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Legitimacy Deficits in Colombia's Peace Talks: Elites, Trust, and Support for Transitional Justice

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Legitimacy Deficits in Colombia's Peace Talks:

Elites, Trust, and Support for Transitional Justice

Research and Innovation Grants Working Papers Series

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MESSAGE FROM THE DIRECTOR

The DRG Center of Excellence is pleased to share “*Legitimacy Deficits in Colombia’s Peace Talks: Elites, Trust, and Support for Transitional Justice.*” This publication was produced by USAID in partnership with the Institute of International Education as part of the Research and Innovation Grants Working Papers Series.

The *Strategy on Democracy, Human Rights, and Governance*¹ reaffirmed USAID’s commitment to “generate, analyze, and disseminate rigorous, systematic, and publicly accessible evidence in all aspects of DRG policy, strategy, and program development, implementation, and evaluation.” This paper, along with the others contained in the series, makes a valuable contribution to advancing this commitment to learning and evidence-based programming.

This series is part of USAID’s Learning Agenda for the DRG Sector, a dynamic collection of research questions that serves to guide the DRG Center’s and USAID field missions’ analytical efforts. USAID seeks to inform DRG strategic planning and project design with the very best theory, evidence, and practical guidance. Through these efforts, the Learning Agenda is contributing to USAID’s objective to support the establishment and consolidation of inclusive and accountable democracies to advance freedom, dignity, and development.

The research presented in this paper is based on an experimental survey that tested whether and how trust in Colombia’s negotiating elites affected support for the peace process. Key findings that may be of particular interest to rule of law and transitional justice practitioners include: 1) public support for the peace process was predicated on trust in all negotiating elites; 2) when asked in the abstract, the public did not accept as legitimate alternative justice outcomes for demobilized FARC troops; however, the legitimacy of these outcomes increases when FARC members’ experiences were presented in short stories; and 3) both gender and experience of victimization affected public support for the peace process and alternative justice outcomes.

I hope you find this research enlightening and helpful. As the DRG Center’s Learning Agenda progresses, we will continue our effort to bring forward the latest in relevant social science research to important constituencies for our work, particularly our DRG cadre and implementing partners, but also others. I invite you to stay involved as this enriching, timely, and important work proceeds.

Neil Levine, Director
Center of Excellence on Democracy, Human Rights, and Governance
US Agency for International Development

¹ [https://www.usaid.gov/sites/default/files/documents/1866/USAID%20DRG_%20final%20final%206-24%203%20\(1\).pdf](https://www.usaid.gov/sites/default/files/documents/1866/USAID%20DRG_%20final%20final%206-24%203%20(1).pdf)

ACRONYM LIST

AUC	<i>Autodefensas Unidas de Colombia</i>
BACRIM	<i>Bandas Criminales</i>
CAJAR	<i>Corporación Colectivo de Abogados José Alvear Restrepo</i>
CCJ	Colombian Commission of Jurists
DCHA	USAID's Bureau for Democracy, Conflict, and Humanitarian Assistance
DDR	Disarmament, Demobilization, and Reintegration
DFG	Democracy Fellows and Grants Program
DRG Center	USAID's Center of Excellence on Democracy, Human Rights, and Governance
ELN	<i>Ejército de Liberación Nacional</i>
FARC	<i>Fuerzas Armadas Revolucionarias de Colombia</i>
GSU	Georgia State University
ICC	International Criminal Court
ICTJ	International Center for Transitional Justice
LAPOP	Latin America Public Opinion Project
NGO	Non-Governmental Organization
s.d.	standard deviation
UN	United Nations
USAID	United States Agency for International Development

EXECUTIVE SUMMARY

As part of Colombia's transitional justice process, the Colombian government is negotiating with the *Fuerzas Armadas Revolucionarias de Colombia* (FARC) to bring peace after 51 years of armed conflict. Negotiations have involved discussions on how FARC members should be held accountable for atrocities committed and what role, if any, FARC commanders and militants may play in the future of Colombia. These discussions culminated in a September 2015 agreement to establish a judicial mechanism, the "Special Peace Jurisdiction," to try those considered responsible for the most serious crimes.

The September 2015 agreement on accountability and Colombia's overall transitional justice process take place within 1) a multifaceted, and binding, set of international norms for how countries should provide justice to victims and combat impunity in the wake of mass atrocities, and 2) Colombia's own complex system of democratic institutions, including an active NGO community that represents victims and other direct stakeholders. In addition, a final peace agreement must be legislated by the Colombian Congress, upheld by the Constitutional Court, and ratified through a public referendum. International obligations, Colombian public opinion, and victims demand truth, justice, and reparations. However, responding to and recovering from violence is an individual experience, and what actions stakeholders, including victims, feel must be taken for truth and justice to be secured—and what reparations they feel are appropriate—vary greatly. In contrast, FARC leaders predicate demobilization and peaceful reintegration on their members' receiving no jail time and gaining the right to run for political office.

Through an Innovation and Research Grant funded by USAID's Center of Excellence on Democracy, Human Rights, and Governance under the Democracy Fellows and Grants Program, a Georgia State University (GSU) research team used a two-wave experimental survey to test whether and how trust in Colombia's negotiating elites affected support for the peace process, and whether levels of support for more or less lenient treatment of FARC members could be affected by contextualizing ex-combatants' experiences within narratives that capture the key negotiation points. Wave 1 was conducted in June 2014 with a nationally representative sample of 3,400 respondents; Wave 2 was conducted in January 2015 with 1,000 respondents from Wave 1. Key findings include:

- Public support for the peace process was predicated on trust in all negotiating elites. Increased public trust in any party to the peace talks, regardless of what atrocities that party committed, increased public support for the peace process, and vice versa—implying that parties need to build trust in all players at the negotiating table to gain public buy-in to the peace process.
- When asked the abstract question, the public does not accept as legitimate alternative justice outcomes that allow demobilized FARC troops to run for political office or preclude jail time for FARC commanders. However, the legitimacy of these alternative justice outcomes increases when FARC members' experiences are presented in short stories—implying that negotiators could increase the public legitimacy of alternative justice outcomes by framing the decisions in narratives that contextualize individual perpetrators of specific crimes.
- Both gender and experience of victimization affect public support of the peace process and of the alternative justice outcomes. Women express less support than men of both the peace process and alternative justice mechanisms, and female victims of violence demand guarantees of non-repetition of crimes against them. FARC victims—men and women—express less support of the peace process than non-victims; however, victims and non-victims show no difference in level of support for alternative justice outcomes.

INTRODUCTION

Over the past two decades, a global transitional justice norm has emerged that presents an expectation that post-conflict states will institutionally address responsibility for grave human rights abuses. This international expectation has been fully institutionalized by the 1998 Rome Statute of the International Criminal Court (ICC), which places four international crimes—crimes against humanity, genocide, war crimes, and crimes of aggression—under its jurisdiction. In addition to this norm, the increasing visibility of global human rights has heightened public interest in and awareness of transitional justice. In contexts in which public approval is required to endorse a peace agreement, the negotiators face pressures not only from “above” (international obligations), but also from “below” (responsiveness to public opinion). Operating within this pincher constraint, parties trying to negotiate an end to armed conflict face a more complex arena than the traditional “peace versus justice” debate, often resolved by mutual amnesty.

With pressures to include mechanisms of transitional justice within the “deal,” rather than after, the resulting compromises reached within this multi-level game will affect the prospects for sustainable peace with social cohesion. We argue that the legitimacy accorded by the public to transitional justice options provides clues to the prospects for post-conflict social cohesion. By measuring the perceptions of fairness and the likelihood that transitional justice mechanisms will contribute to reconciliation and peace, we can assess the potential impact of the various mechanisms being considered even while the peace talks are ongoing.

Our project examines these dilemmas in the Colombia peace talks—a case of a protracted conflict in a democracy with relatively strong rule of law institutions; well-organized civil society, and especially human rights organizations; and a vibrant political dynamic involving both the multi-party Congress and public opinion in the final approval and implementation of the negotiated agreement. The Colombian government is currently engaged in comprehensive peace negotiations with the FARC rebel group to end 50 years of conflict. The peace talks, held in Havana, Cuba, are taking place against the backdrop of ICC observation and a general international environment that demands higher standards of accountability for mass atrocity. The road to a peace deal is further complicated because the Colombian government faces pressure from international and local human rights organizations as well as multiple domestic pressures, especially the numerous victims groups. Victims of FARC human rights abuses demand truth, justice, and reparations; FARC leaders insist on no jail time and the right to run for political office if they are to demobilize and peacefully reintegrate into society.

To navigate this new and conflicting political landscape, the Colombian government passed a constitutional amendment (Framework Law for Peace) in 2012 giving it the legal flexibility to meet international obligations while also creating domestic incentives for a peace accord. According to this amendment, perpetrators of serious human rights abuses, such as war crimes, would be prosecuted, but the sentences could then be reduced or even completely suspended. This compromise builds on the 2005 Colombian Law for Justice and Peace (Law 975), which applied primarily to demobilizing paramilitary combatants and set expectations for reduced sentences, even for those most responsible for grave human rights crimes.

But will this compromise be seen as legitimate in the eyes of the Colombian people? If not, how does it bode for the likelihood of achieving durable peace? Finally, how does the legitimacy of the transitional

justice compromise—a systematic way of addressing past atrocities—affect post-conflict social cohesion?

