conflict have been partial, gradual and long-term based. In the next lines I will shortly present a brief overview of the most important literature related with the discourses that have marked the transitional justice in Colombia, focusing in those related with "law", "legality" or "rule of law".

2.2.1. Transitional Justice Before the Farc-EP Peace Agreement

For my literature review I traced previous discourse analysis studies done in relation to transitional justice processes and relevant peacebuilding moments that antecede the Peace Agreement. These investigations serve to construct the historical development that lead to the Peace Agreement and today's "Peace with Legality" discourse, used by the President Iván Duque Márquez. I found research that shows the antecedents to this discourse within three moments: First, the discourses around impunity since the 1990's in the juncture of the demobilization of leftist guerrillas before the 1991 Political Constitution. Second, the "Justice and Peace Law" during Álvaro Uribe Vélez government [2002-2010], which created a transitional justice system that evolved and transformed linked to the international consolidation of the *bureaucratized* model. Third, the literature that describes the dialectical processes during the Havana Negotiation Table, which led to the Peace Agreement.

2.2.1.1. From Full Amnesties to the Transitional Justice in the "Peace and Justice Law"

During its 50 years of war, Colombia has adopted different transitional mechanisms. Between 1990 and 1991, the governments of the time gave pardons

and amnesties to the demobilized combatants of the M-19 (Movement of April 19th), the EPL (Popular Army of Liberation), the Quintin Lame and a faction of the ELN (National Liberation Army) guerrillas. During these transitions, transitional justice focused in debates around economic and political power distribution, without focusing on any punitive or justice measures.

In this period and throughout all the previous peace negotiations, it is hard to find discourses around impunity and transitional justice. The peace building processes before the 2000's mainly concentrated in the ex-combatants' compromise to demobilize and to contribute to the truth about their participation in the conflict. Meanwhile, the State agreed on bringing them warranties for political participation (Alviar García & Engel, 2016: 218). Several leaders of these demobilized armed organizations were murdered after they began their political participation within the constitutional framework, but many others became active political leaders and participated in the National Constitutional Assembly of 1991 (Uprimny, 2014).

During the nineties and the first decade of the 2.000's, through different negotiation tables, the governments unsuccessfully tried to reach an agreement with the Farc-EP. In 1999, the president back then Andrés Pastrana Arango [1998-2002] and the Farc-EP initiated a conversation table in the Caguán, a vast rural municipality in the Caquetá department where the guerrilla had strong territorial control. The Farc-EP left the negotiations in February of 2002 and Pastrana's government immediately twisted its policy to a full military approach, which led to a rise in the intensity of the conflict. After the failed process, in 2002 this guerrilla had 20.700 combatants, summed up to a political and organizational structure, operating in most of the national territory (CNMH, 2013; CERAC, 2014).

Just months after the failed Caguán peace negotiations, Álvaro Uribe Vélez [2002-2010] was elected president as an independent right-wing candidate, in May 2002, with the slogan "Firm Hand, Big Heart". During his 8 years of government, Uribe depicted the Farc-EP as the biggest enemy of the "homeland". According to this

discourse, its members needed to be militarily eliminated, almost at any cost, through the implementation of his well-known "Democratic Security" policy, a discourse aligned with the post 9/11 war against terror (Moreno Torres, 2012). This policy's implementation almost duplicated the military force in the country, which in 1998 was around 250.000 combatants, and at the end of Uribe's government was close to 450.000 (CNMH, 2013: 179)

Moreover, Uribe Vélez government, in 2003, began a secret negotiation process with the right-wing paramilitaries. Thus, in 2004 proposed a law to demobilize and reintegrate paramilitaries, strengthen the state's presence, reinforce the "war on drugs" and, supposedly follow the international parameters of truth, reparations, justice and non-repetition for the victims. The law is called "Justice and Peace Law" and it began its implementation in 2006 with several modifications proposed by the Congress and by the Constitutional Court (Alviar García & Engle, 2016).

During its legislative process in Congress between 2004 and 2005, and the upcoming implementation years, this law was contested by many opposition sectors to Uribe Velez government. NGO's and victim's organizations claimed that the law promoted impunity for the crimes committed by the paramilitaries. Uribe answered to these claims saying: "When there is a peace process, there cannot be full criminalization in the name of justice" and "Nor can there be total impunity in the name of peace." (Alviar García & Engle, 2016: 2016).

This transitional justice law was created to demobilize, reintegrate and judge the paramilitaries for massive human rights violations, while repairing their victims. It had strong foundations in the second model of transitional justice, focusing on retributive judicial mechanisms as means to end violence. Nonetheless, during its implementation it was modified by posterior laws, incorporating some elements from the *bureaucratic model'*s holistic vision as a way to achieve, in the United Nations standards: truth, justice, reparations and non-repetition guarantees (Rowen, 2017: 620).

One of the main modifications to the Law was the incorporation of the Decree1059 of 2008, which amplified the scope of the "Peace and Justice Law" in order to include demobilized guerrilla members to its mechanisms. Moreover, the number of victims and the conflict intensity increased during Uribe's "Democratic Security". The transitional mechanisms implemented by Uribe Vélez promoted benefits to individual and collective demobilizations of guerrilla members, while keeping a strong military approach. The purpose of this mechanism was to reduce the number of active guerrilla combatants by giving them judicial and economic benefits, reducing the organization's military power. Besides, incorporating them to the reintegration programs designed to ex combatants of illegal armed groups (CNMH, 2013).

The "Justice and Peace Law" has been strongly criticized by having loaded all the goals [reparations, truth, justice and non-repetitions guarantees measures] of the transitional justice into the justice system. As I stated before, during the Congress debates and its posterior implementation [which is still going on today], the law found a strong opposition and critics from victims' organizations and different political and academic actors, arguing that it promoted impunity (Rowen, 2017: 620).

During Juan Manuel Santos government [2010.2018] some of the most relevant modifications in terms of justice and reparations were made to the "Justice and Peace Law". The process established by that Law was focused on judicial mechanisms, specifically the victim's rights to reparations and truth were provided by a judiciary sentence. The "Victims and Land Restitution Law" [2011] changed that paradigm and transformed all reparations given by the judiciary into administrative standardized reparations for all recognized victims. It also incorporated holistic interaction between the judiciary and the executive branches in order to bring assistance, attention and to guarantee the victim's rights. Most importantly, as a twist in the discourse from Uribe´s government, Santos' "Victims

and Land Restitution Law" recognized the political underlying causes of the armed conflict (Ley de Víctimas, 2011; Decreto 1592, 2012, and Decreto 3011, 2013).

The "Justice and Peace Law", with all its multiple subsequent reforms, constitutes one of the most relevant and immediate precedents in terms of transitional justice to the "Peace Agreement" between Juan Manuel Santos government and the Farc-EP guerrilla. Furthermore, the explicit recognition to the armed conflict and its political underlying conditions established in the "Victims and Land Restitution Law" constitutes the discursive change that paved the way to the Habana Dialogues Table and the posterior Peace Agreement (Alviar García & Engel, 2016).

2.2.2. The Different Positions During "Habana Dialogues" Between Juan Manuel Santos Government and the Farc-EP

Previous sociolegal and sociological research have shown how context directly influenced all the transitional justice models and approaches implemented in Colombia during the five decades of armed conflict, hence, those processes cannot be simply defined as top-down approaches (Rowen, 2017: 625). Furthermore, studies about transitional justice discourses in the country show that it is a disputed category used by different actors, which has become instrumentalized for its own political purposes (Gómez, 2017; Rowen, 2017; Navarrete, 2018).

According to previous discourse analysis studies produced by Rowen (2017), Gómez (2017) and Navarrete (2018), it is difficult to find a consensus around the transitional justice meanings in Colombia. These bulk of investigations describe a constant dialectical dynamic during the last decades, where the international framework and the national context interact through the voice of the victims, the government, the politicians, the civil society, the armed groups, the judiciary, and the public opinion.

In this scenario the law has served as a tool to promote and demand rights, accountability and political and legal reform, with the transitional justice mechanisms as a mean to achieve peace. Alviar García and Engle (2016) argue that Colombia's 21st century transitional justice approaches have been marked by the use of "justice" and "impunity" categories as instruments to promote its own agenda and perspective regarding peacemaking.

These contested dynamic around transitional justice characterized the Havana Dialogue Table [2012-2016] between Juan Manuel Santos government and the Farc-EP. Santos reelection campaign slogan, for the period 2014-2018, was "Peace, Equity and Education" (NDP 2014-2018). According to Gómez (2017), he was re-elected in 2014 promising to conduce the country to a "post-conflict" scenario and to create the conditions to end the war, achieving what his government constantly called "the peace" (Gómez, 2017: 238).

Furthermore, the negotiations had the support of different international actors, e.g., the European Union -and all its members-, the United Nations, and many countries in the region and around the globe, which strengthen the process, even when nationally its public support was divided (Gómez, 2017; Navarrete, 2018).

In his investigation "Between Punishment and Reconciliation: Sociolegal Analysis about the Peace Process and the Negotiation of the Agreement on Victims of the Conflict", Gabriel Ignacio Gómez (2017) analyzed the discourses that circulated the public debates during the Peace Dialogues Table between Farc-EP and Santos government.

2.2.2.1. The Opposition: "Peace Without Impunity"

Gómez (2017) research found that the main discourses appropriated by the different actors can be located within three big groups. Firstly, the **political discourse of the opposition leaders**, where we can place the "Democratic Center", its main leader,

the ex-president Álvaro Uribe Vélez and, amongst others, the current president, Iván Duque Márquez.

As I outlined before, the main discourse promoted by the opponents of the Peace Dialogues Table was "Peace without Impunity": they stated that the agreement was going to lead to impunity of the massive human rights violations committed by the Farc-EP during its five decades history (Gómez, 2017: 242). This discourse is connected with the denial of the armed conflict, the military solution to the conflict and a localized version of the global war terrorism. The lack of recognition of the conflict necessarily leads to the unrecognition of its victims. Hence, when they talked about the victim's rights, according to Gómez (2017) and Navarrete (2018), it was just instrumentalizing their claim for justice, truth and reparations.

According to the members of the "Democratic Center" and other conservative leaders, the implementation of the pact was going to produce the submission of the State to the Farc-EP -which eventually was going to transform Colombia into a "socialist dictatorship" like Venezuela. Moreover, some radical religious sectors argued that the agreement had incorporated the so called "gender ideology". This notion has been used in pejorative ways to reject women's and LGBTQI+ rights in favor of a heteronormative vision of family and gender. Finally, as I argued before, the "Democratic Center" and his members, including the current president, Iván Duque Márquez, promoted the discourse of "Peace without Impunity" in order to oppose the justice mechanisms that were being negotiated [and that today have begun its implementation] in the Havana (Acosta, 2018; Gómez, 2017: 240-242).

