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*Intersectionality and Public Policies: Potentials and Pitfalls*

*The possibilities of intersectionality: public policies on ex-combatants' reintegration in Colombia*

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# The possibilities of intersectionality: public policies on ex-combatants' reintegration in Colombia<sup>1</sup>

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## Abstract:

Drawing upon literature review on public policies concerning transitional justice in Colombia and fieldwork observations with *Corporación Descontamina*, the objective of this paper is twofold: (1) to interrogate the incorporation of the differentiated approach in the national public policy on reintegration of ex-combatants and; (2) to reflect upon the possibilities of transforming this approach into an intersectional one that would provide practical tools to give visibility the intertwined forms of oppression and the reproduction of power relations that contribute to the marginalization of the demobilized population, particularly women. It first addresses the framework of reintegration public policy in Colombia; then it critically analyzes the differentiated approach and; finally, it explores the possibilities of intersectionality.

**Keywords:** Transitional Justice; Reintegration Public Policies; Disarmament, Demobilization and Reintegration; Colombia; Intersectionality; Differentiated Approach; Ex-Combatants.

## Introduction

The signing of the final agreement between the Revolutionary Armed Forces of Colombia – People's Army (FARC-EP<sup>2</sup>) and the national government of Juan Manuel Santos in November 2016 sets the stage for the fourth process of disarmament, demobilization and reintegration (DDR) in the country since the 1990s. Contrary to most of the other DDR processes carried out throughout the world by the United Nations in the aftermath of armed conflicts, the national government in Colombia has chosen to formulate their own public policy to organize the reintegration of ex-combatants, either paramilitaries or from the guerrilla groups, while still confronting armed violence (Torres, Giha, & Jaramillo, 2009, p.3).

The entity in charge of applying DDR public policy within the framework of transitional justice, the Colombian Agency for Reintegration now known as the Agency for Reincorporation and Normalization (ARN), has developed mechanisms for the reintegration of ex-combatants in an attempt to foster national reconciliation. Equally, governmental institutions such as the

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<sup>2</sup> From the Spanish acronym *Fuerzas armadas revolucionarias de Colombia – Ejército del Pueblo*.

National Center for Historical Memory (NCHM) have built frameworks of analysis and intervention with regards to differentiated approaches in order to consider the multiple violations of human rights, but also the different effects of war on a given population. It has successfully build up pedagogical tools for reconciliation and accessible material to work on truth and reparation.

However, although the differentiated approach has been fairly well conceptualized in the different laws involving demobilization processes, such as Law 1448 of 2011 and Law 1424 of 2010<sup>3</sup> (NCHM, 2014), less can be said on the practical application of this approach. The impact on victims and the demobilized population has been very subtle, and the Colombian state barely responds to the diverse forms of oppression, marginalization and exclusion experienced by these populations. Public policies have failed to respond adequately to the overlapping of social discriminations and, additionally, have interpreted reintegration as an individual dynamic which has led to the negation of political agency for demobilized people.

As such, drawing upon literature review on transitional justice public policies in Colombia and fieldwork observations with *Corporación Descontamina*, the objective of this paper is twofold: (1) to interrogate the incorporation of the differentiated approach in the national public policy on reintegration of ex-combatants and; (2) to reflect upon the possibilities of transforming this approach into an intersectional one that would provide practical tools to give visibility to the intertwined forms of oppression and the reproduction of power relations that contribute to the marginalization of the demobilized population, particularly women. This paper is therefore divided as such: first, I explore the context of transitional justice in Colombia, insisting on the public policy concerning reintegration; second, I critically analyze the use of

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<sup>3</sup> As will be presented latter in this paper, Law 1448 of 2011 seeks to offer a legal framework for the reparation of the victims of the armed conflict; on the other hand, Law 1424 of 2010 dictates the parameters for transitional justice – truth, justice, reparation and no repetition (CAR, 2017a; Sandoval, 2014).

the differentiated approach in DDR programs and; finally, I propose to explore the possibilities of considering intersectionality in the implantation of reintegration public policies.

## **1. Reintegration public policies in transitional justice: the Colombian case**

### ***1.1. The consequences of the Colombian conflict: a brief context***

As demonstrated by the NCHM (2013), violence in Colombia has manifested itself and is still deployed in a multitude of warfare methods. The High Commissioner for Peace<sup>4</sup> accounted for 220,000 deaths, over 7 million victims of internal displacement and 13,000 victims of sexual violence (OACP, 2016). However, the real consequences of war in Colombia are still unknown: several organizations, such as OXFAM, have taken note of the 94,565 women who reportedly suffered sexual violence in 407 villages in the country between 2001 and 2009 (2009, p.11). In addition, the country still confronts many human rights and LGBTQ+ leaders' assassinations and the recrudescence of paramilitarism.

However, after more than 60 years of war, Colombia is currently experiencing major social changes: on 30 November 2016, the national government signed a peace agreement with the FARC-EP, officially ending hostilities with this left-wing group (Casey, 2016). At the same time, the government has just begun talks with the second largest guerrilla group, the ELN, which will be held in Quito, Ecuador (Caracol, 2017). These peace dialogues provoke many debates in Colombian society, especially with regard to transitional justice and the reintegration process of ex-combatants.