This paper addresses this dilemma by analyzing the multi-level bargaining game played by Colombia's negotiators in the talks to end a 50-year conflict: a) the need for the negotiators to meet Colombia's international obligations for justice in cases of grave human rights abuses; and b) the need for Congressional and public approval of the agreement. We then assess how the various options being considered for transitional justice within this multi-level game may shape the prospects for domestic support for a negotiated peace, social cohesion, and lasting peace. We employ survey experiments to gauge public perceptions of the fairness and legitimacy of transitional justice institutions, and the public perceptions of these institutions' likely contribution to reconciliation and peace. Our research therefore contributes to the scholarship on the relationships between legitimacy of transitional justice, social cohesion, and peace (Thoms, Ron, and Paris 2010; Reiter, Olsen, and Payne 2012; Olsen, Payne, and Reiter 2010) and on the peace-building process under way in Colombia.

A. Background on the Colombia-FARC Peace Talks

Colombia's past efforts toward peace were based on an amnesty approach, dating back to the 1989 agreement with the M-19 guerrilla movement and through the attempted peace negotiations with the FARC during the Pastrana administration that ended in failure in 2002. With the Rome Statutes' coming into force and the election of Alvaro Uribe as president, both in 2002, Colombia's approach changed. The concepts of victims' rights and transitional justice were introduced for the first time, though in limited fashion (DeJusticia Interview, June 24, 2013).

In 2002, the Colombian government began negotiations with the paramilitary organization *Autodefensas Unidas de Colombia* (AUC) to allow them to demobilize and reintegrate with pardons for those not involved in grave crimes (Law 782 of 2002 and Law 1106 of 2006). The 2005 Law for Justice and Peace dealt with illegal armed groups who were involved in grave human rights violations, granting significantly reduced sentences (5 – 8 years) in exchange for confessions, delivery of personal illegal gains as reparations for victims, and guarantee of non-repetition of crimes.² Nevertheless, a series of suits by Colombian non-governmental organizations (NGOs), in particular the Colombian Commission of Jurists (CCJ) and *Corporación Colectivo de Abogados José Alvear Restrepo* (CAJAR), led to multiple rulings of the Constitutional Court to modify the Law for Justice and Peace and procedures to better involve and protect victims, to require more investigations and less dependence on confessions alone to determine punishment, and to remove political status from the AUC, thus precluding the right to pardon and future political participation (Interviews with DeJusticia, CCJ, and CAJAR, June 24 – 26, 2013; Bueno and Diaz Rozas 2013, p224; International Crisis Group 2013). A new law (1424), therefore, created new conditions so that lower-level combatants with minor crimes could be given a suspended sentence if they demobilized and provided information about their involvement and structure of their unit (International Crisis Group 2013, p6). The new protocols established by the Constitutional Court resulted in a severe backlog of cases, with over 4,000 individuals submitted to its provisions, but only 14 final sentences by early 2015.

² The law applied to all illegal armed combatants, including guerrillas, but of the 4,787 registered combatants under this provision by February 2013, only 550 were from guerrilla groups (International Crisis Group 2013, p4, note 8).

Colombia is divided about how to end the conflict with the guerrillas [the FARC and the *Ejército de Liberación Nacional* (ELN)]. The Uribe administration (2002 – 2010) took a different approach to the guerrillas than it did with the paramilitaries, employing the military in its “democratic security” policy to take back territory and weaken the FARC. Uribe refused to negotiate without a unilateral ceasefire from the FARC. In contrast, his approach to the paramilitaries was much more reconciliatory and even introduced concepts of alternative penalties and restorative justice (DeJusticia Interview, June 24, 2013).³

Similarly, public opinion seemed more lenient with the paramilitaries than the FARC and less ambivalent—there is higher support than ever for peace, but not at any cost. Among the public, an expanded view of justice to include reduced sentences, reparations, truth, and guarantees of non-repetition is not sufficient. Therefore opposition to political participation, even after paying a penalty, is also high.⁴ The difference in perceptions of the FARC and the *Autodefensas Unidas de Colombia* (AUC) stems from the public’s view of the FARC as the real enemy, and the AUC as defending the population, even if they committed abuses, because the government and army were not doing its job. Therefore, its excesses were more likely to be excused (Ipsos Interview, June 24, 2013).⁵

When Uribe’s Defense Minister Juan Manuel Santos was elected president in 2010, many expected him to continue Uribe’s hardline security policies. Santos surprised many by not only emphasizing the need to address the severe inequalities in land and income in Colombia, but also by entering into secret negotiations with the FARC to establish the conditions to begin peace negotiations. He announced in August 2012 that talks would begin in Havana, Cuba in October of that year, with observers from Cuba, Norway, Chile, and Venezuela. There would be no cease-fire—the government would continue its military pressure on the FARC, though the FARC did announce temporary unilateral cease-fires at different points during the talks.

The six-point agenda was concrete and focused; it did not include economic policy or constitutional reform. Instead it included agrarian development; political participation; drug policy; victims’ rights; the end to the war (to be implemented upon signing of the final agreement), including definitive bilateral cease-fire and DDR (disarmament, demobilization, and reintegration); and implementation, verification, and ratification. The negotiators, without a third-party mediator, would address the issues sequentially, but no agreement on any agenda item would be final until the entire package was agreed upon. Although the government hoped the negotiations would be finished within six months, and certainly by November 2013 when Santos would need to announce his possible reelection bid, the FARC had a longer time-horizon and was not in a hurry to finish the accords.

³ Vice President Francisco Santos, who previously had been kidnapped by a Medellin drug cartel, proposed restorative justice measures such as penal alternatives and a Reconciliation Tribunal. The resulting Law for Justice and Peace represented a compromise between the past peace approach and a new justice approach, providing for two paths for demobilized combatants—those who committed gross crimes and those who did not. The understanding of international law at the time was that only gross crimes must be punished (DeJusticia Interview, June 24, 2013).

⁴ In April 2013, 68% opposed both pardons and political participation (Ipsos poll).

⁵ The Ipsos representative also pointed out that more people have personal experience with the FARC than the AUC, which contributes to the difference in perceptions. But also, measuring rural opinion is difficult and most major polling firms in Colombia have no or small representation of rural and conflict areas. Rural areas constitute 25% of the Colombian population.

After 20 months of negotiations, the negotiators had announced provisional agreements on three agenda items (land, drugs, and political participation), and were preparing for the fourth item—the delicate theme of victims’ rights—in August 2014. This item includes some aspects of transitional justice such as truth and reparations, and involves the unprecedented practice of victims sitting at the negotiating table. Over the course of the next four months, several delegations of victims of violence from military, paramilitaries, and guerrillas, and three delegations of women’s organizations, visited the negotiating table to explain their proposals.

B. International and Domestic Contexts of the Peace Talks

As the international regulation of post-conflict justice has become increasingly institutionalized, states have come under strong pressures from international institutions, NGOs, as well as other states, to comply with accountability norms. The strongest and most direct international pressure on post-conflict states comes from the ICC. States that are party to the ICC treaty have obligated themselves to accept automatic ICC jurisdiction over crimes committed on their territories or by their citizens, from the time when the treaty took effect in their state. They also have obligated themselves to cooperate fully with the ICC, including arresting and transferring suspects upon the court’s request. Under the ICC Statute complementarity principle, as outlined in the Rome Treaty, the ICC has jurisdiction only over cases for which the state is either unwilling or unable to investigate or prosecute alleged crimes. Even if the state is not a party to the ICC treaty, however, a case can be referred to the Court by the UN Security Council (as was the case in Sudan and Libya). Much, however, remains open to interpretation. Article 16 of the ICC Statute allows the Security Council to prevent the Court from investigating a particular case, and Article 53 allows the Prosecutor not to investigate a specific case if he/she determines an investigation “would not serve the interest of justice” (UN 1998).

The peace talks to end the 50-year-old civil conflict in Colombia are a clear example of this changing international/domestic political environment. The peace talks are taking place against the backdrop of ICC observation of the Colombian transitional justice process, as well as a broader international environment that demands higher standards for accountability for mass atrocity than was the case 20 years ago. The international expectation for Colombia is that the most serious human rights violations, such as war crimes or crimes against humanity, committed during the prolonged civil conflict should be adjudicated in a court of law, with a proper trial, due process, and proportional sentences.

Colombia has firm international obligations to prosecute perpetrators of gross human rights violations. Colombia ratified the Rome Statute for crimes against humanity and genocide in 2002, although with a seven-year delay for its application to war crimes, until 2009. The ICC opened a Preliminary Examination of Colombia in 2006 and has continued monitoring in that status since. The ICC is interested in two categories of crimes committed in Colombia. Under the category of crimes against humanity, it is investigating murder, forcible population transfer, torture, and imprisonment (kidnapping). Under the category of war crimes, it is reviewing crimes against civilians, sexual violence, and the use of child soldiers (ICC 2014, p26).

The complementarity principle of the ICC’s jurisdiction gives priority to the state to establish accountability for crimes delineated in the Rome Statute, unless the state is unable or unwilling to carry out the investigation or prosecution, the latter evidenced by delays, partiality, or obfuscation. Rulings by the Inter-American Court of Human Rights since 2001 also have declared that amnesties and pardons

that prevent prosecution of serious human rights violations and international crimes are unacceptable (International Crisis Group 2013, p7). The ICC also has made it clear that it will closely observe any final peace deal to ensure that the transitional justice provisions it contains are in accordance with the Rome Treaty (ICC 2014). This relates specifically to the final agreement on any prison sentence reduction offered to perpetrators of human rights violations as part of the deal. The ICC has the power to declare Colombia “unwilling” or “non-genuine” in pursuit of proper punishment for human rights abuses, to override the complementary principle, and to take over investigations and prosecutions. This warning is especially relevant for the proposed suspended or reduced prison sentences for FARC guerilla members deemed most responsible for war crimes and crimes against humanity. The ICC has declared suspended sentences unacceptable, while reduced sentences would be acceptable only under very strict conditions and on a case-by-case basis such as full acknowledgment of responsibility, demobilization and disarmament, guarantee of non-repetition, assistance in establishing the truth, or a temporary ban from political participation (ICC 2015). The peace negotiators will therefore have to find a creative solution to appease both the ICC and the FARC, who may have little incentive to demobilize if they are not guaranteed suspended sentences. An additional cause of international friction is the cases of killings of Colombian civilians by the military, known as “false positives,” and especially the government plan to transfer the cases of military personnel accused of these killings from the civilian to the military justice system, *de facto* taking them outside of the accepted transitional justice framework (Vivanco and Schoening 2014).