Within "Peace without Impunity" the law functions to eliminate the enemy, not as a mean to negotiate conditions for ending violence. This discourse claims for a retributive version of justice focused on punishment, which translates into the impossibility of conceding amnesties or pardons. The only way of justice is imprisonment of Farc-EP members (Duque, 2018; Uribe 2015, 2019). However,

the discourse promotes special judicial benefits to the military member that have committed severe human rights violations (Gómez, 2017: 247).

2.2.2.2. The Supporters of an Agreement with Legal Limits

Gómez (2017) identified a middle ground group that supported the process with legal limits. This group was composed by most of the civil society organizations, moderate political sectors, several agents within the international community and the Colombian government. They all agreed at least on three aspects regarding the peace process in the Havana. First, the existence of an armed conflict and the need of a negotiated solution to end the armed conflict. Second, the recognition of the Farc-EP and other armed organizations as valid political opponents. Third, they acknowledged the need to adjust the Peace Agreement to the international standards of justice, truth, reparations and non-guarantees measures, putting the victims in the center of any possible settlement.

According to Gómez (2017:247) this group opens into in two parts in relation with the legal measures: 1) those who have a retributive tendency: putting more efforts in justice as punishment, with no amnesties to severe human rights violations, imprisonment to top commanders, and the ex-combatants political participation conditioned to be possible after the execution of judicial sentences; 2) those who have a restorative tendency, were the law functions as a moderate limit to politics: they were supporting amnesties to certain human rights violations with the possibility of political participation without the mediation of a judicial sentence, and within the implementation of transitional justice's holistic model.

In the first group, Gómez places Santos government and, as one of the biggest stakeholders of the process, Human Rights Watch. For Human Rights Watch giving full amnesties to massive human rights violations was a form of diminishing the victim's right to justice (HRW, 2015). In the second group, Gómez identified most

of the international and national NGO's, and most of the victims' organizations (Gómez, 2017: 244; Rowen, 2017).

The victims and their organizations recognized their plurality of interests and identities. However, as an heterogenous group, they requested for being included in the negotiations, and to access to the new transitional justice mechanisms to truth, justice and reparations, with a differential approach. Women, afro-descendants, indigenous, and LGBTQI+ victims, claim to be given a place in the decisions to design the transitional model and to be at the center of every process within the transitional justice (Navarrete, 2018: 28-29).

Additionally, after decades of unsolved judicial processes in the ordinary justice, the armed conflict victims were aiming for an agreement between the government and the Farc-EP (Gómez, 2017: 244; Navarrete, 2018: 29). More important, the victims expected the consolidation of a holistic, restorative, transitional justice system, which could effectively deliver peace, justice, reparations, truth and non-repetition guarantees. Additionally, they demanded to the negotiators in the Habana the inclusion of effective measures to solve the historical material conditions of social exclusion and economic inequalities: access to basic public services, healthcare, housing, access to agricultural land and political participation (Navarrete, 2018: 34).

2.2.2.3. Supporters of the Agreement Without Legal Limits

Gómez identifies a third group that supported an agreement without any legal limitations. This third group was mainly led by the Farc-EP and the far-left political organizations which historically have supported the armed violence against the State. This group is characterized for denying the full recognition of the victims' rights, summed to the total rejection of imprisonment and punishment. They demanded amnesty and pardon for all crimes as a result of the negotiations (Gómez, 2017: 245). Their vision on justice was highly [conveniently] restorative, putting

all the efforts in truth mechanisms. Hence, their commanders were aiming to achieve an agreement without imprisonment or ordinary criminal punishments (Navarrete, 2018: 31).

For decades the Farc-EP sustained that they were part of a legitimate war against the state and their actions were "necessary" to fight against an establishment. According to the Farc-EP, the political elites created the violent and structural economic, political and social conditions that led to their emergence as an armed organization. After several previous failed negotiations, in the Havana Dialogues they manifested the will to be recognized as a political actor within the constitutional system. Thus, one of the biggest accomplishments of the agreement was that the Farc-EP accepted there was no need to promote deep constitutional reform. The negotiations and the agreements were framed within the current Colombian 1991 Political Constitution (Gómez, 2017: 242; Navarrete, 2018: 30).

Finally, the peace agreement incorporated different elements from all these interventions during the negotiations. The agreement is a result of the dialogue between the actors involved, which all moved the agenda regarding their interests. I identify three discussions as the most relevant for my research within the Habana Peace Process:

- the recognition of the political and historical causes of the armed conflict;
- the retributive and restorative mechanisms; and
- the possibility of political participation of the demobilized guerrilla members as a mechanism to build reconciliation and non-repetition (Gómez, 2017).

The next graphic made by Gómez (2017) and translated by me shows the three different associations between the political discourses and its legal manifestations:

Table1. Legal and Political Discourses

Political discourse in opposition to the peace process	**Support to the peace process with legal limits**		**Support to the process without legal limits**
Terrorist threat	Armed conflict		Armed conflict
Absolute Enemy	Ethical enemy		Ethical Enemy
Military solution	Negotiated solution		Negotiated solution
Victims instrumentalized (for those in this position they never existed).	Recognition of the victims		Precarious recognition of the victims
Legal manifestation of the political discourses[4]			
Impossibility to concede amnesties or pardons	Impossibility to concede amnesties in regard to serious violations to the international humanitarian law	Amnesty for political crimes and other mechanisms	Reject to imprisonment as punishment
Imprisonment to Farc-EP members and special judicial benefits to the militaries.	Judicial processes and imprisonment as central to justice	Holistic perspective of transitional justice	Seeking for amnesties and pardons
Law as tool to eliminate the enemy	Law as a strong limit to politics	Law as a moderate limit to politics	Law as negotiation

Source: Gómez, 2017: 247.

[4] Remember that within the middle group that supported the peace process but with legal limits, there was a division regarding the legal measures. This is why below is divided into two parts.

2.4. Gap in the Literature

The only trace about the specifics of my topic and research problem I could found was an academic article written by Valencia Agudelo (2019) called "La Paz y la JEP en el Plan Nacional de Desarrollo (2018-2022)". The text briefly analyses the discursive elements within the National Development Plan 2018-2022 [NDP, henceforth] in relation to the Peace Agreement and the Special Jurisdiction for Peace. The NDP is the most important policy document that governments have in Colombia to frame their 4 years period. The article shows how within the NDP has a crucial discursive change between Santos and Duque's government in relation to peacebuilding.

According to this author, the political and economic guidelines established in the NDP [2018-2022] are disconnected from the Peace Agreement signed by the former government with the Farc-EP guerrilla (Valencia Agudelo, 2019: 36).

After the agreement was incorporated by the State's law, it created several institutions and mechanisms to settle the path for peacebuilding. Its implementation also demands immense political, administrative and economic efforts. Thus, it was necessary that the 2018 presidential elections' winning party made a commitment to give the importance that demands such an ambitious project. Nevertheless, it seems that instead of centering the NDP around peace – as the former government did – Iván Duque's NDP lacks the discursive force to promote and implement the 6 points of the pact with the Farc-EP guerrilla (Valencia Agudelo: 38).

Aside from this article, I found there are no Critical Discourse Analysis studies done to Iván Duque's "Peace with Legality" discourse in relation to the implementation of the Peace Agreement. I want my research to produce a valuable critical description of "Peace with Legality", in order to contribute to sociolegal studies of transitional justice studies in Colombia.

2.3. Literature Review Conclusions

The "mainstream" literature within transitional justice studies, has the great value of describing the historical processes and events that have constructed the field, which encompasses its functioning, developments, principles, regulations, and the legal and institutional mechanisms involved since the 20th century. These texts have the virtue of explaining how different experiences in several parts of the world, in different times and contingencies, have created the *bureaucratic* holistic transitional justice model. However, this bulk of literature is founded on a Western perspective of justice, law, democracy, the state and the rule of law. Therefore, mainstream authors, namely Ruti Teitel or Rodrigo Uprimny, were grouped under this category because they promote the liberal idea of law as the effective mechanism to remedy violence. At the same time, they claim that transitional justice current goals should lead to consolidate or strengthen liberal democracies, while adjusting local legal systems to the international legal standards.

The critical authors to the mainstream transitional justice literature -like Kieran McEvoy or Rosemary Nagy- question the liberal view of the field, and its trust in the law's capacity as a neutral instrument to end violence. The authors inserted under the label "critical" portray how the mainstream view promote legal reforms and the incorporation of international law instruments into nation-states' juridical systems. Most of the time, without being able to promote real change in the social, political and economic structures that reproduce the violence. For example, the gender-based violence or the police brutality against environmental leaders, as outlined by Gready & Robins (2017) and Lemaitre & Restrepo (2018).

Moreover, as promoted by the mainstream view - like the Colombian case-, the State strengthen may lead to the reproduction of previous violence, because the same elites, oligarchies, or politicians that have responsibility over the past abuses, may continue in power during and after the transition. Furthermore, the critical authors also define, from a postcolonial perspective, the transitional justice as a

"tool-kit" promoted in the past decades by the *bureaucratic model*, showing how it reproduces the asymmetric global inequalities.

Colombian literature on the matter describes how transitional justice has been a contested category, because the different actors: governments, NGO's, victims and their organizations, the international community, politicians, academics and the members of the armed groups, have used transitional justice to promote their own agendas. Nevertheless, it can be observed that the model incorporated in the 2016's Peace Agreement between Juan Manuel Santos government and the Farc-EP promotes a marked tendency to the *bureaucratic model's* view.

The pact settles the law as a mediator and endorses the idea of transition to a more democratic state throughout the installment of the "rule of law". However, it incorporates, as said by Lemaitre and Restrepo (2018), a holistic view of this model, with some pretended reforms to the rural Colombia, the illicit drugs policy or the political participation of those traditionally excluded from representative democracy. Summed up to transitional judicial and non-judicial institutions and mechanisms, like the truth commission or the "Special Jurisdiction for Peace".

Finally, as shown by Lemaitre and Restrepo (2018), the implementation of the agreement has evidenced the difficulties of trusting legality and the consolidation of the "rule of law" without changing the unequal Colombian social structures. Hence, the State seems to favor power political elite's and economic interests over the most vulnerable communities. Thus, leaving unattended the structural social changes needed by those historically most affected by war, like in Ituango in Antioquia or the Northern Cauca.