The history of DDR<sup>5</sup> in Colombia is far from new: many processes of demobilization of combatants have taken place since the government of Rojas Pinilla and more systematically

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<sup>4</sup> In Spanish *Alto Comisionado para la Paz*. The High Commissioner for Peace is a governmental agency responsible for peace-related policies since 1994. For more information: <http://www.altocomisionadopalapaz.gov.co>

<sup>5</sup> It is important to make the distinction between reinsertion and reintegration: the first one concerns the immediate phase of support to ex-combatants in a short term perspective and, the second one refers to a rather sustainable process and requires a socio-economic integration of the demobilized person (Villarraga Sarmiento, 2015 p.52).

since the 1990s (Herrera & González, 2013, p.275; Serrano Murcia, 2014). In the 1990s, “more than 4000 ex-combatants from 7 organizations” (leftist guerrilla groups) demobilized, including the *Movimiento 19 de abril* (M19) and the *Ejército popular de liberación* (EPL) (IEGAP, 2013, p.39; Villarraga Sarmiento, 2015, p.59). Following these initial massive demobilizations, three other processes are important to mention: first, the collective demobilization of the *Autodefensas Unidas de Colombia* (AUC) – United Self-Defense Forces of Colombia – a right-wing paramilitary group. This process began under the Álvaro Uribe Vélez government in 2003 and 32,691 combatants laid down their weapons (ICG, 2014, p.6). Second, it is worth mentioning that, since 1994, Colombia has implemented an individual DDR process that provides the opportunity for combatants – either voluntarily or after capture by the national army – to leave the conflict and reintegrate into civilian life. This process has permitted the demobilization of approximately 22 000 combatants from the guerrilla groups<sup>6</sup> (IEGAP, 2013, p.39). Finally, with the signing of the peace agreements with the FARC-EP and the establishment of the Special Tribunal for Peace<sup>7</sup> (OACP, 2016a), another process will more likely be implemented, although the public policy concerning this matter has yet to be formulated at the time of writing this paper.

Nevertheless, it is important to highlight that the Colombian case present particularities with regards to DDR processes. On the one hand, public policies have been implemented by the national government which is also an armed actor in the conflict and, on the other hand, it presents various overlapping processes in the context of an ongoing armed conflict<sup>8</sup> (Magnaes Gjelvisk, 2010; García-Godos, & Andreas O.L., 2010, p.503; CONPES, 2008, p.3). As for now,

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<sup>6</sup> As for now, it is estimated that between 44,000 and 55,000 people have demobilized individually or collectively from an illegal armed group (guerrilla and paramilitaries); mostly from the FARC-EP, ELN and AUC (IEGAP, 2013, p.39; Torres, Giha & Jaramillo, 2009, p.1)

<sup>7</sup> For the moment, it has been agreed that the transitional justice will be organized around the “Integrated System of Truth, Justice, Reparation and No Repetition” (*Sistema Integral de Verdad, Justicia, Reparación y No Repetición*) and, probably, the direct consequence will be the establishment of a truth commission (OACP, 2016a).

<sup>8</sup> Even though the peace agreement with the FARC-EP has been signed, other groups are still active. Therefore, the end of the conflict in itself cannot be claimed yet.

“judicial proceedings currently form the only official base for truth and reconciliation” (Torres, Giha & Jaramillo, 2009, p.3). As a result, DDR processes have generally been criticized in Colombia for their bureaucratic slowness and, above all, for the resurgence of criminal groups arising from paramilitary rearmament, which highlights in particular the strong links between armed groups and drug trafficking (Caicedo, 2008; García-Godos, & Andreas O.L., 2010, p.498). In this context, reintegration poses many challenges (Tillman & Anctil Avoine, 2015): apart from economic and political problems, several difficulties are linked to the polarization of political identities and a lack of understanding of the complexity of human subjectivities in post-conflict reconstruction.

### ***1.2.Public policy on reintegration: framing transitional justice in Colombia***

Transitional justice cannot operate without many other policies that would foster the effective social processes required to dismantle the militarized mentalities: “Transforming in a fundamental way the ideology that made the atrocities possible requires sustained social, economic, cultural and political efforts that use transitional justice processes but that go beyond them” (Sandoval, 2014). Transitional justice is therefore directly linked with the DDR process and public policies on ex-combatants reintegration: they are interdependent mechanisms of justice (García-Godos & Andreas O.L., 2010, p.504).

The idea of transitional justice and public policies to sustain the concept stem from modern thought, assuming the possibility for every people/state to engage in a better future (Sandoval, 2014). Since the 2000s, transitional justice has become a “reference in the study of post-transition human rights accountability, justice and reconciliation processes” and, even though it has been interpreted as interdisciplinary, it is still very “informed by international human rights law, norms and standards” (IEGAP, 2013, p.29 & 38). It is now commonly understood as a judicial system established in the context of the passage from an armed conflict

to a relative state of “peace”, free from violent armed conflict<sup>9</sup>. In the case of Colombia, it may vary depending on the process analyzed<sup>10</sup>, but it generally has the following characteristics: restorative justice for victims, as well as reduced sentences for victimizers in exchange for the setting up of truth commissions or judicial proceedings to account for violent acts committed during the armed conflict. Its four elements are: the right to truth, justice, integral reparation to victims and guarantees of non-repetition (ICTJ, 2016; Sandoval, 2014). Transitional justice implies a close and complex management of the victim-victimizer relationship, which explains the need to establish parameters for DDR.