While international human rights organizations, most notably Human Rights Watch, continue to push Colombian authorities to fully respect the letter of the Rome Treaty and abandon plans for reduced sentences (Human Rights Watch 2014), some prominent Colombian human rights groups have instead advocated for a more flexible approach by the ICC. Specifically, they argue for the ICC prosecutor to consider whether it is “in the interest of justice” to push Colombia into contentious domestic human rights trials, if such a strict approach and zero tolerance for impunity may ultimately lead to the collapse of the peace talks. With such an outcome, they argue, there may not be much value to “justice” if there is no peace (Uprimny and Sanchez 2015). Instead of a strict interpretation of the Rome Statute and a focus on criminal justice, these groups argue, Colombia could adopt alternative transitional justice mechanisms such as a truth commission or reparations. As for prison sentences, they could be in the form of an “alternative criminal sanction” for those most responsible, and even conditional amnesty for the less responsible (Uprimny and Sanchez 2015). These kinds of proposals—while popular among many domestic human rights groups [Interview with the International Center for Transitional Justice (ICTJ), March 2015]—have so far been in conflict with the statements and recommendations made by the ICC prosecutor, who also has to think about the court’s overall international legitimacy and standing, beyond the Colombian case, and the possibility that a more flexible approach in Colombia may establish a precedent for other conflict. It is difficult to see how these positions become reconciled in the current international political environment.

C. Multi-Level Bargaining Game to Legitimate End to Conflict

As described above, negotiators must gain the approval of multiple actors, inside and outside of Colombia, in a complex political dynamic. This game includes multiple stakeholders and potential spoilers.

Once a final agreement is reached, Congress first will be charged with approving the implementation of legislation for the Framework for Peace Law. The *Uribistas* opposed the peace talks from the beginning

and have been taking a hardline retributive justice stance. The March 2014 legislative elections confirmed a majority for Santos to implement legislation on a future peace accord, if we assume that the parties of the Left will join his own coalition to back the accords. Nevertheless, Uribe himself was elected to the Senate and his new party *Centro Democrático* is the second largest, reducing the number of seats held by Santos' Party of the U.

On the other end of the spectrum is the leftist party *Polo Patriótico*, which opposed the Framework Law for Peace because it allowed for selective justice for the military. According to Representative Ivan Cepeda, co-chair of the Congressional Peace Committee, there was too much focus on justice while Colombia faced a double transition: not only from war to peace, but also from a fragile state to a truly democratic state that has a real presence in the conflict zones with capacity to provide security, and root out mafias (Interview, June 26, 2013).

The negotiators confronted the theme of transitional justice after a bruising presidential election in May and June 2014 in which the peace process was a polarizing issue. The most vocal critic of President Juan Manuel Santos, former president Alvaro Uribe, took his seat as a newly elected senator and came out swinging against the president's agenda at the Congressional inauguration on July 25, 2014. These Congressional dynamics are crucial to the future of peace in Colombia since the Framework Law requires Congressional action to legislate transitional justice mechanisms.

Judicial actors will play an important role in transitional justice as well: the Constitutional Court that will review the legislation (and that has already changed the 2005 Law for Peace and Justice and ruled on some of the suits brought by Colombian NGOs against the Framework Law) and the inspector general who has been a critic of the talks. At the international level, the Inter-American Commission and Court on Human Rights could receive petitions from Colombians about violations of Colombian or international laws. Finally, the ICC could move from preliminary to full investigation if its prosecutor determines that Colombian authorities are unwilling or unable to prosecute those accused of grave human rights crimes and hand out proportional sentences.

Public opinion, victims' groups, and peace and human rights advocacy groups all will play an important role in sustaining or challenging a peace agreement and its prospects to generate social cohesion and trust. It is likely that a referendum will be conducted for the voters to endorse the agreement,⁶ and Colombian NGOs not only have made important recommendations to the talks, but also have challenged the constitutionality of past legislation involving transitional justice.

Public opinion generally supports the peace process, but is skeptical of the FARC's sincerity in ending the war, and is opposed to political participation by ex-combatants (*e.g.*, Rodríguez, Raga, and Seligson 2012; LAPOP AmericasBarometer Colombia 2014). The opinions of victims particularly are important to legitimate this peace process since the negotiators have placed victims' rights front and center. At the same time, recognizing the change in international norms and its own obligations since 2002, the governing coalition approved the Framework Law for Peace (at constitutional rank) precisely in order to give it the flexibility to incentivize guerrillas to lay down arms without outright amnesties or pardons of the past, while still meeting its international obligations under the Rome Statute and the American Convention on Human Rights to punish gross violations of human rights.

⁶ Such a referendum could be binding or non-binding.

In interviews with victims' groups, and in opinion surveys, we find variation in the demand for justice. Female victims of violence want first and foremost guarantees of non-repetition of crimes against them. "Satisfaction" of victimhood begins with a public request for forgiveness, and not all losses can be satisfied with financial reparation, such as the loss of a child (Interview with representative of female victims, Atlanta, January 7, 2015). According to a lawyers' group that represents victims, the victims tend to want punishment, so it is likely to require extensive consultations and explaining before they will accept alternative forms of justice. Victims also are skeptical of the state's sincerity and capacity to implement needed reforms to achieve social justice (CAJAR, Interview June 24, 2013). With a vocal political opposition in Congress, and public skepticism about the FARC's sincerity in wanting peace, public legitimacy for a sustainable peace thus remains a challenge.

RESEARCH DESIGN

A key proposition of our research is that the success of an eventual peace depends on the public legitimacy both of the procedures by which peace is achieved and the specific transitional justice outcomes it reaches. Three points substantiate this proposition. First, President Santos has stated a preference for the peace process to gain the public's support through a referendum. To pass, at least 25% of registered voters would need to vote and a majority would have to vote in favor of a peace deal.⁷ Second, flagging public support for the peace process could fray the government's ability to put together a voting coalition to support a deal. Lastly, an illegitimate deal would frustrate the state's ability to consolidate peace. Beyond the practical benefits of monitoring the public legitimacy of the peace process and transitional justice mechanisms, our analysis will inform theories about public support for peace processes. To the extent that these theoretical findings can be transported to other cases, our research could affect how parties to other peace negotiations shape public support for peace talks in general and the thorny issues of justice they entail.

Against this backdrop, we present the results of public opinion research on support for the peace process and the legitimacy of a series of potential peace process outcomes. We fielded a two-wave, online, panel survey. Wave 1 was fielded from June 6 – 14, 2014 on a large sample (n = 3,400) that was nationally representative in terms of gender, age, education, and the six major geographic zones used in the census.⁸ Wave 2 was fielded January 5 – 12, 2015 with 1,000 of the subjects who responded to Wave 1.⁹ Embedded in these surveys are experimental treatments containing vignettes describing different

⁷ Regression analysis conducted with 2014 AmericasBarometer survey data suggests that the more firmly Colombians believe that the FARC's publically recording and confessing their crimes will contribute to reconciliation, the more likely they would be both to turn out to vote and to vote in favor of an eventual peace deal. Similarly, the more Colombians believe that reconciliation would be facilitated by FARC human rights abusers spending 5 – 8 years in jail or paying reparations, the more likely they would be to turn out to vote in a hypothetical referendum on a peace deal.

⁸ Quotas were used to achieve representation across these variables. These were not probabilistic samples. Thus our approach has trade-offs when it comes to "external" and "internal" validity. External validity—our ability to generalize the underlying population—is hampered by the use of a quota sample instead of a probabilistic sample. Internal validity—the determination of cause and effect—is enhanced by the use of experimental and longitudinal panel survey designs as compared to a cross-sectional survey design.

⁹ A Spanish online marketing firm, Netquest, carried out the study. They manage a panel of more than 37,000

transitional justice outcomes related to FARC participation and jail time, and messaging frames that reference the international norms to which Colombia is expected to adhere.

Our approach to understanding the public legitimacy of the peace process and transitional justice is unique in three ways. First, by combining an experimental design with descriptive vignettes, we can cleanly compare the relative legitimacy of distinct combinations of transitional justice outcomes. Second, we can observe how legitimacy of a given outcome changes in the presence of controversial outcomes related to political participation and incarceration. Third, because these surveys allow us to observe within-subject differences over two time points, we can investigate what “moves the needle” on these attitudes over time. As such, our experimental-longitudinal approach grants us far more confidence in our ability to draw causal inferences than the cross-sectional observational approaches that dominate academic and journalistic accounts of public opinion *vis-à-vis* the Colombian peace process. At the same time, we are aware that, given limited resources and the complexity of the issues at hand, our study can shed light on only a few of the many dimensions of public opinion toward transitional justice in Colombia.

ANALYSIS

We begin with an analysis of what drives support for the peace process and then explore the transitional justice survey experiments. Our guiding expectation is that elites—namely the parties to the negotiation—play strong and, to some extent, complementary roles in guiding public opinion toward the peace negotiations and the transitional justice outcomes they are debating. This is backed by a research tradition that suggests elites largely lead public opinion, especially on complex topics such as the ones under scrutiny here.