3. METHODOLOGY

For the theoretical framework, I will use transitional justice critical theory. It will provide the research with the necessary analysis categories to understand the core problems regarding the implementation of transitional justice's *bureaucratic model* in Colombia. These theories use critical analysis from postcolonial theory, feminist theory and Marxism. All of which shall offer the research tools to analyze how "Peace with Legality" has been constructed regarding the implementation of the Peace Agreement and what its relationship with law, legality and justice is.

Additionally, these studies present a critical point of view about its limits and the effectiveness shown by its mechanisms to achieve its goals to end violence. Always checking on the power and social structures behind the mechanisms and institutions involved. The main authors that I will use will be McEvoy (2007), Leebaw (2008), Nagy (2008), Sharp (2015), Ní Aoláin (2013), Teitel (2014), Turner (2015), Rowen (2017), Gómez (2017), Navarrete (2018). Those who I classified as "mainstream" authors, will be used for descriptive and historical purposes.

As a method, I will use Critical Discourse Analysis [CDA, henceforth] to analyze how "Peace with Legality" relates to transitional justice, and its direct link to law, legality, rule of law, justice, conflict and peace. The three-dimensional analysis methodology proposed by Fairclough (1992 & 2013) will be used to investigate the discourse dimension, the discourse practice dimension and the social practice dimension of the "Peace with Legality" discourse. This involves analyzing legal documents and public speeches that President Iván Duque Márquez and his high-level functionaries have been producing during the last two years, involving discussions about the implementation of the Peace Agreement.

Furthermore, it implies to investigate how this discourse has been produced, distributed and received by the different actors involved in the implementation, nationally and internationally: How are they using it? In what spaces and moments?

Who is transmitting the discourse and how? Who is receiving it? It also leads to clarifying if there is a link between the discourse and social reality, if there have been any causal relations, as a consequence of the use of the "Peace with Legality" discourse.

In this section I will at first present the theoretical considerations about the transitional justice critical theory and CDA. Then I will outline the specifics of CDA as a method, the data collection and analysis proposal.

3.1. Theoretical framework

The critical point of view that characterizes the theoretical framework chosen for this project implies that I am looking into the power structures behind the "Peace with Legality" discourse. Leebow (2008) and Nagy (2008) criticize the trust that the *bureaucratic model* deposits on the law as a neutral mechanism. Their critical standpoint shows how the current "tool-box" model of transitional justice is implemented in Global South countries with the aim to promote standardized liberal democracies (Ní Aoláin, 2013: 2). The transitions usually do not change the social inequalities or relations of dominance and exclusion that have produced the violence. The reforms proposed by this model usually do not succeed to end conflict or to accomplish its goals, because power structures are the same before and during the transition.

As McEcvoy (2007) has shown, those elites who hold power in the State institutions before and during the transitions, are the ones in charge of the implementation. This situation led to the permanence of the same social power structures that have produced the violence. According to van Dijk (1993), the social organizations of dominance are part of a power hierarchy, in which the persons and institutions that have traditionally belonged to power positions are always in advantage to exercise control and dominance. Discourses are used to impose the views of these elites and

they can be enforced from the institutionalized power they hold (van Dijk, 1993: 265).

Finally, I will use the conceptualization used by Lemaitre & Restrepo (2018) about the relation of law and violence. For them, the Peace Agreement's trust in the expansion of the rule of law as the remedy to violence must be checked, because law is not necessarily a peace provider. Legality can be used to promote violence, including, of course, the legitimate State's violence.

3.2. Critical Discourse Analysis

This investigation will go further from the textual elements of the "Peace with Legality" discourse, it will mainly focus on its discursive practice and the context where it circulates. As Fairclough (2013) argues, one of the main interests of CDA is to investigate how text produces and reproduces social power, resisting inequalities and injustices within specific social contexts. CDA is "critical" because it aims to reveal how discursive practices may preserve the inequalities in the social world, focusing on unbalanced power relations (Jørgensen & Phillips, 2002: 74).

Using the methodological strategy of the case study, this research uses CDA as a qualitative method to analyze the relation and impact that discourses have with social reality. This means that epistemologically, on the one hand, there is a language sphere that allows us to interpret the world, to construct it with semiotic categories. On the other hand, there is a world beyond our language descriptions of it, what Fairclough (2013) categorized as social practice. Besides, both levels interact, and language has the capacity to construct social reality, producing, reproducing or changing it. The social context interacts with the language in the same constructive way. Hence, within CDA, language works as a machine that constitutes the social world, identities and social relations (Jørgensen & Phillips, 2002: 9).

As a constructivist approach, CDA understands discourses as constitutive and constituted by the social. In addition, while having a dialectic relation with social practice, producing and reproducing it, discourses are a reflection of social structures, which implies that discourses are not neutral: they are ideologically charged (Jørgensen & Phillips, 2002). This is an important epistemological and methodological element in CDA: to look for ideology within discourses, essentially in the case of analyzing political discourses from a government.

3.3. How Does Critical Discourse Analysis Understands Discourses?

According to Jørgensen & Phillips (2002), discourses in CDA are, in its most abstract sense, "a form of social practice which both constitutes the social world and is constituted by other social practices". In Fairclough's CDA, discourses are a form of social practice, but it has three dimensions. It is necessary to differentiate the text, the discourse practice and the social practice. Additionally, discourses can be understood as language and images with three different applications. First, discourses are produced and reproduced in a context, they are part of social practices generated within certain power structures. Texts are manifestations of discourses, which are in constant dialogue with other social practices (Chouliaraki & Fairclough, 1999). Discourses are a form of action that impact the social, while it is also constructed through the interaction with it.

Second, discourses can also be understood as the language used within different fields: the political, the legal or the medical. Third, discourses can also refer to the most concrete way of communicating, providing experiences with meaning. In this sense, we could refer to different discourses, for example, as "liberal", "feminist" or "republican", within which we can also find heterogeneity: there is not only one "liberal" discourse, there are various "liberal discourses" loaded with different meanings and ideological standpoints (Jørgensen & Phillips, 2002: 67).

Moreover, what makes CDA different from other versions of discourse analysis within social sciences is the deep focus on the text at a practical level (Chouliaraki & Fairclough 1999: 152). Its critical perspective provides the tools to seek for power relations behind discourses (Jorgensen & Phillips 2002: 60). Fairclough's version of CDA **aims** to investigate the connections between the use of language and its relationship with social practices.

Therefore, the three-dimensional model examines the discursive event, the discursive practice and the social practice. The discursive event refers to the text: written words, videos, images, spoken words, or any combination of them. The discursive practice consists of interaction: the processes through which texts are, on the one hand, produced, and on the other hand, received by those who consume them. The social practice dimension refers to issues commonly analyzed by social sciences: institutional and organizational matters related with the discourse event, which also contributes in the construction of the discursive practices and the effects they have (Fairclough, 1992: 4).

CDA allows to check on discourses, social practices and power structures on macro, mezzo and micro levels. Methodologically, this facilitates to work inductively from the text and build on the discursive and social practical elements present at any of those levels. It can be located in the middle point between the materialist perspective and the poststructuralist outlook: discourses are constituted by social practices, but they are also constitutive (Jørgensen & Phillips, 2002: 9,13, 20).

3.4. CDA Methods

Chouliaraki and Fairclough (1999) propose the articulation of discursive and non-discursive moments. This means that in textual analysis, discourse and social practice work as separate entities that interconnect with each other. Hence, theoretical elements become necessary to connect both of them: "we see the project

of CDA as bringing together theory and practice" (Chouliaraki & Fairclough, 1999).

Moreover, Chouliaraki and Fairclough (1999) refer to the situational and the intertextual contexts as central to the process of interpretation within the discursive practice. Discursive practices are the mediators between texts and social practices. It marks the relation between the text, its production and its consumption (Jorgensen & Phillips 2002: 80). Within CDA, discursive practices play an important role in the production and reproduction of structural inequalities, for instance the unequal power relations between social classes (Jorgensen & Phillips 2002: 74).

In terms of the situational context analysis it is useful to ask questions about time, place and process of production. For Fairclough there are two main dimensions that work as focal points: the *communicative event,* for example, a political speech, or a video; and the *order of discourse* (Jorgensen & Phillips 2002: 79)**.**

The *order of discourse* is constituted by all the genres and discourses within a social field, which includes the *discourse types*. *Discourse types* integrate discourses and genres. Genres are specific parts of social practices: an interview, a tweet or a political speech. Moreover, the order of discourse includes the different discursive practices by which language is produced, interpreted and consumed. For example, the discursive practice that occurs when a journalist presents the news to the audience on primetime television. The presentation of media reports on daily events and how the information is consumed by most people in the intimacy of their homes. This example reflects a case of production and consumption as discursive practice, where discourses and genres are used in certain contexts (Jorgensen & Phillips 2002: 78).

The *communicative event* includes the analysis of the linguistic structure [textual dimension]. It also aims for the study of discourses and genres articulated in the

production and the consumption of the text [discursive practice dimension]. Moreover, it incorporates considerations about whether the discursive practice reproduces or instead restructures the existing order of discourse, checking its consequences for the broader social practice [the level of social practice] (Jorgensen & Phillips 2002: 80).

In CDA**,** analyzing social practices allows to look how the author creates its own discourse or the speaker uses previous discourses and texts. Discourses are linked to other discourses. Meanwhile, those who receive the text interpret and consume texts according to available genres and discourses. Therefore, consumers are not only using the text to understand it, they are part of a certain context and of a semiotic universe that gave them the tools to interpret it (Jorgensen & Phillips 2002: 80).

Intertextuality and interdiscursivity

Iván Duque uses the discourse of "Peace with Legality" when referring to the implementation of the Peace Agreement. Both discourses, the one incorporated in the agreement and the one promoted by Duque, have been constructed by different narratives. Within these processes the different actors involved in peacebuilding and transitional justice have used different dialectic meanings to position their political agendas. Thus, in the analysis I will check how "Peace with Legality" is being used by Duque's government in relation to the agreement's rhetoric, if it favors its implementation or if it is a way of detouring from its materialization. Furthermore, I will analyze how "Peace with Legality" has a connection, for instance, with the "Democratic Center" opposition discourse to the Peace Agreement. In order to do this analysis, CDA offers the methodological tools of intertextuality and interdiscursivity.

Intertextuality is the idea that all communicative events are based on previous events, we unavoidably will use already used phrases, texts, or expressions.