In Colombia, the legal framework that support the DDR process are very complex and uneasy to analyze as demonstrated by the various decrees, laws, judgments and public policies (CAR, 2017a). In this piece, I will concentrate on the impact of two legal pieces, Law 975 of 2005 and Law 1424 of 2010, as well as on the public policy on reintegration in order to make my point on the necessity of rethinking the differentiated approach with an intersectional frame. The Justice and Peace Law, or Law 975 of 2005, is an important legal frame to consider for the transitional justice process in Colombia (NCHM, 2014, p.57). This law was conceived to assist the transition of ex-paramilitaries<sup>11</sup> to civilian life but above all to ensure that victims will be repaired and justice made possible. Law 975 explicitly states the necessity for the ex-paramilitaries to tell the truth about their crimes in “free accounts” (*versiones libres*) which is supposed to guarantee the reparation of the victims and permit them to reduce their sentences (García-Godos & Andreas O.L., 2010, p.498-505).

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<sup>9</sup> Following International Humanitarian Law, transitional justice can only be implemented in society facing armed conflict. As such, contexts presenting internal strife are not considered for transitional justice (ICRC, 1977).

<sup>10</sup> As an example, the current peace agreement will have its own transitional justice frame and will not be related to the Justice and Peace Law.

<sup>11</sup> The Law has been thought for the illegal paramilitaries groups. However, combatants from other groups have been able to be received in the process and benefit of reduced sentences in exchange of telling the truth. Usually, the crimes committed can carry penalties of over 40 years of prison while the Justice and Peace process offers 5 to 8 years in the case combatants confess atrocities. (PGN, 2007)

Law 1424 of 2011 has been thought “as a transitional justice norm that creates the non-judicial mechanism of contribution to the truth” (NCHM, 2014, p.58) which involve a series of historical memory processes that are directed towards truth seeking. It is the materialization of the commitment of the demobilized people with the “right to remember”. Law 1424 imposes a framework of non-judicial mechanism for truth seeking using methodologies related to collective and historical memory in order to search for the root causes of the armed conflict while contributing to victims’ reparation. However, as Law 975, Law 1424 do not explicitly defines a differentiated approach for the contribution to historical truth (NCHM, 2014).

Law 1424 and Law 975 frame the public policy on reintegration up to now, both establishing an intrinsic link in between perpetrators and victims: “the destinies of the demobilised victimisers and the victims are intertwined in complex ways” (García-Godos & Andreas O.L., 2010, p.488). Following this reality, the National Reparations and Reconciliation Commission (*Comisión Nacional para la Reparación y la Reconciliación – CNRR*) has been established to ensure the implementation of the right to truth in direct response to Law 975. Later, in response to the Historical Memory Group (*Grupo de Memoria Histórica*) would take the lead in that matter and, through the NCHM, would guarantee the recovery of oral testimonies, documents, and other source of knowledge with regards to violence and atrocities (García-Godos & Andreas O.L., 2010, p.507; NCHM, 2016). As such, transitional justice and reintegration public policies were not officially established and implemented until 2008 (García-Godos, 2012, p.228) when the Department of Transitional Justice was created in November 2008 with a clear function of policy-making regarding reintegration and victim reparation.

The Council of the National Economic and Social Policy (*Consejo Nacional de Política Económica y Social – CONPES*), established by Law 19 of 1958, has been crucial to advance on the creation of a public policy on reintegration with the document CONPES 3554 of 2008



(CNRR, 2010, p.277-278; DNP, 2016). The objective of the public policy is to “promote the effective incorporation of the demobilized and his/her family<sup>12</sup> with a willingness of peace to the social networks of the State and the host communities”. It seeks three specific objectives: the socio-economic integration, the support to the demobilized population and, finally, a framework of co-responsibility to allow the demobilized person to return to civility and legality (CONPES, 2008, p.2). With this policy on reintegration, the idea of the Colombian government was to create the favorable environment to dictate the rules of the DDR process – even though the State in itself has been an armed actor in the conflict – and propose a normative frame for its application.

To this end, the Colombian Agency for Reintegration (CAR) has been created in 2011<sup>13</sup> as an administrative unit of the Administrative Department of the Presidency of the Republic (*Departamento Administrativo de la Presidencia de la República*). It replaced the formerly Program for the Reincorporation to Civilian Life (*Programa para la Reincorporación a la Vida Civil*) that has been linked to the Ministry of Interior and Justice from 2003 to 2006 and the High Commissioner for Reintegration (*Alta Consejería para la Reintegración*), operating from 2006 to the creation of the CAR (2017b). This former entity has been responsible of the construction of the public policy on reintegration and its consolidation as a mechanism for the demobilized people but also for the general population (CAR, 2017b; CAR, 2017c). The objective of the entity was two folds: creating a Route of Reintegration that would permit the sustainable return to civilian life for ex-combatants and coordinate the institutional effort for the reconciliation process through reintegration (CAR, 2017b). To implement the public policy on reintegration, the new entity – ARN – is working closely with the Ministry of Defense, the

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<sup>12</sup> It should be noticed that the Spanish version only reference the masculine while referring to the demobilized person.

<sup>13</sup> The CAR has been created by the Decree 4138 of 2011.

Ministry of Interior and Justice and with the High Commissioner for Peace (*Alto Comisionado para la Paz*) (CAR, 2017c).