According to Zaller’s (1992) classic model of public opinion formation, the nature of elite discourse determines the distribution of potential attitudes an individual can have on a given issue. When asked to give an opinion on a matter, the individual will draw one from this distribution and report it. Applied to our research question, if Colombians’ distributions of attitudes toward President Santos, the FARC, and the peace process are generally positive, we would expect any opinion (*i.e.*, trust in the actors, support for the peace talks) they sample from these distributions to be, on average, positive. Because the talks have been held in secret and outside the country, the actors have been able to tightly control the information they release to the public. So, to the extent that the actors transmit signals of mutual trust and trustworthiness along with news on the peace negotiations’ achievements, we should expect the public to find a strong relationship between trust in the actors and support for the peace process. Of course, mistrust among the actors, acting in bad faith, and negative information on the negotiations should construct the same associations in citizens’ minds.

Colombians who participate by invitation only based on an online profile of over 50 variables. For those without access to an internet connection, Netquest provides smart phones or tablets to encourage participation. Netquest uses non-monetary remunerations based on a system of points and rewards. Remuneration is based on the length of the study. Each of our surveys took roughly ten minutes.

A. Support for the Peace Process

Support for the government-FARC peace process was measured via the following question:

COLPROPAZ1. At present, the government of President Juan Manuel Santos is advancing a peace process with the FARC. To what extent do you support the peace process?						
1	2	3	4	5	6	7
Not at all			A lot			

The overall average score in Wave 1 was 4.25 (s.d. = 2.20). Among subjects who participated in both waves, the average in Wave 1 was 4.35 (s.d. = 2.18) and in Wave 2 was 4.41 (s.d. = 2.08). Although the slight increase we observe is consistent with aggregate polling on support for the peace process, this within-subject difference is not distinguishable from zero. Support for the peace process in both Waves 1 and 2 correlates positively and highly (Pearson's $r = 0.73$, $p < 0.0000$). Nevertheless, the correlation is not perfect and it is this variation we seek to explain.

What causes individuals to shift their support for the peace process over time? If our intuition is correct— that elite actions and rhetoric will largely shape public attitudes—then changes in how citizens view the government and FARC will be translated into changes in support for the peace process. Specifically, we argue that trust in the actors at the negotiating table is the most crucial influence on the ability of the peace process to garner legitimacy. There are several reasons why this should be true. For one, reaching a negotiated settlement on any conflict requires the parties to trust each other. By Rousseau *et al.*'s (1998) interdisciplinary definition, trust entails risk and vulnerability: “a psychological state comprising the intention to accept vulnerability based upon positive expectations of the intentions or behavior of another” (395). At the level of the citizenry, similar assumptions are involved. Indeed, by asking Colombians to ratify a peace deal in a referendum, Santos is asking them as much about whether they find the specifics of the deal legitimate as he is asking them how much they trust both sides to uphold it. Hence, to the extent that the public perceives both sides behaving in a trustworthy manner throughout the peace negotiations, any eventual peace deal will gain mass legitimacy.

However, gaining the public's trust is complicated by history and politics. In 2000, a bad precedent was set: the FARC walked away from peace talks with the Andrés Pastrana government, a decision that cast doubt on the FARC's commitment to the peace talks. Electoral politics condition trust in the parties to the negotiation and support for peace in predictable ways. The 2014 presidential elections featured leading candidates on opposite sides of the issue. The incumbent, Juan Manuel Santos, was strongly in favor of continuing the talks while ex-president Alvaro Uribe's hand-picked challenger, Óscar Iván Zuluaga, stumped vehemently against it. Moreover, since leaving power, Uribe has fervently denounced the peace talks as selling out to the FARC and advocated for military force as the only alternative. Therefore, how trustworthy the public views Santos and the FARC to be should affect their support for negotiated peace. A loss of trust in these actors is, conversely, expected to decrease support for the peace talks.

There are three other explanations for attitudes toward the peace process we must consider. First, we expect victims and non-victims to differ in their support of the peace process, and for victims to hold diverging views on the process depending on the group they hold responsible for victimizing them.

Therefore, we include “dummy” variables to indicate victims by group. We also identify those living in the conflict zone with a dummy variable if the respondent resides in any of the conflict-ridden municipalities that the government is targeting for economic development assistance in the *Espada de Honor* program. We control for gender with a variable coded 1 for “woman” since there is some indication that Colombian women have been less enthusiastic about the peace process than men. Lastly, education and age are included chiefly for the purposes of statistical control. Note, however, that these variables are almost completely fixed over the course of our study. So, although they may explain some portion of the baseline level of support for the peace talks, they cannot account for change in support.

To investigate these claims, we estimate a cross-lagged panel correlations model using the structural equations framework described in the appendix. The results reported in Table 1 come from a model in which three equations were specified with dependent variables representing, respectively, levels of support for the peace process, trust in Santos, and trust in the FARC in Wave 2 (January 2015). Each of these equations controls for previous values of itself from the June 2014 survey (a “lagged” dependent variable) and previous or “lagged” values of the explanatory variables. For the purposes of testing our hypotheses, only the results in the first column (“Support for the Peace Process”) matter. As the appendix explains, these other equations are necessary to identify the cross-lagged model.

Table 1. Support for the Peace Process and Trust in the Negotiating Parties in Colombia

Variables	Support for the Peace Process	Trust in Santos	Trust in the FARC
Support for the Peace Process (lagged)	0.582*** (0.029)	0.105*** (0.022)	0.065*** (0.014)
Trust in Santos (lagged)	0.180*** (0.035)	0.523*** (0.031)	-0.013 (0.020)
Trust in the FARC (lagged)	0.096* (0.041)	0.082 (0.053)	0.430*** (0.047)
FARC Victim	-0.227* (0.113)	-0.253** (0.094)	-0.200*** (0.054)
BACRIM Victim	-0.129 (0.194)	-0.125 (0.158)	0.040 (0.104)
Paramilitary Victim	0.074 (0.142)	0.073 (0.131)	0.020 (0.086)
Military Victim	-0.037 (0.336)	0.236 (0.269)	0.396 (0.291)
Police Victim	-0.292 (0.332)	-0.117 (0.209)	0.127 (0.260)
Other Victim	-0.336 (0.347)	-0.077 (0.226)	0.272 (0.187)
Woman	-0.242** (0.094)	-0.088 (0.081)	-0.023 (0.050)
Age	0.000 (0.003)	0.006* (0.003)	-0.001 (0.002)
Conflict Zone	0.038 (0.201)	0.112 (0.173)	0.200 (0.133)
Education	0.057 (0.058)	0.037 (0.047)	0.086** (0.029)
Constant	1.139***	0.437^	0.268^

	(0.291)	(0.241)	(0.153)
Observations	1,003	1,003	1,003

Unstandardized coefficients. Robust standard errors in parentheses.

*** p<0.001, ** p<0.01, * p<0.05, ^ p<0.10

Turning to the results in the first column, we find evidence consistent with our guiding hypothesis: support for the peace process is a function of trust in the elite actors at the negotiating table. The shaded cells contain the relevant information that supports this inference. Namely, the coefficient on “Trust in Santos (lagged)” is positively signed and statistically significant at a conservative level. Substantively, it suggests that if one’s trust in President Santos increases from a 1 on our scale to a 7, support for the peace process would increase by just over 1 point ($0.18 \times 6 = 1.08$). If it increases one standard deviation of the average intra-subject change in Trust in Santos over these two periods (1.39), we would expect a boost in support for the peace process of about one-quarter of a point.

The notion that support for the peace talks is tied to the public’s trust in Santos is borne out in these data, but what about trust in the FARC? Here we observe a similar pattern. A positive and statistically significant coefficient on “Trust in the FARC (lagged)” implies that as people’s trust in the FARC rises, so does their support for the peace process. From a substantive perspective, the effect is more modest. An increase equal to one standard deviation of the change in FARC trust (0.94) produces an expected change in peace process support of about one-tenth of a point. Therefore, we can infer that while trust in the FARC can rally public opinion in favor of the peace negotiations, trust in Santos theoretically packs a bigger direct punch.

In reality, of course, these attitudes tend to be fairly stable through time within subjects. Trust in Santos in June 2014 was, on average, 2.76 (s.d. = 1.75) and in January 2015 2.78 (s.d. = 1.65); the two are correlated highly ($r = 0.66$, $p < 0.0000$). Trust in the FARC averaged 1.48 (s.d. = 1.02) in our first reading and 1.46 (s.d. = 0.92) in the second; these variables are somewhat less stable ($r = 0.49$, $p < 0.0000$), however, than trust in Santos. What this means substantively is that while these actors have the potential to move individuals toward greater support for the peace negotiations by garnering the public’s trust, people’s opinions are likely to change incrementally rather than in leaps and bounds.

As for the other variables exerting control in our model, we observe that, compared to non-victims, FARC victims are both significantly less supportive of the peace process and less likely to find either elite actor trustworthy. These models do not reveal any reliable effects for the other victim categories. Women support the peace process, on average, about a quarter of a point (4%) less than men.

The results shaded at the top of the second and third columns reveal an intriguing dynamic of Colombian public opinion on this issue: a feedback mechanism. Prior, or “lagged,” levels of support for the peace process affect present levels of trust in both Santos and the FARC. Thus, we observe a reciprocal relationship between the variables of interest to this study. As Santos and the FARC earn the public’s trust, the peace talks gain legitimacy; as the peace talks gain legitimacy, Santos and the FARC earn the public’s trust. In both cases, however, the feedback effects are smaller than the effects we anticipated. This helps substantiate our claim that the basic causal direction runs as theorized—from elite trust to peace talks support—and points to an unanticipated positive feedback loop.