Consequently, intertextuality is an analytical tool used in CDA to investigate on earlier discourses that contribute building up other discourses. It constitutes a historic method to check on the development and changes, continuity and stability of texts. For Fairclough (1999) discourses are not closed, they have the capacity to change, giving the social actors the way to use them and produce new usages (Jorgensen & Phillips 2002: 86).

Interdiscursivity is a manifestation of intertextuality and happens when different genres and discourses are articulated in the same communicative event. Hence, when applying CDA it becomes important to focus on the relation between the discursive reproduction, to analyze the relations between different discourses within an order of discourse and between different orders or discourses. This process allows the researcher to check how it was constructed through semantic, textual and social practices that precede it (Jorgensen & Phillips 2002: 87).

3.5. Data

The chosen empirical material for this project mainly focuses on the political discourses and tweets produced by the current Colombian President Iván Duque Márquez [2018-2020] and Álvaro Uribe Vélez, the main leader of the "Democratic Center". All of them related with the transitional justice in Colombia and the Peace Agreement. The timeframe of the communicative events includes the period in which the "Democratic Center" led the opposition to the Peace Agreement from the Congress. Hence it covers January 2014 till April 2020.

I selected documents containing the expression "Peace with Legality" ["Paz con Legalidad", in Spanish] and those linked with the implementation of the Peace Agreement that contained the words "legality", "law", "impunity" or "justice". It is to be reminded that I understand "Peace with Legality" as a political discourse that has a direct connection with the Peace Agreement.

The data was collected systematically, using the timeframe of its publication as the main factor to organize it, from the first dated reference I found of "Peace with Legality" and its related discourses to the last one. Then, I did a depuration of the first collection, selecting only those documents that provided relevant content for the process of analysis and conceptualization.

In order to examine intertextuality and interdiscursivity of Iván Duque's government "Peace with Legality", I also checked on "Peace Without Impunity" related communicative events. I opted to only use tweets and media articles produced by Álvaro Uribe Vélez and Iván Duque for two main reasons. First, because they are the most representative figures of the party, and while analyzing the data, I realized that the textual productions of the other members did not contribute new discursive elements to its conceptualization. Second, the selected timeframe is broad and therefore examining documents of other actors in addition would exceed this thesis project. Hence, the chosen documents were selected based on their content, specifically on their capacity to conceptualize the "Peace with Legality" discourse and to show a probable relationship with other discourses, like "Peace without Impunity".

Finally, I also analyzed interdiscursivity between the Peace Agreement and "Peace with Legality". Therefore, the document of the agreement will serve as data as well as the Legislative Act 001 of 2017, which incorporated it into the legal system. Additionally, other policy documents of Duque's government associated with the implementation of the pact will be used as data. Namely, the "Peace with Legality" (2018) policy document, the "Security and Defense Policy" (2019) and the National Development Plan (2019).

3.5.1. Data Validity and Reliability

In order to answer the research question, I opted for a qualitative analysis using transitional justice critical studies as theory and CDA as method, which together

provide compatible methodological tools to conceptualize the selected data. In this sense, the chosen material was carefully chosen by its capacity to meet the goals of the research, adjusting to the theory and the qualitative CDA methods (Jorgensen & Phillips 2002). The selected data serve as evidence of my claims. If the documents I have chosen to meet the goals of this investigation were analyzed by other researchers they will probably obtain the same results I did (Prior, 2011).

The relevance of the legal documents I selected to analyze is given by their capacity to answer the research question and to meet the aim of the research. These documents were chosen by the impact they have on society, because they define actions and policies that Ivan Duque's government is currently executing. These communicative events are part of the juridical system and they have inserted discourses that have a direct impact on society (Chouliaraki & Fairclough, 1999). The reliability of this documents is based on their authenticity as official texts, publicly created by the Colombian State, so they were taken from official government's websites. Additionally, I checked their authenticity in the official gazettes published by the government and the Congress.

Regarding the public speeches, I selected those relevant communicative events in which Duque develops his ideas around peace and legality, giving meaning to the legal documents before and after their enforcement. The official speeches of the president evidence the discursive practices related with the implementation of the Peace Agreement. Thus, these speeches are discourses in action, generating meaning in the real world and impacting the social field (Jorgensen & Phillips 2002).

Regarding the selection of tweets made by Álvaro Uribe Vélez and Iván Duque, I decided to use these communicative events because Twitter has expanded in Colombia during the last decade, becoming a relevant public space for debate. Politicians, institutions, organizations, public figures and other main actors of the legal and political fields express their opinions on different matters. Furthermore,

political discussions on Twitter relate to the most transcendental national issues and the media facilitates the politicians to reach their audience directly and immediately (Prada & Romero, 2019). As Veum & Undrum (2018) argue, analysis of social media channels like Twitter becomes relevant to understand the relationship between discourse and institutional power.

3.5.2. Data Analysis Considerations

Before presenting the results of the analysis I will clarify some methodological points. First, I decided to present the results in relation to the themes I found within "Peace with Legality". In the application of CDA, I follow up by showing how Duque signified peace as an outcome of legality. Additionally, he defined legality as the result of security and justice. Consequently, under these foundations, he coined the discourse of "Peace with Legality" to refer to the implementation of the Peace Agreement. Therefore, I chose to conceptualize those two themes.

Second, after having selected the "security" and "justice" themes, during the analysis I looked for interdiscursive and intertextual relations of "Peace with Legality". I found that in relation to security and justice "Peace with Legality" is linked with the previous discourses: "Democratic Security" and "Peace without Impunity". Furthermore, I analyzed the Peace Agreement, as a manifestation of the previous government official discourse, to find the connections and detachments with "Peace with Legality".

3.6. Ethical Considerations

This thesis follows the ethical guidelines and recommendations regarding proper research conduct provided by the Swedish Research Council (SRC, 2017). All the methodological, theoretical aspects and the analytical aspects were conducted according to the parameters established by the referred authority. The thesis does not use personal information or put anyone in danger. All the information used can be publicly accessed.

As a researcher I am positioning myself regarding the Peace Agreement. For over 8 years I have been working within the transitional justice institutions and mechanisms. Due to my work I got a deep insight into the crude reality of the victims of the armed conflict and how most of them are part of the historically social and political excluded. The Peace Agreement is an instrument that moved forward in the protection of their rights, gave them legitimacy and promoted access to better levels of truth, justice and reparations. After finishing my studies in Sweden, I will continue defending the victim's rights.

4. RESULTS

4.1. The "Peace with Legality" Foundations

4.1.1. Antecedents: Juan Manuel Santos Peace Agreement

In 2011 Juan Manuel Santos' government recognized the armed conflict and began the implementation of the transitional mechanisms appointed by the "Victims and Land Restitution Law". This law was the beginning of an official recognition of the political, economic and social factors that influenced the production and reproduction of violence in Colombia.

The "Victims and Land Restitution Law" was one of the main steps towards the initiation of the peace negotiations between the Farc-EP and Santos government in 2012, which led to the Peace Agreement in 2016 (Gómez, 2017). Thus, before Duque's presidency, the Colombian State was officially recognizing the armed conflict, therefore, its victims and the underlying historical, political and social origins. As Santos' second mandate's National Development Plan [2014-2018] stated: "The vision that the government has is to put peace in the center to end the **armed conflict**, the guarantee of the rights and the strengthening of the territorial peace" [Own translation. Emphasis mine] (NDP 2014-2018).

The Peace Agreement explicitly acknowledges the political armed conflict, stating that its main goal is to end it, to promote reconciliation and a lasting and stable peace. Since the preamble, both parties recognized the intention of bringing that political conflict to an end:

> "Recalling that the Havana dialogues between delegates from the National Government, led by President Juan Manuel Santos, and delegates from the Revolutionary Armed Forces of Colombia – People's Army, based on their mutual decision to bring the national **armed conflict** to an end (…)
>
> (…) in the opinion of the National Government, the transformations that must be achieved when implementing this Agreement must play a part in

> reversing the effects of the **conflict** and in changing the conditions that have led to the persistence of violence across the country; and, in the opinion of the FARC-EP, such transformations must contribute to resolving the historical causes of the conflict, such as the unresolved issue of land ownership and, in particular, the concentration thereof, the exclusion of the rural population, and the underdevelopment of rural communities, which especially affects women, girls and boys [Emphasis mine] (Gobierno de Colombia & Farc-EP, 2016).

The parties accorded to promote change and reached a settlement concerning a reform of historical, political, social and economic conditions, that have produced and reproduced the conflict. Since 2016, Juan Manuel Santos' government began to name the Peace Agreement's implementation "post-conflict", promoting the idea that the country was transitioning from war to peace. Under this view, having as a reference the mechanisms enshrined within the pact, the country was already going through the path of peacebuilding (Navarrete, 2018; Gómez, 2017). This is a holistic view of transitional justice that puts the victims in the center of the transition.

> "We understand that a broad, genuine response to the rights of victims – **alongside the implementation of all the other agreements**, which also guarantee rights – forms the basis for justice" [Emphasis mine] (Gobierno de Colombia & Farc-EP, 2016).

Additionally, the agreement was not only a pact between Juan Manuel Santos' government and the Farc-EP, it was incorporated into the State's law. The Congress approved the essential transitional mechanisms and institutional adjustments to guarantee its implementation, at the same time, recognizing the historical, political and social foundations contained in the Peace Agreement. The Legislative Act by which the Congress processed the constitutional reform to incorporate the pact says that its main goal is to:

> "Create transitory dispositions within the Constitution **to the end of the armed conflict** and the construction of a durable and stable peace" [Own translation. Emphasis mine] (Congreso de Colombia, 2017).

The Agreement contains six points promoting legal and institutional reforms that aim to promote some of the structural changes needed to begin the transition from war to peace. In relation to justice, the Peace Agreement prevails restorative understandings of justice over retributive visions (Gómez, 2017). In the words of the Peace Agreement:

> "The Comprehensive System places special emphasis on **restorative** and **reparative** measures, and seeks to achieve **justice not only through retributive sanctions**.
>
> (…) Lastly, the comprehensive nature of the System contributes to laying the foundations for regaining trust, for coexistence in a peacebuilding scenario, and for a real reconciliation among all the Colombian people. **Restorative justice is primarily concerned** with the needs and dignity of the victims and is applied using a **holistic** approach that ensures justice, truth and guarantees of non-recurrence of what has occurred" [Emphasis mine] (Gobierno de Colombia & Farc-EP, 2016).