In 2008, the National Policy on Social and Economic Reintegration<sup>14</sup> (NPSE) had already established a strategy on specialized attention to ex-combatants, formulating a route of attention that would take into account the special needs of each participant with regards to demography, work, citizenship, etc. (Sánchez, 2013, p.8). Above all, the public policy is explicit in according a centrality to women in its framework for reintegration, as economic and social agents for the process, with a special focus on the demobilized women but also recognizing their role in the nuclear family – as partner of an ex-combatant. However, the real effectiveness of such policy started in 2010 (NCHM, 2014, p.88). As it will be discussed in the next section, the objective of implementing a differentiated approach to the public policy on reintegration was to enhance the possibility of “visibilizing heterogeneity of the people benefiting from this policy” (Sánchez, 2013, p.18).

Still, transitional justice in Colombia have been criticized because of its emphasis on the demobilized people: it is argued that the funding given to the demobilized people is disproportionate in relation with the support provided to the victims (Villaraga Sarmiento, 2015a, p.208). Specifically for the public policy in reintegration, much of the critiques revolves around the three major axes: first, the policy on reintegration lacks of clarity; second, it prioritizes an individualized and depoliticized approach with contributes to an atomization of social relations of the demobilized person and further exacerbate marginalization and; finally, it show many deficiencies in the implementation given the multiplicities of laws and decrees that sustain the policy, but also because of the bureaucratic burden – and State incapacity to

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<sup>14</sup> Original name in Spanish: *Política Nacional de Reintegración Social y Económica* (PRSE).

respond to the reintegration process (Villarraga Sarmiento, 2015, p.60-78; Torres, Giha & Jaramillo, 2009, p.4)

In Colombia, until now, “there has been an explicit choice not to establish a truth commission” (Torres, Giha & Jaramillo, 2009, p.3) but this is very likely to change with the current peace agreement (source). As such, there is no clear lines defined for the public policy on reintegration: uncertainty characterizes the justice frames of the process of demobilization and transition of the combatants of the FARC-EP. Combatants have started to surrender their arms under the auspice of the UN in different territories of the country following the agreement and its approval by the Congress<sup>15</sup> (El Tiempo, 2017). However, the modalities and mechanisms for transitional justice are still unclear and it has not been defined yet if the present agreement will materialize in another public policy on reintegration or if it will be implemented through the existing one. The following section addresses the complexity of differentiated approach in the context of reintegration, critically assessing the problems of a politics of identity in the existing DDR public policies<sup>16</sup>.

## **2. Critical assessment of differentiated approach for the reintegration of ex-combatants**

The idea of the necessity of considering the differentiated approach in public policy implementation in Colombia become stronger with the constitutional reform of 1991: the text assumes that power relations asymmetries exist following physical, social and cultural differences and that, it is essential to recognize them as to tackle the problem of rights and resources access (NCHM, 2014, pp.37-38). The Constitution of the 1991 recognizes in this

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<sup>15</sup> Until June 2017, approximately 30% of the weapons of the FARC-EP have been surrendered according to the UN mission in Colombia (UN, 2017).

<sup>16</sup> The existing public policy on reintegration is not only applied to paramilitaries: all armed groups can be linked to the DDR process under the frameworks of Law 975 and Law 1424. What it is not clear yet is the next steps regarding the collective demobilization of the FARC-EP after the UN Mission in Colombia would have completed the disarmament phase.

manner, the differentiated measures that should be undertaken by the State in order to respond the plural needs of its society (Arteaga M., 2012, p.15).

Nevertheless, the text that has advanced legislation concerning the differentiated approach is Law 1448 of 2011, known as the Victim Law, which has developed a conceptual reference of the term and its application in its article 13:

The principle of differentiated approach recognizes that there are populations with particular characteristics because of their age, gender, sexual orientation and situation of disability. For this reason, the measures of humanitarian aid, attention, assistance and integral reparation that are established in the present law, rely on this approach (Ministry of Interior, 2012, p.13).

With this legal text, it appears that the government officially recognizes the differential impacts of war on people, based on their identities, contexts and local dynamics: it seeks to overcome the “negative differentiation” between subjects on the basis of justice, equality and equity (Arteaga M., 2012, p.24-25). Law 1448 of 2011 was thus conceived to promote affirmative measures for vulnerable<sup>17</sup> populations particularly victimized within the armed conflict. It is an institutional effort to materialize this difference in affectation and the highly unequal allocation of precarity in the war context (Butler, 2009).

In Colombia, the differentiated approach is defined by various organization but, generally, it is understood as “political manifestations of difference” as to “offer a distinctive response” to each groups of the population identified with these different needs (Arteaga M., 2012, p.18). Following Montealegre M. and Urrego R., the objective of this approach is to promote “different identities, way of life, of seeing the world” that are usually made invisible under hegemonic, colonial, ethnocentric or androcentric views (2011, p.10). The majority of

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<sup>17</sup> The determining factors of “condition of vulnerability” or “vulnerable populations” are complex in the Colombian legal system. For both victims and perpetrators, gaining an official recognition – number of reference, certificate, etc. – is an essential step to enter the system of reparation (Ancil Avoine & Bolívar, 2014).

organizations and government agencies working with this approach have identified four major points of attention: gender, age, ethnicity and disability (NCHM, 2014, p.40).