To further probe how the interplay between the parties to the negotiation might shape support for the peace process, we test whether and how public trust in the negotiating elites is related. Table 2 reports the results of a simple model exploring this relationship. The shaded cells in the first column suggest that an increase in trust toward the FARC will, in turn, increase trust in President Santos. However, as the shaded cells in the second column show, increasing levels of trust in Santos does not raise trust in the FARC. Taken together, these results suggest boosting trust in the FARC has not only a direct effect on support for the peace process (see Table 1) but potentially an indirect effect by boosting trust in Santos as well.

Table 2. Trust between the Negotiating Parties in Colombia

Variables	Trust in Santos	Trust in the FARC
Trust in Santos (lagged)	0.588*** (0.027)	0.025 (0.017)
Trust in the FARC (lagged)	0.123* (0.052)	0.456*** (0.046)
FARC Victim	-0.322*** (0.093)	-0.237*** (0.055)
BACRIM Victim	-0.141 (0.161)	0.029 (0.106)
Paramilitary Victim	0.093 (0.133)	0.031 (0.086)
Military Victim	0.332 (0.287)	0.454 (0.304)
Police Victim	-0.141 (0.218)	0.111 (0.263)
Other Victim	-0.044 (0.225)	0.293 (0.182)
Woman	-0.112 (0.082)	-0.041 (0.051)
Age	0.005^ (0.003)	-0.001 (0.002)
Conflict Zone	0.144 (0.173)	0.218 (0.135)
Education	0.053 (0.047)	0.093** (0.029)
Constant	0.618** (0.239)	0.392* (0.156)
Observations	1,011	1,011

Unstandardized coefficients. Robust standard errors in parentheses.

*** p<0.001, ** p<0.01, * p<0.05, ^ p<0.10

In sum, we find a great deal of evidence consistent with our proposition that trust in the elite actors at the table raises the public support for the Colombian government's peace talks with the FARC rebels.

B. Legitimacy of Transitional Justice

Public support for Santos' peace talks with the FARC is an important but blunt instrument with which to understand what drives support for the transitional justice outcomes that a peace deal is likely to entail.

To probe deeper, as mentioned above, we crafted experimental vignettes depicting two types of FARC members germane to the transitional justice debate in Colombia. Specifically, we describe one man (Felipe) who would not be considered a grave human-rights violator and another man (Francisco) who would. We track the legitimacy of different transitional justice mechanisms for these actors across time. After describing the actors' involvement in the conflict, we end each vignette with a discussion of the transitional justice outcome the actor received. What makes our approach experimental is that we randomly assigned subjects to receive different transitional justice outcomes for the actors described in the vignettes under debate. Since some paramilitary commanders have undergone transitional justice based on the framework laid out in the 2005 Peace and Justice Law, we used their outcomes as a benchmark against which to compare outcomes associated with the FARC commander (Francisco).

Our use of vignettes as experimental treatments is inspired by Gibson and Gouws' (1999) study of blame attribution in the aftermath of South Africa's Truth and Reconciliation Commission's highly controversial report on violence during the Apartheid. Drawing on social psychology research, Gibson and Gouws delineate four main dimensions of blame attribution: 1) **Actors' goals and roles** refers to which side of the conflict a person was on; 2) **Obedience versus leadership** distinguishes those following orders from those giving orders; 3) **Intentionality and consequences** convey what actions a person carried out and what the consequences were; and 4) **Motivations** appeal to normative principles or ethical standards, such as fairness and conscience, in contrast with less socially justifiable motives like greed and hatred. Our vignettes are constructed on these four dimensions and borrow language heavily from those crafted by Gibson and Gouws.

C. Experiment 1. FARC Troops, Transitional Justice, and Political Participation

The first vignette deals with Felipe, a foot soldier in the FARC. It is followed by two treatment conditions that vary with respect to his right to compete for elected office after participating in some basic transitional justice measures.

Vignette. *Felipe was a member of the FARC. He was not a commander in the FARC and therefore had to take orders from others higher up in the organization. As a result of his actions, a person was kidnapped and held hostage for several days. Felipe says that his actions were motivated by the belief that what he was doing was necessary and justified by the struggle.*

Treatment 1 "Not Compete." *Felipe has publicly acknowledged these actions and given up his weapons. He will not go to jail for his actions **but he will not be able to compete** for elected office in the future. (Emphasis added here but not in the study).*

Treatment 2 "Compete." *Felipe has publicly acknowledged these actions and given up his weapons. He will not go to jail for his actions **and he will be able to compete** for elected office in the future. (Emphasis added here but not in the study).*

Instead of gauging the degree of blame subjects attribute to each actor after reading each vignette (something these two vignettes hold constant), like Gibson and Gouws did, we probed the degree of legitimacy subjects ascribe to their respective, randomly assigned outcome. Specifically, we asked whether they felt the outcome was fair, would contribute to peace, and would contribute to reconciliation. Although fairness, peace, and reconciliation are conceptually distinct, in each instance

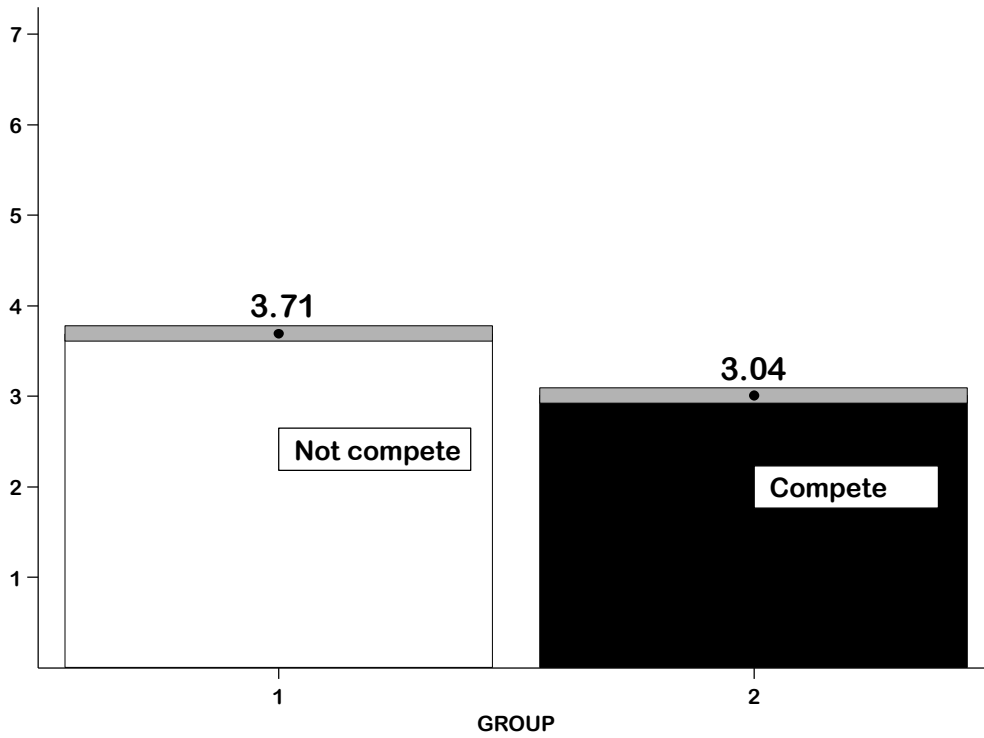
subjects' answers to these three survey questions tapped a single latent dimension and formed a highly reliable scale.¹⁰ From the pre-election, Wave 1 survey in June 2014 to the Wave 2 in January 2015, the correlation of the legitimacy index is fairly high¹¹ (Pearson's $r = 0.50$, $p < 0.0000$) if slightly less stable than support for the peace process ($r = 0.73$).

Figure 1 reports the mean level of legitimacy ranging 1 – 7 according to this scale across both treatments; subfigures (a) and (b) break it down across the two survey waves. We observe significant negative treatment effects of FARC-troop political participation on the legitimacy of the transitional justice outcome in both waves. When political competition is added to the transitional justice outcomes to which Felipe has been subjected—publically acknowledging his actions and giving up his arms, but not serving jail time—the legitimacy that subjects ascribe to the outcome drops between 0.67 and 0.62 points on the 1 – 7 scale. Put another way, the introduction of political participation on top of the transitional outcome for Felipe lowered respondents' perception of the outcome's legitimacy by roughly 11%. Although these legitimacy gaps hold for each of the components of the legitimacy index (fairness, reconciliation, and peace) in both waves, we generally observe the largest gap with respect to perceived fairness of the outcomes. In each instance, the effect is at least twice the size of the corresponding effects for perceived contribution to reconciliation and perceived contribution to peace. This leads us to conclude that when it comes to FARC political participation, fairness is more problematic to Colombians than its overall impact on the chances for peace and reconciliation.

¹⁰ Principal components analyses suggested a single dimension accounted for the preponderance of variance across the three variables in each case of the vignettes discussed here (*i.e.*, after each treatment of the FARC foot soldier, Felipe, and the FARC commander, Francisco). All Cronbach's α scale reliability measures easily surpass 0.70, a conservative threshold for scale construction, and in most scales are greater than 0.90.