During the negotiations, the Farc-EP advocated for complete amnesties regarding the severe crimes their members committed during the armed conflict. They were not going to be subdued to the retributive justice standards established by the International Criminal Law, the International Human Rights and the Humanitarian Law (Navarrete, 2018). Meanwhile the government was struggling to satisfy the majority of the public opinion claiming for severe punishment for the Farc-EP members. Summed to the State's international and constitutional obligation to guarantee the victims' rights to reparations, justice, truth, and non-repetition (Gómez, 2017: 248).

After years of negotiations, in order to find a middle ground between this tension, Santos' government and the Farc-EP opted for an advisor group to design the justice mechanisms and institutions enshrined in the Agreement (Gómez, 2017: 249). According to Gómez (2017) the justice point of the Peace Agreement is the result of a balancing exercise between maximalist [severe punishment] and minimalist [amnesties] postures in relation to justice.

The mechanisms established by the Peace Agreement are a localized version of the mainstream justice approach promoted by the United Nations, the International Center for Transitional Justice and the International Criminal Court (Teitel, 2014: xii). Hence, the Peace Agreement created a Truth Commission, a Unit for the Search of Disappeared Persons and Special Jurisdiction for Peace, in order to guarantee the rights of the victims (Gobierno de Colombia & Farc-EP, 2016; Teitel, 2014).

The justice mechanisms secure a certain level of retribution but prioritizing alternative punishments. Thus, imprisonment becomes a subsidiary sentence, focused on those who do not collaborate with the system, giving more relevance to integral reparations, truth and reconciliation in accordance to restorative justice principles. Beyond punishment, the Agreement seeks to guarantee the victims' rights, while facilitating the transition to peace, giving political and judicial benefits to those responsible for severe crimes who effectively collaborate with truth, reparations and non-repetition measures. This includes members of the Farc-EP, State armed forces and third civilian parties[5] that have direct responsibility in the commission of war crimes (Gobierno de Colombia & Farc-EP, 2016).

Furthermore, the Farc-EP obtained the benefit to become a political party and to participate in the electoral system while they were being judicialized. This attends to one of the structural issues that have produced and reproduced violence in Colombia: the historical political exclusion of the left within the constitutional

[5] Just those civilians who voluntarily request to be processed by the transitional justice system established by the Peace Agreement (Corte Constitucional, 2017)

system. Hence, in consonance with the promotion of reconciliation and with the restorative approach of the Peace Agreement, the members of the Farc-EP currently have10 seats in the Congress and in the past elections [May 2019] several of its members ran for different positions in the local and regional governments (Comisión Histórica del Conflicto y sus Víctimas, 2015; Gobierno de Colombia & Farc-EP, 2016).

4.1.2. Duque as Candidate: "Peace Without Impunity"

Since the beginning of the Peace Dialogues Table in 2012, the commanders of the non-state organization stated that "they would not spend a single day in prison" (Gómez, 2017: 248). Using the negative from Farc-EP members to accept imprisonment punishment, the opposition to the peace process, promoted the "Peace Without Impunity" discourse. The discourse pretended to attack the whole negotiations, but it reduced the public discussion to the probable judicial punishment the parties were negotiating for massive human rights violations committed by the Farc-EP (Alviar García & Engel, 2016: 232).

> "When they say that we cannot humiliate the FARC sending their commandants to prison, I ask why we humiliate justice with **impunity**" (Duque, 2014).

In December 2014, the party led by ex-president Álvaro Uribe Vélez, the "Democratic Center", promoted a national public protest against the peace negotiations. The manifestation gathered thousands of opponents to the conversations in several Colombian cities (Alviar García & Engel, 2016:231). According to their discourse, Santos' government was not guaranteeing any punishment to the Farc-EP "terrorists" for their crimes, instead they were being rewarded with political participation and impunity.

> "Top **FARC** commandants, responsible for massacres, car bombs, there is no prison, is enough recognition even without regret: is not that **impunity** (Uribe, 2016).

The use of impunity served well to promote the idea that the Farc-EP had submitted the State: as they are not being punished with prison for their crimes and they can participate in politics, therefore Santos had surrendered to them. Furthermore, the "Democratic Center" used the idea that the Armed Forces were being dishonored and that Santos, by negotiating the Agreement, was equalizing the Farc-EP "terrorists" to the "homeland heroes" (Uribe, 2016).

> "President Santos is not only putting in the same level the Armed Forces to the **terrorism**, he is also imposing their subjection to the Farc-EP **impunity"** (Uribe, 2014).

The systematic opposition exercised by the "Democratic Center" during the four years of the negotiations exhibited its fruitful results on October 02, 2016, when the "No" won the national plebiscite to approve or reject the Peace Agreement by a very close turnout. Amongst other factors, the negative vote won thanks to the promotion of the "Peace Without Impunity" (Gómez, 2017: 252).

After the "No" won the plebiscite, President Juan Manuel Santos asked the "Democratic Center" and the leaders of the opposition to send their claims to the Habana negotiations table to renegotiate some of the points. The parties changed several parts of the Agreement, but they maintained all of the substantial mechanisms previously settled, keeping the prison as subsidiary punishment. Therefore, the modifications were not enough for the "Democratic Center", so they continued promoting the same discourse afterwards. As a presidential candidate, Iván Duque Márquez repeated the same argument promoted by "Peace Without Impunity".

> "We must be very firm against **terrorism**. We are defending the interests of the majority of honest Colombians who deserve a **peace without impunity**" (Duque, 2017).

> "During the past 8 years, the worst mistake committed in Colombia was to have divided the country between enemies and friends of the peace. We all

> want peace, but a **peace without impunity**, the Rule of Law triumph over criminality" (Duque, 2018a)

This discussion around punishment reduced the complex debate of the Peace Process and the final Peace Agreement to the punishment Farc-EP members could have obtained. Consequently, the essence of the six points of the agreement, which aim to change some of the structural social and political issues that have produced violence in Colombia, was pushed aside of the public discussion. As Alviar García and Engel (2016) found in their research, the impunity discourse has effectively been used in peace processes in Colombia to put aside the larger discussions around the social structural problems that have long contributed to armed conflict; namely land distribution, rural poverty and exclusion or political participation.

4.2. Duque as President: "Peace with Legality" Discourse

4.2.1. Legality, Security and Justice

Since Duque was running for president, he established the foundations of what his government defines as peace and legality. Thus, in order to understand how his government signifies "Peace with Legality", first, I selected the elections' victory and the inaugural address speeches to comprehend the bases of this discourse. These two communicative events define the foundation of how Duque's government relates to the implementation of the Peace Agreement.

On June 17, 2018, Iván Duque, candidate of the "Democratic Center", won the presidential elections obtaining 53,98% of the votes against Gustavo Petro Urrego, the independent center-left candidate, who polled 41,81%. Before the elections, the country was highly polarized and, as shown by Prada and Romero (2018), within the media and the public opinion both candidates were portrayed as opposites. Petro supported the Peace Agreement while Duque represented the sector of society that rejected it and voted "No" in 2016's plebiscite (Alviar García & Engel, 2017; Navarrete, 2018; Gómez, 2017).

> "More than a dignifying agreement for the FARC, we want a dignifying peace for Colombians. That is why we defend the **peace** with the **rule of law without impunity**" (Duque, 2015).

After consistently having opposed to the Peace Dialogues Table and the Peace Agreement, Duque won the elections when the pact had just begun its implementation. The juncture in which Duque was elected [those first years of implementation of transitional justice mechanisms], according to Baker & Obradovic-Wochnic (2016), are crucial to consolidate a post-conflict scenario and to construct reconciliation. Transitional justice, understood as a peacebuilding process, can become a path to peace by reforming political, social and economic institutions. Thus, changing the existing structural conditions that lead to conflict. Peacebuilding is the "alteration of what existed before" and therefore transition (Baker & Obradovic-Wochnic, 2016: 287).

The previous context is important to understand Duque's victory speech, transmitted live the same day he won the elections on national television. In his victory speech the President appealed to the end of the polarization and the construction of the "so longed peace" (Duque, 2018a). Thus, it could appear that he was taking a discursive turn on the systematic opposition that he and the "Democratic Center" did during the Peace Process. Now, as elected candidate, he indicated the will to construct peace. Nevertheless, the peace he was talking about has a different meaning compared to what is enshrined in the Peace Agreement. For Duque peace needs to come from legality, and legality can be achieved bringing security and justice.

> "When we talk about the legality that we desire, the **peace** is also in between, because the peace of Colombia is a wish we all have (…) we must guarantee that the peace is for all Colombians, beginning with **security** and **justice** as the indicated sisters so hope shines throughout the whole national territory" [Own translation. Emphasis mine] (Duque, 2018a).

> "when we talk about those challenges that can be found in **legality**, we must also assume a biggest one, which is, in every corner, build the dream of **security** hand by hand with **justice"** [Own translation. Emphasis mine] (Duque, 2018a).

Hence, according to Duque, peace is the result of legality and legality is a consequence of security and justice (Duque, 2018a). Amongst the many views on peace, Duque opted to a perspective focused on a securitized view on legality. In accordance to this, he has been reiterative in claiming that legality will be brought by the armed forces, as they are providers of security and justice:

> "To the Colombians, I want to reaffirm that we will continue guaranteeing **Legality**, **Security** and **Justice** in all parts of the national territory. Our **Armed Forces** have all the capacities (…)" [Own translation. Emphasis mine] (Duque, 2019b).

For Duque's government, the State and its armed forces are the institutions in charge of ending violence. According to what he defines as legality, the enforcement of the law signified as security and justice, will bring peace (Duque, 2018a). This is one of the core connotations attached to "Peace with Legality", which represents a major change in the institutional discourse promoted by former President Juan Manuel Santos, who officialized the idea of peace as the result of a transition from war to peace throughout a post-conflict scenario.

4.3. Security

4.3.1. Security as in Democratic Security: The Links to our Past.

"Peace with Legality" founds a direct connection with the "Democratic Security" discourse promoted by Álvaro Uribe Vélez. Achieving peace throughout the implementation of security was the discourse used by ex-president Álvaro Uribe Vélez, Duque's political leader and the main figure within the "Democratic Centre" (Centro Democrático, 2020; Gómez, 2017). During his government [2002-2010],

Uribe implemented the "Democratic Security", which was a violent form of an alleged peacebuilding connected to the excessive State's coercive power. According to Acosta (2006: 25), the "Democratic Security" policy is an ultra-conservative project that seeks for the strengthening of the "ruler" figure, based on authority, with the consequent expectancy of obedient citizens.