In the general context of transitional justice, it has been recognized internationally that “a gender differential exists that should be considered when choosing which mechanism to employ, determining resource allocations during transitions, and evaluating the effectiveness of past efforts” (Turano, 2011, p.1046). The DDR process includes a gender differentiated approach on the basis of international standards that recommend above all to take into account the participation of women and girls in conflict settings in order to foster their participation in the peacebuilding process and avoid the resurgence of gender-based violence in post-conflict (UN, 2014). With this regard, the international frameworks laid out by the United Nations Security Council Resolution 1325 aims to consider gendered impacts of war and, above all, the participation of women in armed violence as to foster their participation in peacebuilding (UN, 2000). For the moment, the ARN is the entity responsible for ex-combatant reintegration into civil society: consequently, the agency is in charge of the application of the differentiated approach that is applied following the Reintegration Route. This route is a multimodal institutional process structured around 8 dimensions: personal, productive, family, habitat, health, education, citizenship and security (CAR, 2017).

The inclusion of a differentiated approach in public policies of reintegration and in laws that regulates them has had, in general terms, the advantage of considering it as a technical and analytical tool for the study of impacts of violence in different population with a certain emphasis on gender over other categorization. It also allowed for the establishment of guidelines for professional workers that are applying the reintegration route so that they may consider methodologies for gender equality and act against discrimination (Sánchez, 2013, p.10 & 45). Based on the politics of difference and the necessity of recognition, differentiating

groups have also allowed a political space for them to claim their rights and make their voices heard in the midst of armed violence (Arteaga M., 2012, p. 16-18).

In the case of ex-combatants, the differentiated approach has been seen as crucial in order to recognize the vulnerability of certain groups that often become marginalized or unprotected in the process of DDR such as women, children, disabled people or displaced populations. It has been established, through mechanisms of differentiation, that it is critical to put a greater attention to these populations regardless of their link to armed groups in the past (Cartagena DDR, 2009, p.23). In this sense, a differentiated approach is considered central to DDR:

[...] demystifying the unique and homogeneous identities of the warriors in the stories and narratives that are generated in the non-judicial mechanism of the contribution to the truth, so we must insist on the construction of more inclusive stories that reveal the distinct identity constructions of men, women, boys and girls, and adults within armed structures [...] (NCHM, 2014, p.69).

A differentiated approach was thought to overcome the problem related to inequalities and marginalization in the process of transitioning from a military to non-militarized society: in this sense, it focuses both on victims and perpetrators of violence as they both have lived under the militarized structures of war. In the case of ex-combatants, women have been identified as a particular group to pay attention to: given the fact that there are fewer women than men in the DDR process, they have received less attention and they face higher degrees of oppression in their communities (Sánchez, 2013; Anctil Avoine, 2017). They often also confront gender-based violence at home and within society – as they transgressed both the gender norms associated to womanhood and the law (Bouvier, 2016, p.23-25; O'Rourke, 2013, p.95). Equally, a differentiated approach is supposed to address the human rights violations women perpetrators have experienced – which simultaneously make them victims of violence – during the armed conflict, such as forced abortion, sexual violence or forced prostitution (Fajardo A. & Valoyes V., 2015; Bouvier, 2016; CAR, 2014). In the same vein, militarized

masculinities (Theidon, 2009) are considered especially important in the context of transitional justice policies as to tackle violence against women and respond to the “non-repetition” principle entrenched in the laws. Additionally, children are required a special focus as they have mostly been driven into war against their will by forced recruitment and have been through extremely complex emotional roads that further complicated their human development (Cartagena DDR, 2009, p.52). Race has also been a part of the identity politics in the armed conflict and the differentiated approach claim that different considerations should be taken into account for indigenous and afro-descendant people in the context of peacebuilding.

As such, in transitional justice policies, the differentiated approach should consider the important relationship between the identity politics shaped by war in the different contexts and their impact on the civil population – and by extension, their willingness to engage social relationships with ex-combatants. The idea behind this approach is that ex-combatants are not passive agents but active political agents in the reconciliation process (Cartagena DDR, 2009, p.28, Anctil Avoine, 2017). Many achievements have been made since the implementation of the public policy on reintegration in 2008: successful reintegration experiences have multiplied but many obstacles persist.

As I write this paper, it cannot be said that the differentiated approach has become a tool for the construction of public policies (NCHM, 2014, p.44) as even the legal documents that support the policy on reintegration reinforce stereotypes portraying the demobilized person as inherently masculine for example (see CONPES document, 2008). Recently, the researcher Villaraga Sarmiento identified the pitfalls of the public policy on DDR: based on remarks made by the Ministry of Interior, he underlines the individualized methodology prioritized for reintegration as well as the lack of differentiated approach as important factors to consider (2015, p.60). Most of the governmental and organizational work highlights the necessity of incorporating the differentiated approach but, in fact, institutionalized practices are rare and

very difficult to implement (Anctil Avoine, 2017). The differentiated approach has, up to now, been poorly put in practice: it seems that every organization, governmental or not, is using this perspective in institutional texts, conferences and, projects. However, little has been done to materialize the discursive part into practical tools for reconciliation. The ARN has recently issued a report on the differentiated approach (CAR, 2014), giving few guidelines for the implementation of the gender approach in their reintegration programs. Nonetheless, the effective implementation of public policies concerning reintegration is already a difficult task: as such, the efficient materialization of the differentiated approach is almost nonexistent or deeply relies on the time and willingness of professionals in their daily practice (Anctil Avoine, 2017).

Regarding the gender differentiated approach, the overall strategy of reintegration through laws and public policies has been deficient “despite the fact that women account for 9 percent of the population participating in collective demobilization, 26 percent of minors in the reinsertion programs, and 12 percent of the individually demobilized” (Torres, Giha & Jaramillo, 2009, p.2). Because of the association of war with masculinity (Esguerra Rezk, 2014; Londoño & Nieto, 2006), DDR programs do not consider the problems facing women and LGBTQ+ populations even though they preach a differentiated approach: “Consequently, female ex-combatants may be marginalized, stigmatized, and excluded in different ways, not just with respect to their experiences in armed groups, negotiations, and DDR, but also with respect to transitional justice measures” (Dietrich Ortega, 2009, p.162).