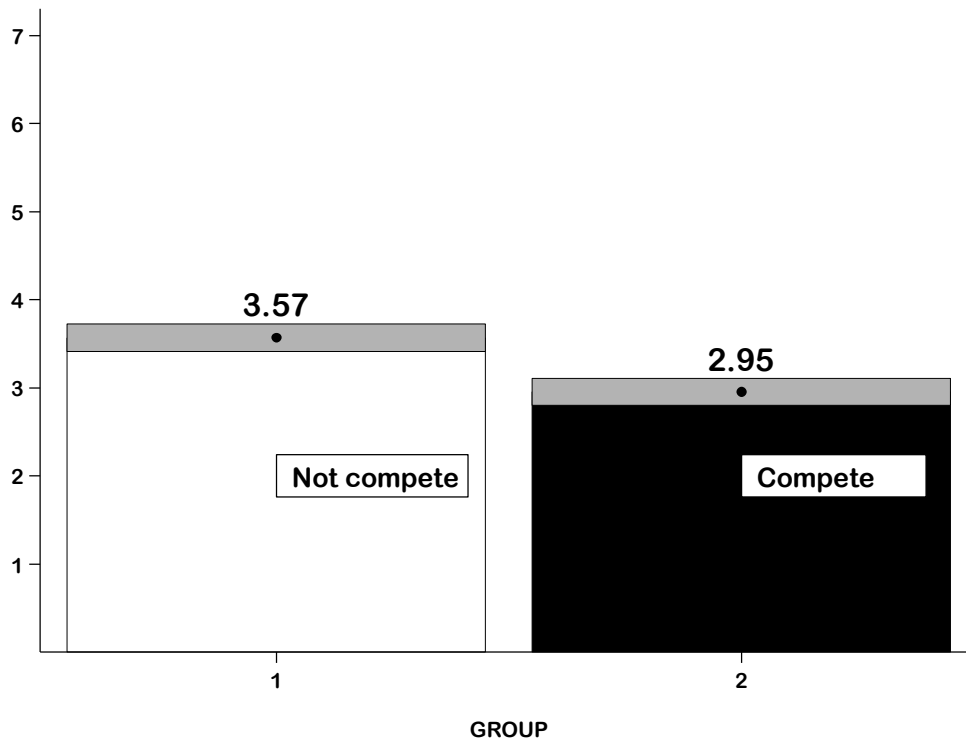
¹¹ The same is true ($p < 0.0000$) for each of the components of the legitimacy index: perceived fairness $r = 0.40$, perceived contribution to peace $r = 0.47$, and perceived contribution to reconciliation $r = 0.48$.

Figure 1. Legitimacy of Trans. Justice & Pol. Competition Outcomes for Felipe



95 % Confidence Interval

(a) Wave 1, June 2014, Pre-Election



95 % Confidence Interval

(b) Wave 2, January 2015, Post-Election

Our guiding theoretical assumption is that elites at the negotiating table lead public opinion toward the peace process by the trust (or mistrust) that the public places in them. We expect the legitimacy of this process and its likely outcomes to rise and fall with public trust in Santos and the FARC. Empirical evidence presented above is consistent with this proposition *vis-à-vis* support for the negotiated peace, but is the same true with respect to transitional justice mechanisms and the issue of FARC troop political participation? Analyzing the dynamics of these opinions over time can give us a handle on this question. Using the same cross-lagged modeling approach as described above, Table 3 reports the results of a structural equations model that includes the legitimacy index for Felipe, trust in Santos, and trust in the FARC as endogenous variables. The model is run separately for both groups, and the results are reported by treatment group—*i.e.*, for those subjects assigned to the “Not Compete” group and those assigned to the “Compete” group. This way we can observe the effects of the trust variables on the legitimacy of both justice outcomes.

What we find is generally in line with our expectations. The results that speak to our hypothesis tests are reported in the first column of coefficients; results in the other two columns are included to identify the model. A unit increase in trust in President Santos is expected to raise support for the legitimacy of both the transitional justice outcome without Felipe’s being eligible for political competition (“Not compete” treatment) in roughly the same measure as the transitional justice outcome that allows Felipe to compete in politics (“Compete” treatment), with coefficients of 0.21 and 0.17, respectively. The effect of trust in the FARC is differentiated across the treatments. As trust in the FARC rises, the perceived legitimacy of the transitional justice outcome under which Felipe is allowed to compete for political office is expected to grow (coefficient = 0.155), while the legitimacy of the outcome that precludes Felipe’s political competition is not (null result). That is, the more the FARC can garner the public’s trust, the more public legitimacy the notion of FARC troops competing for public office, after confessing their crimes and giving up their arms, will enjoy. Therefore, while the legitimacy of FARC troops undergoing transitional justice—with or without the option of running for elected office—rides on Santos’ shoulders, a more trustworthy FARC can only influence support for the political competition option.

Above, we saw how women and victims of the FARC expressed less support for the peace negotiations. Here we do not see FARC victims holding different levels of legitimacy for Felipe’s justice outcomes. Women, however, view the FARC troop’s right to run for office as less legitimate than men do.

Table 3. Legitimacy of FARC Troop (Felipe) Outcomes and Trust in the Negotiating Parties in Colombia

Treatment: Variables	Legitimacy Index	Trust in Santos	Trust in the FARC
Not compete: Legitimacy Index (lagged)	0.311*** (0.047)	-0.005 (0.029)	-0.008 (0.018)
Compete: Legitimacy Index (lagged)	0.466*** (0.047)	0.112*** (0.039)	0.086*** (0.025)
Not compete: Trust in Santos (lagged)	0.209*** (0.051)	0.590*** (0.036)	0.056** (0.022)
Compete: Trust in Santos (lagged)	0.172*** (0.048)	0.572*** (0.041)	-0.024 (0.026)
Not compete: Trust in the FARC (lagged)	0.069 (0.093)	0.083 (0.078)	0.387*** (0.071)

Compete: Trust in the FARC (lagged)	0.155** (0.073)	0.033 (0.070)	0.485*** (0.063)
Not compete: FARC Victim	-0.176 (0.189)	-0.196 (0.130)	-0.189*** (0.072)
Compete: FARC Victim	-0.241 (0.149)	-0.465*** (0.133)	-0.280*** (0.082)
Not compete: BACRIM Victim	-0.387 (0.368)	-0.539*** (0.186)	-0.154 (0.094)
Compete: BACRIM Victim	-0.125 (0.220)	0.333 (0.247)	0.198 (0.184)
Not compete: Paramilitary Victim	0.088 (0.243)	0.171 (0.188)	-0.020 (0.106)
Compete: Paramilitary Victim	-0.117 (0.186)	-0.002 (0.178)	0.029 (0.131)
Not compete: Military Victim	0.268 (0.500)	0.314 (0.339)	0.587** (0.298)
Compete: Military Victim	0.318 (0.530)	0.371 (0.415)	0.285 (0.650)
Not compete: Police Victim	0.226 (0.511)	-0.235 (0.321)	-0.172 (0.263)
Compete: Police Victim	-0.007 (0.362)	-0.103 (0.276)	0.347 (0.462)
Not compete: Other Victim	0.340 (0.352)	0.007 (0.227)	0.184 (0.177)
Compete: Other Victim	0.129 (0.384)	-0.132 (0.416)	0.551 (0.335)
Not compete: Woman	-0.123 (0.152)	-0.043 (0.112)	-0.098 (0.069)
Compete: Woman	-0.276** (0.134)	-0.144 (0.121)	0.064 (0.070)
Not compete: Age	0.003 (0.005)	0.006 (0.004)	-0.001 (0.003)
Compete: Age	-0.005 (0.005)	0.003 (0.004)	-0.001 (0.003)
Not compete: Conflict Zone	-0.210 (0.272)	0.098 (0.226)	0.409** (0.196)
Compete: Conflict Zone	-0.238 (0.187)	0.178 (0.268)	-0.114 (0.146)
Not compete: Education	0.164* (0.093)	0.089 (0.063)	0.066* (0.035)
Compete: Education	0.014 (0.081)	0.018 (0.071)	0.121*** (0.044)
Observations	997	997	997

Robust standard errors in parentheses.

*** p<0.01, ** p<0.05, * p<0.1

D. FARC Commanders: Gauging the Legitimacy of Transitional Justice with Experimental Vignettes

To this point, we have shown evidence that trust in the elite parties to the peace negotiations in Colombia can significantly influence public opinion regarding transitional justice outcomes. The last test of this argument comes with respect to the sensitive issues of how much time FARC commanders should spend in jail. Taking a hard line from the outset, the FARC stated that they would not spend even a single day in “jail (*carcel*)” As the peace talks progressed, the language changed from talk of jail time to “deprivation of liberty (*privación de la libertad*).” In the background, of course, is the group of AUC paramilitary leaders who have demobilized under the 2005 Law for Justice and Peace and spent between five and eight years in jail. Since this history is built into the backdrop of these negotiations, we built it into our study. Indeed, the experimental treatments explicitly compare the jail-time outcome of a FARC commander (Francisco) and AUC paramilitary leaders who are responsible for the same crimes:

Vignette. Francisco was a commander in the FARC. He gave orders to other people who were underneath him in the organization. As a result of his actions, a large group of people were kidnapped and held hostage for several years. Francisco says that his actions were motivated by the belief that what he was doing was necessary and justified by the struggle. Francisco has publicly acknowledged these actions and given up his weapons. He will make economic reparations to the families of his victims.

Treatment 1 “No Jail”. ...but he will not go to jail for his actions [*as did [go to jail] some AUC commanders* who were sentenced for the same reasons]. (Emphasis added here but not in the study).