During his victory speech, Duque stated that security is a "democratic" value which must go back.

> "Security must go back to our city streets, must go back to Colombian rural areas, because security means not violence, **security** is a **democratic** value which allows us to construct a better society, where we can be without fear, and a society free of fear is a society in real **peace**" [Own translation. Emphasis mine] (Duque, 2018a).

Aside from defining **security** as a **democratic** value, he argues that, in practice, it will lead to the absence of violence. Furthermore, he connects democracy and security in the same statement, linked to the idea of "going back" to security in the rural and urban Colombia. The idea of going back and the link to security and democracy recalls the "Democratic Security" deployed by Uribe's government. According to Galindo Hernández (2005), the implementation of this policy promotes a security status quo that, paradoxically, leads to the weakening of the core values promoted by a democratic system, namely the defense and promotion of human rights and popular sovereignty (Galindo Hernández, 2005; Uribe, 2013). The official government's data shows that, during Uribe's "Democratic Security", between 2002 and 2010, there were 50.000 forced disappearances, 117.000 homicides, 967 massacres, 56.000 life threats, 3.520 tortures (Unidad de Víctimas, 2020).

Under this concept, democracy is not in line with the idea of constructing a social order that protects and benefits all citizens (Galindo Hernández, 2005: 537). On the contrary, it is based on the notion of supposedly eradicating violence with the use of the State's violence. Hence, through the deployment of the armed forces:

National Police and the Army (Acosta, 2006: 25; Moreno Torres, 2012). After 6 years of Uribe's government, the security and defense national budget increased from 5,3% of the total to 8% in 2008. Moreover, this augmented percentage reflects in the increase of the Armed Forces active members, which went from 297.825 in 2002 to 416.847 in 2008 (Vargas, 2009: 113). Uribe's government did not recognize the armed conflict, deploying extensive military and police action in order to eradicate what he considered the "enemies" of the homeland, terrorists: the left-wing guerrillas, like the Farc-EP (Vargas, 2009: 116).

As shown in the section on the opposition's "Peace Without Impunity", Duque and his political party have systematically portrayed the ex Farc-EP members as "terrorists". Nowadays, outlined by the "Peace with Legality" securitized vision, they are enemies of the country that challenge legality. Uribe, as the leader of the "Democratic Center", continues promoting the same discourse. On January 21, 2019, Uribe tweeted a meme retweeted more than three thousand times and liked by more than six thousand people showing how other countries supposedly punish terrorism:

Image 1. Uribe Tweet January 21, 2019

(Uribe, 2019)

> The copied tweet from Álvaro Uribe Vélez says: "Punishments for terrorism in the world: Russia: Capital Punishment; China: Capital Punishment; USA: Life Sentence or Capital Punishment; England: Life Sentence; Germany: Life Sentence; Colombia: Amnesty, Seat in Congress, possibility to be president and lifetime salary".

This portrayal is highly problematic, as it becomes a fuel for the "Democratic Security" policy-like approach that Duque seems to be replicating within his 'Peace with Legality" discourse. This translates into the prospective re-securitization of government's policies, including the boosting of the armed forces' capacity and resources, which has proven counterproductive in ensuring and promoting peace (Lemaitre & Restrepo, 2018).

4.3.2. From Armed Conflict to Criminal Activities: Stabilization Instead of Post-conflict

One of the main discursive practices revealing the distance between the security significance within "Peace with Legality" and the Peace Agreement is avoiding calling the political violence "armed conflict". Duque's government approach addresses it as a different phenomenon to what the State had already recognized in 2011 by the "Victim's and Land Restitution Law" and by the constitutional norms that incorporated the agreement.

However, for the "Democratic Center" and its members, the country is not transiting from an armed conflict to a post-conflict scenario, as it was claimed by Juan Manuel Santos' official government's discourse (Gobierno de Colombia & Farc-EP, 2016; Duque, 2017). On the contrary, since the presidential campaign, Duque has associated the idea of peace with security and stability. In this sense, Navarrete (2018) and Rowen (2017) have already shown how transitional justice has always been a contested space in Colombia, where every actor uses different discourses in order to promote their agendas. As a presidential candidate, while opposing to the peace agreements, Duque wrote a column in national newspaper, saying:

> "Colombia is paying the consequences of the bad agreement signed with the Farc-EP, which has affected the **institutional stability** and is structurally threatening national **security**, the **justice**" [Own translation. Emphasis mine] (Duque, 2017).

Since the elections, Duque and the "Democratic Center" did not recognize the armed conflict. Thus, nowadays, this government does not refer anymore to "post-conflict" scenario, which had a symbolic effect amongst the Peace Agreement stakeholders, implying that its implementation phase was leading to progressively ceasing the political violence (Bourdieu, 1991: 166; Gómez, 2017; Navarrete, 2018). In contrast, what Duque and the "Democratic Center" did was replacing the category "armed conflict" with "instability". In this scenario security is supposed to deliver the promised peace to Colombians, through armed forces and police authority. As an opposite to "post-conflict", he uses the word "stabilization", which moves the peace discourse towards security (Presidencia de la República, 2018).

Changing the institutional discourse from an official acceptance of the deep political and social roots of war in Colombia into a securitized issue, detaches the current government discursive practice from the established order of discourse settled by the Peace Agreement. The pact between the former government and the Farc-EP recognizes some of the deep political roots of violence in Colombia, while legitimizing both parties to implement the six points (Gobierno de Colombia & Farc-EP, 2016; Acosta, 2018). The lack of recognition of the political, historical and social origins underlying Colombian violence, turning it into a matter of legality [understood as a lack of security], has produced institutional and policy changes. For example, in the introduction to his security and defense policy [January 2019], which promotes "stabilization" via the armed forces as the providers of legality, Duque states:

> "A policy based on the force of **legality** will stimulate the citizens to follow the coexistence rules, meanwhile it severely sanctions those who violate them and makes them the object of reproach. (…) **Respect for the law**,

> rejection of crime and criminals, as well as the creation of a legality culture is fundamental to **security**" [Own translation. Emphasis mine] (Duque, 2019b).

Due to this discursive change, one of the most visible institutional changes Duque made to the public offices in charge of the implementation of the Peace Agreement, was reforming the office of "Senior Presidential Advisor for the Post-conflict" for the "Presidential Office for Stabilization and Consolidation" by presidential decree (Decree 672, 2017; Decree 179, 2019). During Santos' administration, this office was in charge of the articulation and the promotion of the policies for a post-conflict scenario, in synchrony with the Peace Agreement's six points. Contrarily, in the presidential decree that enforced the modification, Duque not only modified the office's name, but he extracted the core discourse of transition through post-conflict, changing it to the "stabilization" discourse (Decree 179, 2019: art.19).

On December 17, 2018, the "Presidential Office for Stabilization and Consolidation" launched the "Peace with Legality" policy. The office's director general gave a press release and outlined the policy that will be implemented in relation to the Peace Agreement. In the whole policy document, there is not a single reference to the armed conflict or to the post-conflict scenario. The policy is the materialization of the pretension to implant a new order of discourse, replacing "post-conflict" with "stabilization" (Oficina Presidencial para la Estabilización y Consolidación, 2018). This discursive twist, while saying that they are implementing the agreements in their own terms, facilitates the securitized vision on society. Furthermore, according to the Minister of Defense who designed Duque's "Security and Defense Policy" in 2019:

> "Our **Armed Forces** will be the engine of the **stabilization** in the regions" [Introduction to the Security and Defense Policy] [Own translation. Emphasis mine] (Botero, 2019).

The context in which this discursive change happens is marked by the continuity of the conflict. Despite the Peace Agreement and the effective demobilization of most

of the Farc-EP combatants, its intensity has increased in the past three years. Since 2016 more than 555 social leaders have been killed while defending, amongst other causes, the Peace Agreement in different regions of Colombia (Defensoría del Pueblo, 2020). Moreover, according to the FARC political party[6], there have been more than 185 demobilized combatants murdered since the Peace Agreement was signed (OHCHR, 2020). Additionally, according to the United Nations, during 2019 there were 34 massacres, 25.000 persons were forcibly displaced from their territory, and many other human rights violations committed by several non-state armed organizations competing with the State's power.

Aside from the interdiscursive relationship between "Peace with Legality" and "Democratic Security", Duque's discursive link between peace and legality can be seen as a way of implementing the Peace Agreement using an acceptable rhetoric within the Colombian legal framework. However, it works as a way out from some of its core discursive elements. Linking it with legality, immediately focus the government's vision on peace with their own understanding of legality, which is a matter of security and justice. This discourse has installed the vision of "stabilization", removing the idea of a post-conflict society going through the transition to peace from the official State's narrative.

On August 21, 2019, Duque's Minister of Defense announced that the government is increasing the security and defense budget by 6,3% (El Tiempo, 2019). In contrast, according to the report made by the members of the Congress opposing to the current administration, the budget related to the implementation of the Peace Agreement was severely reduced for 2020 (Congreso de la República de Colombia, 2019: 34). In a report called "How is the Agreement Going?", they analyzed the budget destined to the implementation of all the six points of the pact, finding that the government is reducing the budget of each of them (Congreso de la República

[6] The FARC party is the extinct Farc-EP guerrilla political organization, created as a result from the Peace Agreement. They transformed from a non-state armed rebellious organization into a political institution. They decided to keep the same acronym they used as their battleground name. They changed from the "Revolutionary Armed Forces of Colombia-People's Army" [Farc-EP, in Spanish] to "The Common Alternative Revolutionary Force" [FARC, in Spanish].

de Colombia, 2019). Moreover, comparing this reduction to the military expenditure increase, Duque's "Peace with Legality" moves apart of a society going through a transitional process to peace. It seems to build up a securitized society via "stabilization" rather than a "post-conflict scenario" that seeks to change some of the structural causes that produced and reproduce it.

4.3.3. "Peace with Legality" and Security: Exclusion in the Context of Peacebuilding

The construction of a securitized version of peacebuilding, namely "Peace with Legality", is the replacement of "post-conflict", as a transitional moment to change the violent status quo, by "stabilization". The latter produces the exclusion of those previously recognized by the agreement as legitimate political actors.

If the official discourse no longer recognizes the armed conflict, the Farc-EP and the victims, actors who gained recognition with the Peace Agreement will also find exclusion within the government practices. They are no longer recognized as valid political and historical actors, as part of a 50 years armed conflict. Within "Peace with Legality" the victims are not part of a peacebuilding process, in which they should be at the center and society should be moving forward to favor their rights to truth, justice, reparations and non-repetition (Cubides, 2018: 184). The discourse of "Peace with Legality" as it promotes a securitized approach, turns the institutional focus to the different version of peace promoted by the opposition to the Peace Agreements, which denies the armed conflict and delegates the armed forces the construction of "stability", rather than transiting through a post-conflict scenario.