In addition to gendered dimensions, many critiques have been made with regards to race and racism: the NCHM argues that the absence of an ethnic differentiated approach in the public policy on reintegration has had important consequences on black communities. Public policy has overlooked the changes they are able to confront while transitioning from rural areas to urban settings: “the reintegration routes do not consider their ethnical and cultural



particularities, which does not facilitate their reintegration in their community of origin and implies their relocation in economic, social and cultural contexts alien to their life trajectories” (2014, p.448-449).

Along the same lines, the CNRR have warned that a public policy on childhood and adolescence is required for the reinsertion process of young people that have been recruited against their will. This recommendation is based on the high vulnerability of young people in rural area of Colombia where armed groups are sometimes acting as a micro-state within the country (CNRR, 2010, p.252). Few years later, the problem is still evident: differentiated programs are still not implemented for children that have been part of the armed conflict who are generally placed with the Colombian Institute for Family Welfare (*Instituto Colombiano de Bienestar Familiar*) when they are under 18 years old, or with the ARN when they hit majority (Herrera & González, 2013, p.290; IEGAP, 2013, p.53). It is a crucial issue to address as most of the people involved in the guerrilla groups have done so while still minors (Mejía Jerez & Anctil Avoine, 2017).

Moreover, the transitional justice system implemented in Colombia tends to individualize the process of reintegration. In this manner, the perspective of reconciliation is conceived under binary identities in terms of distinctions between victims and perpetrators of violence (Cartagena DDR, 2009, p.47). A differentiated approach might exacerbate these problems as it stands for an individualization, normalization and naturalization of identities: rarely will the victims or the perpetrators be considered under multiple lens or overlapping identities. They are categorized under labels that are almost permanently reaffirmed in order to get benefit from state laws, systems and policies.

According to Sánchez, the NPSEER engages the differentiated approach from a “logic of binary opposition”, failing to account for the differences in-between genders, within genders

and outside the heteronormative frames (Sánchez, 2013, p.12). Binariness is also the frame of comprehension of the reintegration process: the ex-combatant, independently of gender, is expected to “normalize” and “incorporate” the heteronormative route traced by the institution<sup>18</sup>. In the document of the ARN referring to gender perspective in reintegration, it is assumed that “the two pillars of a differentiated attention by gender in programs of DDR is femininity and masculinity” (CAR, 2014, p.7). The same report also promotes an essential view on women’s role in reconciliation as it considers their particular abilities in home care work, extending this analysis to their higher capacities for conflict resolution (CAR, 2014, p.16).

In the end, the recurrent problem of the policies in Colombia transitional justice seems to be that the whole system is conceived around identity politics, in politics of difference. In the current political scenario, and almost 10 years after the implementation of the national policy on DDR, this has blocked reintegration and reconciliation processes in the country. In the next section, I suggest that a reflection on intersectionality of oppression might be an avenue to overcome these politics of atomization of identities.

### **3. The possibilities of intersectionality: a viable option for transitional justice in Colombia?**

*“In Colombia – a transition without transition, a peace process with neither peace nor process – feminist engagement with truth is not a campaign related to the past; it is a campaign very much of the present.”*  
(O’Rourke, 2013, p.121)

A central problem in transitional justice is that it provokes the hierarchy of certain rights over others, which most of the time implies that power structures are not questioned and structural entrenched oppressions persist. As seen in the previous section, the differentiated

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<sup>18</sup> As mentioned before, the bodily possibility of reintegration is limited: normalization is one of the pillar of this process which suggests that ex-combatants must fit into the society’s model – excluding the possibility of contesting the existing model.

approach has not responded to this important and increasing problem by not questioning the power structures and thus aids to maintain the existing systems of oppression.

Much has been discussed with regards to the differentiated approach in the context of the Colombian armed conflict: public policies are seen as the mechanism through which inequalities could be tackled or at least, reduced (Arteaga M., 2012; NCHM, 2014; CAR, 2014). However, gender dimensions have only recently been considered in transitional justice and public policy (Ní Aoláin & Rooney, 2007, p.339). Furthermore, the imbrication of oppression and differentiated affectation from the conflict have not been addressed within the Colombian context: as argued elsewhere, legal frameworks and public policies are very well constructed in Colombia but their implementation falls short when applied to the complex structures of entrenched and multiple dominations in the country (Anctil Avoine & Bolívar, 2014). The conceptualization of the differentiated approach in Colombia does not take into account the overlapping of oppressions – both for victims and victimizers, and for the blurred lines in between these judicial categories. In other words, rights have mostly been recognized in laws and policies, but in isolation and on paper only.

The intersectional perspective in feminist thought have allowed a reflection on positionality (Lugones, 2008; Ericsson, 2008, p.16). In the case of the Colombian conflict, oppressions have been multiple and, depending on positionality, it surely affects the post-conflict setting on an individual and collective stance. That is to say, “Intersectionality provides a framework for the analysis of how gender relations, class relations and configurations of ethnicity and race are interwoven in the structural make-up of a given society” (Rooney, 2007, p.98). Under these theoretical stances and seen as a “fast travelling theory” according to Knapp, intersectionality is perceived as an “analytical tool in transitional justice” which enables addressing “complex constellations of identity based discrimination” (Rooney, 2011, p.2-3).