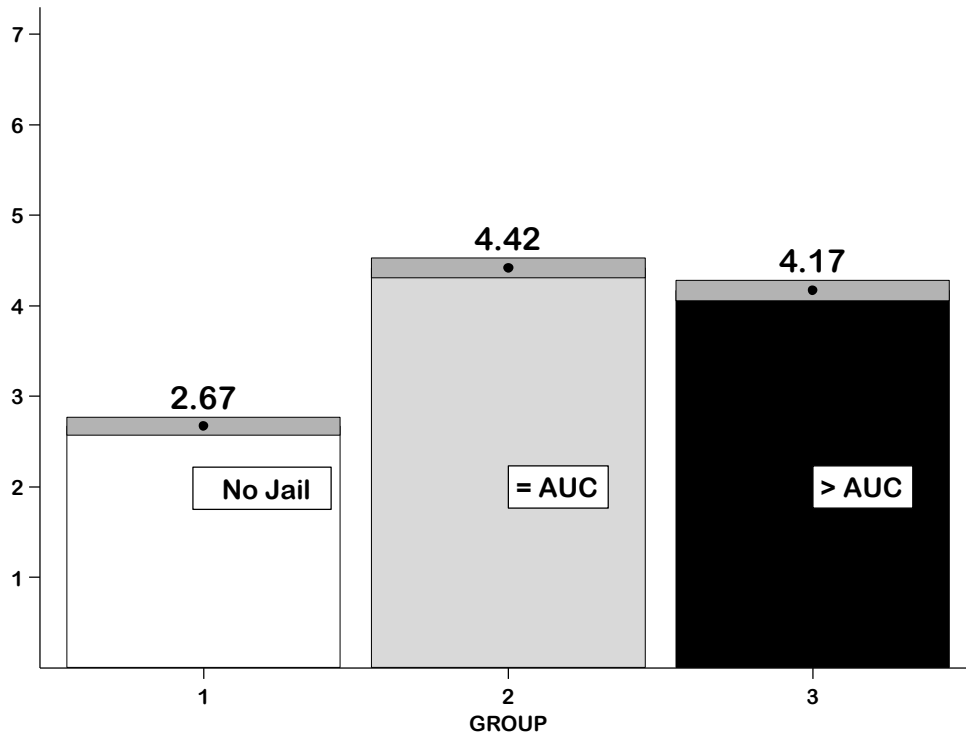
Treatment 2 “=AUC”. ...and will spend several years in jail for his actions (*more or less the same amount of time as* AUC commanders who were sentenced for the same reasons).

Treatment 3 “>AUC”. ...and will spend many years in jail for his actions (*many more years than* AUC commanders who were sentenced for the same reasons).

After reading these vignettes and their corresponding treatments, respondents were again asked to rate their perceptions of the fairness of the outcome, and how well it contributed to peace and to reconciliation. A legitimacy scale analogous to the one used for the Felipe analysis was formed here to measure the legitimacy of Francisco’s justice outcome. The results are reported in Figure 2, with subfigures (a) and (b) for Wave 1 and Wave 2, respectively.

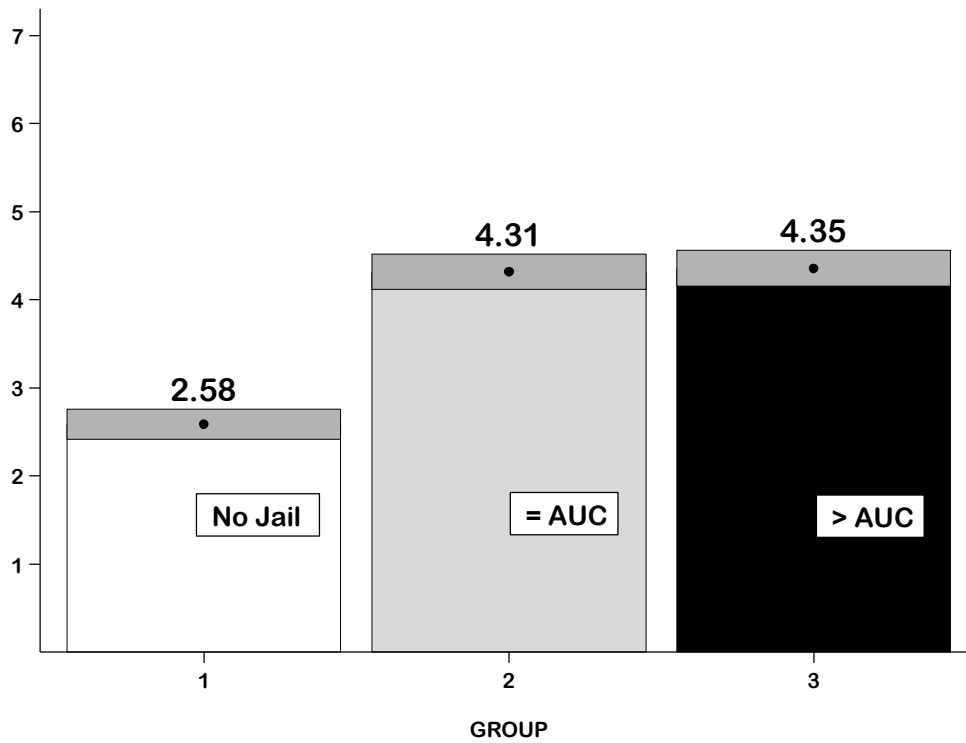
The most obvious effects concern the “No Jail” treatment condition. By far the widest legitimacy gaps in both waves are between the treatment condition in which FARC commander (Francisco) serves no jail time while AUC leaders who committed the same crimes spent five and eight years in jail, and the other two conditions. The size of the gaps is remarkably similar through time, 1.75 and 1.77 points, in Waves 1 and 2, respectively, accounting for between 29 – 30% of the 1 – 7 scale. Clearly, the least legitimate option in the eyes of the public is for FARC commanders—even after passing through transitional justice mechanisms such as acknowledging their crimes, laying down arms, and paying reparations—to serve no jail time.

Figure 2. Legitimacy of Transitional Justice and Jail Time Outcomes for Francisco



95 % Confidence Interval

(a) Wave 2, January 2015, Post-Election



95 % Confidence Interval

(b) Wave 2, January 2015, Post-Election

Outcomes in which Francisco’s jail time is the same as or more than his AUC counterpart are much more palatable. Interestingly, in Wave 1, the most legitimate option was the equal jail time scenario (“=AUC”). The gap between it and the more jail-time condition (“>AUC”) was small but statistically different than zero. By Wave 2, however, this gap disappeared as the two conditions rendered indistinguishable levels of legitimacy.

Over the six months between Wave 1 and Wave 2, the correlation between the degree of legitimacy respondents accord to these three outcomes is reasonably high and significant ($r = 0.45$). This overall correlation masks heterogeneity within the three treatments. Respondents who viewed the “No Jail” treatment exhibited the most stable preferences ($r = 0.47$). Those assigned to the “=AUC” condition were somewhat less stable in the legitimacy evaluations ($r = 0.37$). Finally, the over-time correlations for subjects in the “>AUC” conditions are decidedly the weakest ($r = 0.25$). In other words, there is much variance in legitimacy to explain within these three groups.

Is elite trust a reliable predictor of the legitimacy of the sentencing options for people like Francisco, a FARC commander who has agreed to acknowledge his crimes, give up his arms, and pay reparations to victims in the spirit of transitional justice? Again we use a cross-lagged structural equations model estimated by the treatment group. The evidence, reported in Table 4, is again indicative of our central thesis. To wit, boosting trust in both Santos and the FARC predicts an increase in the legitimacy of Francisco’s spending no time in jail (see shaded cells for “No Jail: Trust in Santos” and “No Jail: Trust in the FARC”). Additionally, we observe trust in Santos leading to greater support for Francisco’s spending equal jail time after engaging in transitional justice (see “Jail = AUC: Trust in Santos”). In each of these cases, the coefficients represent effects that are substantively smaller than those uncovered in other analyses and statistically less robust. It is worth noting that the legitimacy FARC victims award these three outcomes is no different than the legitimacy non-victims give them, but women are significantly less supportive of this FARC commander not serving jail time on top of transitional justice.

In summary, we find fairly consistent evidence that trust in the elite actors at the negotiation table can sway public opinion in favor of negotiated peace in Colombia and transitional justice outcomes. Results from traditional survey questions and the vignette experiments amount to complementary evidence of a reasonably strong causal claim that elite trust cements support for negotiated peace and transitional justice outcomes.

Table 4. Legitimacy of FARC Commander (Francisco) Outcomes & Trust in the Negotiating Parties in Colombia

Variables	Legitimacy Index	Trust in Santos	Trust in the FARC
No jail: Legitimacy Index (lagged)	0.349*** (0.055)	0.100** (0.044)	0.074*** (0.026)
Jail = AUC: Legitimacy Index (lagged)	0.337*** (0.052)	0.076** (0.035)	0.029 (0.020)
Jail > AUC: Legitimacy Index (lagged)	0.184*** (0.066)	-0.037 (0.037)	-0.052** (0.026)
No jail: Trust in Santos	0.092* (0.056)	0.543*** (0.048)	0.049* (0.029)
Jail = AUC: Trust in Santos	0.114* (0.063)	0.550*** (0.046)	-0.022 (0.027)
Jail > AUC: Trust in Santos	0.087	0.609***	0.037