The underlying narrative is similar to the one contained within the "Peace Without Impunity" discourse, promoted by the "Democratic Center" members since 2014. This discourse challenges the political status recognized to the Farc-EP by the Peace Process and the posterior Peace Agreement. For them, the nowadays demobilized guerrilla were "terrorists", therefore it is not possible to provide them a political status.

> "Why are we surprised that **Farc** asks not to be called **terrorists**, if in effect the government already is doing that and calls them **political actors**" [Own translation. Emphasis mine] (Uribe, 2014a).

Under "Peace with Legality", the ex-combatants and the members of the FARC political party are now discursively constructed under an exclusionary discourse, no longer framed as legitimate political actors but in the backdoor of the "Peace with Legality" discourse. In contrast, in the post-conflict scenario proposed by Juan Manuel Santos' government, they were recognized as a political project, which due to the Peace Agreement handed their weapons to participate within the Constitutional regime as a political party (Gobierno de Colombia & Farc-EP, 2016).

> "The political party "FARC", which has the acronym of the **terrorist** organization that bled out Colombia, challenged the country and its? legality" [Own translation. Emphasis mine] (Duque, 2017a).

The previous successful peace processes in Colombia, between the State and leftist guerrilla organizations, have been fruitful, because they have included the guarantee of political participation of those traditionally excluded actors (Uprimny, 2014). For example, the M-19 guerrilla demobilization in the nineties lead to their immediate political participation as members of the Constitutional Assembly that redacted the current 1991 Constitution (Alviar García & Engel, 2016: 218). Therefore, if "Peace with Legality" takes off this core element of peacebuilding in Colombia, directly related with the political structural factors that have produced and reproduced violence, the country is not moving towards any peace (McEvoy, 2007; Nagy, 2008).

As previous research made by McEvoy (2007) and Lemaitre & Restrepo (2018) showed, Colombia has a deeply rooted legalist culture. Connecting "legality" to "peace" seems to have the symbolic power to incorporate law to the discussion of peacebuilding without really changing anything in practice. The concept of *magical legalism*, developed by McEvoy (2007), finds a place in order to analyze "Peace with Legality".

According to this author: “the notion of magical legalism speaks directly to the disconnection between the 'real world' in some transitional societies and the plethora of 'law talk' which often characterize debates amongst the political elites” (McEvoy, 2007:419). McEvoy (2007) refers to the Colombian case arguing how the power elite’s discourses instrumentalize human rights law and discuss reality throughout the lenses of legality, without changing the conditions that generate violence. It seems like the “Peace with Legality” discourse has given the current ruling elites, those represented by the “Democratic Center”, the power to hide the fact that they are not dealing with the institutional changes, policies and mechanisms established in the agreement (McEvoy, 2007; Lemaitre & Restrepo, 2018).

Furthermore, the limitations of the law as a neutral mediator in this scenario can be observed when power elites that historically have held positions of dominance must implement transitional justice. The construction of law as a neutral mediator for the transitions to peace is contested by the discursive practices associated with “Peace with Legality”. Duque represents one of the sectors of those power elites that did not want the inclusion of the Farc-EP or the victims within the political system (Leebaw, 2008). Thus, as McEvoy (2007) argues, if the elites that have produced violence are the ones in charge of the implementation of the transition, law will evidence its malleability and may favor the continuity of the factors that have produced violence.

4.4. From Restorative Justice to Retributive Justice

As previously shown, Duque is not referring to “post-conflict” scenario, understood as a transition to peace, guided by the mechanisms established in the Peace Agreement. Instead, he refers to “stabilization”, arguing that legality, as an outcome of security and justice, will bring peace. “Peace with Legality”, along with its securitized vision of society, is directly connected with the idea of bringing peace with a retributive justice vision: law enforcement and punishment.

> "Colombians, we, all together, must build **peace** and to do that we have to count on the culture of **legality**, based on the essential premise that if within a society **security and justice** go hand by hand, and guarantees **law enforcement**, there would not be a chance to violence to threaten individual freedoms" [Own translation. Emphasis mine] (Duque, 2018d).

In relation to justice, "Peace with legality" is directly linked to "Peace Without Impunity". One of the discourses that successfully led to the "No" victory in the plebiscite by promoting the idea that the Peace Agreement did not stipulate hard enough punishment for the Farc-EP. The discourse adapted its content from the political opposition against the agreements to the official government narrative. During his public speeches, Duque has insisted that peace cannot be constructed with impunity.

> "Colombia wants to construct the **peace,** a #**PeaceWithLegality**, **without impunity**, trustworthy and solid. This peace starts when crimes like those committed in the 'Escuela General Santander' don't stay in **impunity**" (Duque, 2020).

The notion of justice underlying this narrative can be defined as retributive, which constitutes an opposed vision to what was settled in the Habana. According to Wenzel et al (2008:375) retributive justice conceive punishment as a proportional humiliation or pain to the one caused by the perpetrator. Within this view, justice will be satisfied once a punitive sanction is imposed to the offender.

In direct contrast, the Peace Agreement settled a narrative around restorative justice as the path through reconciliation. It established transitional justice mechanisms based on the collaboration within the system of those accountable for the human rights violations, and imprisonment punishment is subsidiary. Restorative justice focuses in repairing the damages, putting the victims at the center, instead of seeking punishment. It promotes processes based on constructive reparations and communication. Thus, in transitional processes it works as a framework to build

reconciliation after the structural rupture of social threat caused by armed conflict (República de Colombia, Ley 1957 de 2019; Uprimny et al, 2014)

According to Duque, justice as part of legality means that "El que la hace la paga", which could be translated to something like "Who made it, must pay for it". This expresses a punitive vision of society enshrined in direct relation to legality as security and justice.

> (…) as the commander in chief of the **Armed Forces**, and with collaboration of the **judicial authorities**, we will act on all the national territory and we will dismantle the organized crime networks, bring them to justice, enforcing the principle of **'who made it, must pay for it'**" [Emphasis mine. Own translation] (Duque, 2018b).

> "One of the flagship policies of our government is legality. Telling the criminals: **'who made it, must pay for it'**" [Emphasis mine. Own translation] (Duque, 2018g).

"Peace with Legality" constitutes the State's official narrative that moves away from the implementation of the Peace Agreement, while giving the appearance of being framed within the juridical system. In relation to justice, the discourse detours from the idea of restorative mechanisms to build a transition to reconciliation. The punitive approach within Duque's discourse takes an opposite turn.

Within the policy document defining the main aspects related with "Peace with Legality" and within the National Development Plan [2018-2020], the government detaches from its collaborative role with the transitional justice established in the Peace Agreement. These documents claim that the executive branch must only respect its functioning and act with neutrality.

> "**Transitional Justice** is part of the jurisdictional branch of public power. To that extent, the Executive is mainly responsible for respecting its independence and, within the applicable constitutional and legal canons,

ensuring **neutrality** in its actions" [Emphasis mine] (Presidential Office for Stabilization, 2018).

According to the NDP 2018-2022 and the "Peace with Legality" policy documents, the government officially assumes a passive posture, just "respecting" the independence of the Special Jurisdiction for Peace, as a transitional mechanism operating under the judicial branch. Nevertheless, the position of the government has not been neutral in relation to the Peace Agreement, including its justice system. Since his inaugural address, Duque stated that he was going to promote correctives to the agreement, because they were based on impunity.

> "(…) by the citizen mandate we have received, we will deploy [sic] **correctives** to assure the victims with truth, proportional justice, also that they receive the effective reparations and that there is not repetition [of the violence] in any place of the territory (…) they will be assaulted by **impunity**" (Duque, 2018d).

> "The administration of Justice in the Special Jurisdiction for Peace is necessary in this historical effort to achieve a '**peace well done'**, and to assure there would not be **impunity**" (Duque, 2019a)

Arguing that he was aiming for a justice "well done", without impunity, Duque's administration presented six legal objections to the Special Jurisdiction for Peace Statutory Law. The norm enforces the transitional justice mechanisms of the Peace Agreement and gives constitutional validity to all its procedures. It regulates the rights of the victims, the rights and obligations of the processed, and the State's obligations in order to guarantee the adequate implementation of its restorative justice mechanisms. The Law has established the restorative justice as its main goal:

> "To facilitate the termination of the **armed conflict** and the achievement of lasting and stable peace. (…) The Special Jurisdiction for Peace will implement the **restorative justice** as guiding paradigm, which aims to privilege harmony; the victim's reestablishment of the social relations, the

> restauration of the caused damages and the guarantee of the future generation's rights" [Emphasis Mine. Own Translation] (República de Colombia, Ley 1957 de 2019).

The presidential objections to the Law were received by the public opinion and the majority of the Congress as a way of attacking the transitional justice mechanisms (France 24, 2019; El Tiempo, 2019). Moreover, the Constitutional Court responded to the government that the objections did not proceed, and that Duque must respect that -by a majority- the Congress rejected the objections. Thus, Duque had to enact it in the upcoming days. He responded that he accepted the Court's decision as a Colombian and as a Defensor of "legality" (France 24, 2019).

In relation to justice, "Peace with Legality" is the officialization of the opposition's "Peace Without Impunity" discourse. The constant references to punishment and retributive principles are Duque's government maneuver to move away from the implementation of the Peace Agreement's restorative approach. Opting for a retributive approach to justice can be problematic to be able to create the conditions for peacebuilding through a successful transition (McEvoy, 2007; Ní Aoláin, 2013; Nagy, 2018).

The following table shows the discourses, the themes and the associated discourses I found during the analysis:

Table 2. Discourses and themes

Discourse	Themes	Associated Themes	Associated Discourse
Peace with Legality	Legality: - Security - Justice	→ Stability/Instability → Illegality → Impunity → Retributive Justice → Criminality	→ Democratic Security → Peace Without Impunity
Peace Agreement	- Armed conflict - Post-conflict - Transitional Justice	→ Restorative Justice → Reconciliation	→ Peace

[Own elaboration]

5. DISCUSSION

The aim of this investigation was to critically analyze the "Peace with Legality" discourse, which is used by the current Colombian government, when referring to the implementation of the Peace Agreement. I found a gap in academic research concerning this discourse, which I think is crucial to understanding the discourses and practices that Duque's administration has undertaken in the past two years. In the following paragraphs I will discuss the results with a critical perspective, using the theoretical framework.