As Ní Aoláin & Rooney have argued, women have generally been excluded from the transitioning processes and they also have mostly been left out of the different peacebuilding dynamics (2007, p.339; see also Serrano Murcia, 2014). As such, the authors argues that intersectionality theories represent an important “analytical and conceptual tools” because of their fluidity in analyzing social categories (Ní Aoláin & Rooney, 2007, pp.339-340). They claim that:

The theory allows analysis of the masculinity of conflicts and the dominance of elite men, who are key influencers in state institutions empowered to enforce or impede enforcement of negotiated terms.[...] It brings women into view and, furthermore, enables us to comprehend the strategic challenges faced by women’s groups organizing around common goals in transitional contexts (2007, p.340).

Along the same lines, one of the advantages of intersectional approach in DDR policies would be to stop considering women as a homogenous group as underlined by many feminists (Butler, 1990; Lugones, 2008, p.77). The public policies recognizes women as agents of change but do not consider frames of oppression that unequally allow women to get involved in the process of the reconstruction of society, leaving them at the margins of transition.

As Dietrich Ortega sustains, the relationship between female combatants and DDR processes have been overlooked in transitional justice which she attributes to the portrayal of women as nurturer of life and peacebuilders. Following that, women ex-combatants must also be “held accountable for crimes committed during a conflict” (Dietrich Ortega, 2009, p.1). But if the diversity of their experiences are important to the building of political engagement, more so is the understanding of the frames of oppression that marginalizes them within the reintegration public action. Women have played different roles in different armed but the DDR programs still fail to address “gender-specific needs” groups which further marginalize them in the transition and peacebuilding dynamics (Dietrich Ortega, 2009; Serrano Murcia, 2014). An intersectional approach offers the possibility to think about the complex oppression provoked by the condition of being a female ex-combatants.

An intersectional perspective also offers the opportunity to think about race in the Colombian context: most of the time, the word is not even mentioned in the legal text or public policies, but instead fall under the categories of “diversity” or “ethnicity”, hampering the consideration of structural racism (Gonzalez, 2011) in post-conflict settings. In the same vein, intersectionality allows for an understanding of the socio-economic forms of oppression that have been at the heart of the conflict since the beginning. Therefore, intersectional theory might pose questions regarding not only the overlapping of affectations, but also on the manifestation of these economic oppressions within the process of transitional justice that tends to reinforce the dominant neoliberal system. According to Ericsson:

Applying an intersectional perspective where ethnicity is recognized as a category with structural implications the collective dimension needs attention in the Colombian case. Collective recognition would offer rehabilitation and satisfaction to groups that were targeted in strategic oppression during conflict (2008, p.25).

Economic oppression is one of the significant cause of the conflict given that Colombia is one of the most unequal country in Latin America in terms of wealth and land distribution. Addressing the long-lasting effects of the dominant grip of landlords (*terratenientes*) and elites in Colombia is urgent as it has contributed to high levels of violence in the country (Argüello Parra & Anctil Avoine, 2017, p.233). Gendered, economic and social inequalities precedes the conflict and are exacerbated by violence (Ní Aoláin & Rooney, 2007, p.347). Intersectionality proposes the “introduction of the structural relations of social class in state formation”, interrogating the silences and absences in the construction of legal frameworks and policy programs (Ní Aoláin & Rooney, 2007, p.340; Crenshaw, 1989; Rooney, 2007, p.94). These authors together with Falcio & Fries (1999; 2005) have argued, legal frames are constructed on racist, heteronormative, patriarchal and classist basis: “Intersectionality brings light to how gender and race are separated and disconnected categories within legal frameworks, creating analytical blind spots in the law” (Bueno-Hansen, 2015, p.12). As such, for Lugones, the category of “women” as no significance without an analysis also based on the intertwinement

of gender with race (2008, p.82). These legal frames are currently sustaining the transitional justice system in Colombia as well as the public policies on DDR and do not interrogate power relations that sustain oppression. Consequently, “women’s day-to-day lives are not considered” (Ní Aoláin & Rooney, 2007, p.342) because they fall outside the legal frames of analysis. Intersectionality therefore seeks to inquire schemes of privileges and domination in order to question the status quo that sustains violence. This will also help to diminish the gaps in the conceptualization of the victim-victimiser conditions, responding to the necessity of enhancing the complementarity between DDR programs and victim attention programs according to the international standards in DDR (Herrera & González, 2013, p.274).

Intersectionality raises questions of representativeness: “In these contexts men are effectively construed as unproblematically ‘representative’ of the social categories of groups in conflict whilst women are categorised as essentially apart from these conflicts” (Rooney, 2007, p.97). In this manner, an intersectional approach put to the forefront of the discussion the frames of exclusion and inclusion: transitional justice often seeks to “come back to a state of peace” while most of the time, this idealized political situation is unequal and patriarchal. As Ní Aoláin, & Rooney claims “political and social inequality have to be part of the conversation that enables future in which all parties are included on an equal basis” (2007, p.345). In this manner, intersectionality can offer a point of departure to think of the processes prior to DDR, but above all, prior to the experience of armed conflict (Villarraga Sarmiento, 2015, p.95; Anctil Avoine, 2017).