	(0.069)	(0.050)	(0.030)
No jail: Trust in the FARC	0.213** (0.101)	0.231** (0.093)	0.352*** (0.063)
Jail = AUC: Trust in the FARC	0.160 (0.104)	0.056 (0.080)	0.555*** (0.067)
Jail > AUC: Trust in the FARC	-0.047 (0.119)	0.052 (0.095)	0.385*** (0.093)
No jail: FARC Victim	-0.072 (0.176)	-0.184 (0.148)	-0.162* (0.084)
Jail = AUC: FARC Victim	-0.155 (0.256)	-0.382** (0.175)	-0.232*** (0.088)
Jail > AUC: FARC Victim	0.202 (0.292)	-0.394** (0.171)	-0.292*** (0.112)
No jail: BACRIM Victim	0.476 (0.506)	0.115 (0.334)	-0.016 (0.179)
Jail = AUC: BACRIM Victim	-0.224 (0.422)	-0.626*** (0.227)	0.144 (0.116)
Jail > AUC: BACRIM Victim	-0.338 (0.432)	0.111 (0.268)	-0.069 (0.223)
No jail: Paramilitary Victim	-0.383* (0.216)	0.018 (0.201)	0.061 (0.113)
Jail = AUC: Paramilitary Victim	0.395 (0.251)	0.154 (0.255)	-0.103 (0.111)
Jail > AUC: Paramilitary Victim	-0.286 (0.395)	0.044 (0.249)	0.095 (0.216)
No jail: Military Victim	0.250 (0.617)	0.153 (0.436)	0.525 (0.450)
Jail = AUC: Military Victim	0.932* (0.480)	0.249 (0.483)	0.374** (0.183)
Jail > AUC: Military Victim	0.529 (0.650)	0.601 (0.531)	0.388 (0.641)
No jail: Police Victim	-0.367 (0.590)	-0.477* (0.279)	-0.099 (0.345)
Jail = AUC: Police Victim	0.311 (0.517)	-0.089 (0.360)	-0.173 (0.139)
Jail > AUC: Police Victim	-1.070 (0.694)	0.183 (0.387)	0.575 (0.686)
No jail: Other Victim	0.111 (0.242)	-0.720*** (0.155)	0.048 (0.129)
Jail = AUC: Other Victim	-0.460 (0.631)	0.394 (0.416)	0.377 (0.427)
Jail > AUC: Other Victim	-0.177 (0.435)	0.019 (0.349)	0.508* (0.293)
No jail: Woman	-0.574*** (0.146)	-0.178 (0.141)	-0.065 (0.077)
Jail = AUC: Woman	0.019 (0.193)	-0.022 (0.139)	-0.075 (0.084)
Jail > AUC: Woman	-0.320 (0.221)	-0.157 (0.147)	-0.001 (0.100)

No jail: Age	-0.014** (0.006)	0.003 (0.005)	-0.005* (0.003)
Jail = AUC: Age	-0.018** (0.007)	0.014*** (0.005)	-0.000 (0.003)
Jail > AUC: Age	-0.022*** (0.008)	-0.001 (0.005)	-0.002 (0.004)
No jail: Conflict Zone	0.122 (0.375)	0.129 (0.587)	-0.052 (0.262)
Jail = AUC: Conflict Zone	0.196 (0.287)	0.257 (0.221)	0.448** (0.223)
Jail > AUC: Conflict Zone	0.457 (0.450)	-0.062 (0.276)	0.045 (0.198)
No jail: Education	0.079 (0.089)	0.060 (0.089)	0.087* (0.048)
Jail = AUC: Education	-0.013 (0.115)	-0.046 (0.083)	-0.005 (0.053)
Jail > AUC: Education	-0.038 (0.128)	0.112 (0.069)	0.170*** (0.045)
Observations	998	998	998

Robust standard errors in parentheses.

*** p<0.01, ** p<0.05, * p<0.1

CONCLUSIONS

Colombians are attempting to resolve the traditional “peace versus justice” dilemma in new international and domestic contexts. International obligations under the Rome Statute, signed by Colombia in 2002, require accountability for those guilty of grave human rights abuses, precluding the simple mutual amnesty solution often employed in the past to end civil conflicts. At the same time, the democratic context in which the talks to end the conflict are taking place requires the negotiators to take into account public opinion and to build coalitions to gain public approval and pass the necessary legislation, if an eventual agreement is to be implemented and achieve a sustainable peace. Our research into the sources of public attitudes on the peace process and two key transitional justice options has implications both for the study of public opinion toward peace negotiations and their outcomes, and for policymakers attempting to inform public opinion and build public support.

A. Parties to the Conflict Can Affect Public Support for the Peace Process

As the negotiators become more trusted by the public, support for the peace process grows. This is particularly true for President Santos, but also occurs to a lesser degree for the FARC. Yet, the FARC can indirectly contribute to support for the peace process since growing trust in the FARC also leads to more trust for Santos. The reverse is also true, of course; as trust in the negotiating parties declines, so does trust in the peace process. It is nevertheless crucial to note that trust in these actors is fairly durable and changes only incrementally over time. Moving trust in the positive direction requires Colombians to find Santos and the FARC more trustworthy, an assessment that requires word to match deed and the fulfillment of good faith. Therefore we expect any actions that increase the public’s confidence that the actors will carry out their agreements will be most likely to contribute to greater trust, and actions that imply a lack of sincerity or willingness will hurt trust. Demonstrated progress on the recent agreement to

jointly demine conflict areas could be one example of building trust; conversely, the breakdown of the ceasefire may be expected to erode trust.

B. Alternative Justice Outcomes for Demobilized FARC Troops that Include Political Participation Retain a Legitimacy Deficit

The public awards less legitimacy to a demobilized FARC troop (Felipe) competing in electoral politics after meeting transitional justice requirements of disarming and publicly acknowledging his actions than they do to the same FARC troop not competing in elections. Nevertheless, increasing trust in the FARC in general also produces more support for Felipe’s political participation, indicating again the power of the actors to influence public support.

These results are similar to traditional public opinion polls that find less support for eventual FARC political participation.¹² However, we found that by contextualizing the question in the form of a vignette about a specific individual (in this case, “Felipe,” a demobilized low-level FARC troop member who complied with some transitional justice mechanisms), produced higher legitimacy—about 3.0 on a 1 – 7 scale—and much less of a deficit (about 11%) than asking the question in the abstract as most public opinion surveys do.

This methodological point has an important practical implication: if an eventual peace deal will grant FARC members the right to run for political office, then the government should underscore the transitional justice measures the FARC members must undergo in order to be granted this right. Doing so will make the thorny issue of FARC political participation more palatable and, thus, more legitimate to the Colombian electorate that will be asked to ratify such an agreement.

C. Alternative Justice Mechanisms for FARC Commanders that do not Include Jail Time Retain a Large Legitimacy Deficit

The public awards less legitimacy (about 30% of a seven-point scale) to justice outcomes that do not include jail time for FARC commanders who have committed grave crimes, but also completed transitional justice requirements of telling the truth, demobilizing, and paying reparations to victims. Interestingly, however, providing the context of the previously agreed upon justice outcomes for paramilitary leaders indicates that equity does matter. While the public clearly does not support the FARC’s spending less jail time than paramilitary leaders for similar crimes, they do award nearly equivalent levels of legitimacy to an equitable outcome (about five to eight years) and to spending more time than paramilitary leaders. Again, the outcomes contrast with the more abstract question asked in traditional public opinion polls in which respondents strongly favored more jail time.¹³

The fact that these two methodologies produced different inferences is not surprising—different methods can generate different answers to the same question—nor does it diminish the usefulness of polling. Rather, comparing our results with those from public opinion polls grants key decision-makers in the negotiations a sense of where the fault lines of public legitimacy lie *vis-à-vis* justice in the case of

¹² The 2014 AmericasBarometer LAPOP survey for Colombia found that 65.2% of respondents disagreed while only 21.7% agreed with the following statement: a demobilized FARC member should be able to participate in politics.

¹³ Respondents reported a large gap (35% to 58%) between those who believed the FARC serving five to eight years in jail will lead to reconciliation and those believing the FARC serving more than eight years in jail will lead to reconciliation (Americas Barometer, LAPOP, Colombia, 2014).

FARC commanders. And, the notion of equity in terms of jail time between the demobilization processes of the AUC under President Uribe and that of the FARC is crucial. Although very few trials of paramilitary leaders have been completed during their maximum pre-trial detentions lasting up to eight years, the government can bolster public support for a decision that splits the difference between what the FARC has demanded (no jail time) and what the public might want as their first priority (long sentences) by drawing parallels to precedents set during the AUC demobilization.

D. Victimization and Gender are Secondary Drivers of Public Opinion on the Peace Process

Our results show that victims of the FARC are less supportive of the peace process than paramilitary victims and non-victims. For their part, women express less support for the peace talks than men. However, victims of the FARC show no difference from the rest of the general population on the transitional justice outcomes we tested, whereas women were less supportive than men of the option of political participation and of no jail time.

E. Policymakers Can Build Support for Transitional Justice Mechanisms by Contextualizing the Crimes and the Victims

As our experimental method with vignettes demonstrates, people respond differently when presented with an abstract question about an organization than when presented with the story about an individual perpetrator and a specific crime. This indicates that for purposes of educating the public about alternative transitional justice mechanisms, a more effective pedagogy may be one that contextualizes the various mechanisms.

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APPENDIX A

As an introduction to cross-lagged models, imagine two constructs, X and Y, both measured at two time points. In the models presented, Y measures support for the peace process, and X (and W and Z) represent trust in the various actors seeking to influence the peace talks (President Santos, the FARC, and Former President Uribe). This generates four variables: X_1 , Y_1 , X_2 , and Y_2 and imply six correlations: two autocorrelations, *i.e.*, the same construct correlated with itself over time ($\rho_{X_1X_2}$ and $\rho_{Y_1Y_2}$). For example, the strong (0.73) correlation above between support for the peace process across the two waves reported above is an autocorrelation, namely $\rho_{Y_1Y_2}$. They also create two *synchronous correlations* ($\rho_{X_1Y_1}$ and $\rho_{X_2Y_2}$) of the sort typically analyzed in a cross-sectional research design. Finally, they generate two *cross-lagged correlations*, $\rho_{X_1Y_2}$ and $\rho_{X_2Y_1}$. Cross-lagged panel models compare the cross-lagged correlations by calculating the cross-lagged differential: $\rho_{X_1Y_2} - \rho_{X_2Y_1}$. If X caused Y, the intuition goes, then this differential should be positive. That is, the correlation between prior values of X and subsequent values of Y should be far higher (because the two are causally related and temporally ordered) than the correlation between subsequent values of X and prior values of Y (any correlation between future values of Y and past values of X could indicate a form of reverse causality known as a feedback loop).

A more general way of thinking about this is in the form of a structural equations model in which multiple models can be estimated simultaneously. In these equations, later values of X and Y would be modeled separately as a function of previous values of X and Y.