The Peace Agreement is the product of a dialogue between the Farc-EP and Juan Manuel Santos government. It also collects claims from different actors, like the victims, the Farc-EP, the international community or the opposition. The agreement aligns with the *bureaucratized* model of transitional justice, which proposes a complex application political and judicial mechanisms, accompanied by legal reform, in order to produce a transitable scenario from war to peace. The *bureaucratic model* produces a highly "legalized" process, where the "law" -understood as a neutral mechanism- do not necessarily solve the social structural problems, thus replicating previous social injustices that led to violence (Bell, 2008; Sharp, 2015).

This scenario needs radical transformations of the social structures that have historically produced and reproduced the violence (Sharp, 2015). Summed to the justice mechanisms, the agreement promotes some of those structural changes regarding rural reform, political participation of the excluded, and an alternative to solve the illegal drugs trafficking problem (Comisión Histórica del Conflicto y sus Víctimas, 2015; Gobierno de Colombia & Farc-EP, 2016, Gómez, 2017).

Discussions around transitional justice and peacebuilding in Colombia are part of a contested field. However, this research shows how political elites have privileged access to define those categories, imposing their views from their power position (Fairclough 1999; Rowen, 2017). During the Habana negotiations the "Democratic Center", led by Álvaro Uribe Vélez, used the "Peace Without Impunity" discourse

to oppose to the dialogues and the agreement settled by Juan Manuel Santos and the Farc-EP. "Peace Without Impunity" promoted the idea that Santos was negotiating the State's submission to the Farc-EP, equalizing the Armed Forces to the "terrorists" of the guerrilla organization that they had fought for over 50 years. Additionally, the discourse focused on the alleged impunity given to the Farc-EP top commanders, claiming that the agreement did not contemplate enough punishment on them. As Alviar García and Engle (2016) have shown, moving the focus of the discussion to impunity serves to avoid the debate about the structural causes that have produced and reproduced the conflict.

After leading the opposition to the Peace Dialogues Table and the Peace Agreement, the "Democratic Center" won the presidential elections. Iván Duque Márquez, the elected president for the period 2018-2020, has been using his position to institutionalize the opposition's discourse in relation to the Peace Agreement. Even though the agreement has a constitutional and legal framework that supports its implementation, Duque's discursive practices have been moving away from its essential paradigms. Duque's government has been setting the conditions to move towards a securitized society based on retribution and punishment (Duque, 2018a, 2018c, 2019).

Duque found a suitable rhetoric to oppose the Peace Agreement using the "Peace with Legality" discourse. Connecting "legality" to "peace" allowed his administration to appear attached to the Peace Agreement but in practice stepping away from its implementation. The government hardly publicly mentions the Peace Agreement in their speeches and the underlying discourse of achieving peace through legality moves Duque's government away from its implementation.

5.1. Denying the Armed Conflict: from a "Post-conflict" Scenario to "Stabilization"

Duque's government policies changed from building a "post-conflict" scenario as a way to transit from war to peace, into a "stability" scenario. Therefore, within Duque's peace policy, the idea of a political conflict vanishes, turning it into a

matter of security in order to achieve "stabilization" of violent phenomena linked to criminality. Within Duque's discourse, stabilization translates into the growth of the military and the deployment of the armed forces to contest criminal violence. For Duque, legality comes from the realization of security and justice. Legality, according to him, will bring peace (Duque 2018, 2018a, 2018b). This change was materialized by changing the Peace Agreement's acceptance of the armed conflict, therefore its victims, its political, social and historical structural causes.

Duque has promoted the idea of going back to security as a "democratic value", which has a direct link to the policy implemented by Álvaro Uribe Vélez [2002-2010], Duque´s political leader, during his eight years presidency. This policy, called "Democratic Security", led to the weakening of the core values promoted by a democratic system, namely the defense and promotion of human rights and popular sovereignty. Uribe also denied the armed conflict and promoted the State's violence as the solution to the violence (Galindo Hernández, 2005).

Within the security element of legality, there is a change from the binaries "armed conflict"/ "post-conflict" to "instability"/ "stabilization". This relates to what Lemaitre & Restrepo (2018) have shown within the Colombian context: violence that can be hidden behind a legality mask. Law enforcement can be used to produce violence and not necessarily to solve it. The securitized vision enshrined within "Peace with Legality" is a way to legitimize the use of the violence of the State to "stabilize" and supposedly end that violence.

In Colombia, the consequences of deploying the military and the police, as a form of understanding legality, have conducted to the reproduction of the violence (Vargas, 2009: 113). Attached to the recognition of the armed conflict, the discursive diversion from the Peace Agreement also removes the essential idea of a society going through a transition to peace. The essence of that transition is marked by the recognition of the political conflict, and the Peace Agreement is a framework that draws the path to end it.

According to van Dijk, the social organizations of power are a result of hierarchal structures. Within these institutions, like the government, members of the elites have the possibility to control and enact the power of dominance (van Dijk, 1993). The power given by their privileged position facilitates the possibility of those elites to establish new discourses or sustain the old discursive orders, which results in the continuity of structural conditions of exclusion. Thus, changing the official discourse into a problem of security: stability/instability, takes away the political significance achieved by the agreement. It removes one of the most important structural reforms promoted by the pact: the inclusion of those historically excluded from the political system: the victims and the FARC political party. "Peace with Legality" proposes a new order of discourse which produces the exclusion of those who obtained recognition as a result of the Peace Agreement and its incorporation to the legal system (Duque 2015, 2018a, 2019).

5.2. Changing the Justice Paradigm

Duque's justice discourse within "Peace with Legality" promotes a retributive approach, moving far away from the agreement's justice approach to peace and reconciliation. The Peace Agreement established a prevalence of the restorative justice paradigm over the retributive. Within the pact's narrative, the goal to achieve peace and reconciliation is mediated by transitional justice mechanisms, which promote reparation to the caused damages, the truth as a constructive communicative process, and the guarantee of non-repeating the violent phenomena (Gobierno de Colombia & Farc-EP, 2016; Gómez, 2017).

Duque's implementation of a marked punitive vision of justice was already settled since the "Democratic Centre" promotion of the opposition's discourse to the agreement "Peace Without Impunity". Hence, "Peace with Legality" is the institutionalization of the opposition's discourse to the Peace Agreement (Duque, 2018d; Uribe, 2015, 2019). The replacement of "restorative justice" for "impunity", moves the discussion of the complexities behind the transitional justice mechanisms to a limited version of it. For instance, the idea that the Peace Agreement is the State's submission to Farc-EP. This focus on impunity, also diverts the public

debate attention from the structural needed transformations into the punitive aspects of transitional justice (Alviar García & Engel, 2016).

The main transitional justice mechanisms and institutions established in the Peace Agreement, as part of the bureaucratic holistic model, pursue the implementation of international human rights and criminal laws in order to bring justice to the victims of the armed conflict (Teitel, 2014; Uprimny, 2014; Turner 2015). In this sense, the concept of *magical legalism* can be applied to the case of "Peace with Legality" as an instrumentalization of the "law talk" (McEvoy, 2007). Iván Duque and the "Democratic Center" members are sidetracking from the Peace Agreement's proposed social transformations and justice mechanisms, while performing a "legality" narrative. Thus, they use the idea of applying international human rights law and ending impunity, while in practice diverting from it (Uribe, 2014, 2014a, 2019; Duque, 2017, 2018b, 2018c). As McEvoy (2007) argues, the "law talk" allows these elites to disconnect from the "real world" and promote the needed changes to end violence.

6. CONCLUSIONS

While moving away from the idea of a post-conflict scenario, "Peace with Legality" twists the implementation of the agreements into a process of stabilization. It portrays a securitized vision which promotes a notion of legality that denies those structural causes of the armed conflict recognized in the agreement and focuses on revenge and punishment. A securitized vision of society that changes the idea of peacebuilding established by the Peace Agreement, where the country was moving towards a reconciliation and post-conflict scenario. With the current government's securitized discourse, this idea turned into a problem of criminality and violence that needs to be solved by the deployment of armed forces. This paradigmatic discursive change limits the implementation of the agreement and leads the country backwards to an already executed security approach, the "Democratic Security".

Colombian transition to peace will hardly succeed if the members of political elites continue exercising their dominant position over the excluded. Within Duque's discourse, the victims are no longer suffering the consequences of a political, social and historical conflict, struggling to satisfy their rights to truth, reparations, justice and non-repetition. Meanwhile the Farc-EP members, portrayed as terrorists and enemies of the State, get confronted and find institutional barriers to be recognized as valid political actors within the Constitutional regime. Or even get killed by the hundreds.

"Peace with Legality" is the officialization of the retributive justice paradigm over the restorative justice approach in relation with Colombian transition to peace. It rather promotes revenge and makes it difficult to implement the transitional justice mechanisms established in the agreement. Moreover, the government has only recognized the transitional justice mechanisms as part of the new constitutional framework that they must respect. The Special Jurisdiction for Peace, according to "Peace with Legality", is just another institution within the judicial branch and the executive have to let work independently. However, Duque and his party have systematically argued that this transitional justice mechanisms produce impunity.

In accordance to this, in April 2019, he objected the Statutory Law and denied its enforcement.

"Peace with Legality" stagnates the step forward promoted by the Peace Agreement's reforms and mechanisms. The change of discourse finds a place within the Colombian legalist culture that has constructed the imaginary of legality as the provider of "civilization" over "barbarism". Furthermore, it works as a mask to hide the fact that Duque's government is stepping aside from the implementation of the structural changes and the transitional justice mechanisms established in the agreement.

Further Research

The results of this thesis were limited to security and justice as discursive themes within "Peace with Legality". However, the discourse is frequently used by Duque to refer to other elements of the Peace Agreement, namely the demobilized Farc-EP members' reintegration process (point 3), the illicit drugs problem (point 4) or the transitional justice institutions and the victims' rights (point 5). Hence, this research can be a starting point to investigate other practices executed by Duque's government in relation with "Peace with Legality"

Therefore, this investigation can be used as an initial step to analyze the different discourses and practices connected with "Peace with Legality". For example: empirical research on how the efforts of officials working within the Special Jurisdiction for Peace or the Commission of Truth have been affected by this discourse and its practices. Furthermore, how the victims or the Farc-EP ex combatants have experienced the current government's official discourse, which does not recognize the armed conflict and removed their legitimacy as valid political actors. Thus, how this new discursive practice has affected their political participation exercise within the constitutional institutions.

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