Moreover, an intersectional – and decolonial – perspective on reintegration policies would foster the possibility of what Lugones calls “infra-politics” as a way of resistance (2010). It foster the work at the local level: it permits the understanding of interlocking systems and structures of oppressions that operates on the local level, which is particularly important in

Colombia where armed groups controlled “local constituencies<sup>19</sup>” (García-Godos & Andreas O.L., 2010, p.493). For example, one of the major problems facing women ex-combatants in the reintegration process is the marginalization related to the label of being demobilized – and women. Infra-politics actions would make a greater difference in their lives: it could foster spaces for them to share their experience as for now, they are generally isolated from each other, trying to disappear within the new society they live in (Dietrich Ortega, 2009).

It is obvious that an intersectional framework for transitional justice is not without major problems. The overall policies and legal apparatus in Colombia are complex and deeply intertwined in multi-level judicial processes. Questions are numerous: Is intersectionality adaptable to transitional justice, complex conflictive contexts or armed violence (Rooney, 2011, p.3)? In this complex context, do intersectionality run the risk of being “institutionalized and included in the ongoing bureaucratization of politics” (Carbin & Edenheim, 2013, p.234)? Given the important impact of policy transfers in the context of humanitarian assistance, do intersectional perspective in DDR run the risk of “whitening<sup>20</sup>” (Bilge, 2015) or being “colonized” (Utt, 2017)?

In spite of these legitimate critics, it worth considering the intersectional approach in DDR public policies in order to better address the necessities of the demobilized population as well as their interconnection with victims. Intersectional approach questions “power structures and social circumstances” (Ericsson, 2008, p.4). As argued by Rooney, “transitional justice can benefit from undertaking the theoretical challenges posed by intersectionality and that social stability in conflicted societies may be strengthened through addressing the corrosive impacts of inequality” (2007, p.174). Intersectional feminism poses the interesting challenge of

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<sup>19</sup> As argued by García-Godos & Andreas O.L., paramilitaries have been able to control the national politics by controlling first these local constituencies (2010, p.493).

<sup>20</sup> In French, Bilge uses the term “*blanchiment*”.

considering the multiple oppression systems that impede women's, black or indigenous people, to be part of the transitions while they have been, for the most part of the Colombian conflict, the primary victims – sometimes, even if on the “side” of combatants.

#### **4. Concluding thoughts**

The implementation of the public policy on reintegration in Colombia is a slow process that is interdependent with the transitional justice mechanisms and peacebuilding policies. Within this context, the differentiated approach is quoted in almost every documents, laws, public policy, transitional justice reports, etc. However, its practical implementation is far from being reached and, in the present paper, I have argued that its very conceptualization might be rethought under the light of intersectionality. At least for the moment, it must be a debate to foster in the midst of the current transitional justice debate in the country: as stated by Rooney, intersectionality at least raises “awkward” questions, questions never asked, hidden or taken for solved (2007, p.99) which is an important step to take in the Colombian context.

Peacebuilding, the outcome of transitional justice, cannot be conceived outside of the frames of diversity (Arteaga M., 2012, p.36). Moreover, it cannot fall into the acknowledgment of identity politics, based on categories instead of political representation. In the name of inclusion, some authors have been reaffirming the importance of using the category of gender in the implementation of the peace process of La Habana following the work carried out by the Sub-Committee on Gender during the talks (Magallón Portolés, 2017). In this paper, I have argued that a differentiated approach lacks of practical tools to confront the complex context of transitional justice and that public policies on reintegration should consider intersectional perspective as to make visible the many oppressions emanating of the armed violence that will be translated in “silences” in the post-conflict setting. As Bouvier argues, the DDR process is an occasion for rethinking policies and an opportunity for “creating new models of masculinity



and femininity” (2016, p.24). However, it might also be the moment to rethink our frames of understanding gender and racial oppression.

It has become clear that Colombia still lacks the institutional capacity to respond to the implementation of public policies of transitional justice. Reintegration and transitional justice are very complex institutional processes in Colombia and the overlapping of multiples dynamics and institutions in regards poses serious threat to truth seeking (García-Godos & Andreas O.L., 2010, p.503). The previous process of DDR and the public policy of 2008, although reworked and improved, have not responded to the “heterogeneity of ex-combatants” (Bouvier, 2016, p.24) neither have they considered the imbrication of oppressions and the complex relationships between the conditions of victims and those of perpetrators. Yet, it has been proven that post-conflict settings are a fertile ground for an increase of criminality and gender-based violence (Cartagena DDR, 2009, p.42) and a lot of human rights activists in Colombia have warned that the post-conflict setting will also provoke setbacks in activism and multiple forms of racialized marginalization to the benefit of international mineral extraction (Clayton Doughman, 2016, p.444). Within this scenario, an approach based on the intersection of oppressions is an interesting venue for the Colombian context.

To sum up, it must be reminded that there is a clear lack of research exploring the link between transitional justice, public policies and intersectional approach in DDR. This paper is an attempt to reduce this gap in literature regarding the Colombian context. In this regard, much studies are needed in order to acknowledge the role of civil society, social movements and bottom-up process of transitional justice and their effect on reintegration public policy, especially in the context of the peace agreement and the interaction that have been established with victims’ movements. An important field of inquiry would be to consider policy transfers and international cooperation functions within the Special Justice for Peace (*Justicia Especial para la Paz*) framework (OACP, 2016a). In this regards, international programs must take into

account the diverse overlapping oppressions and their consequence in the fragile post-conflict setting that will surely characterize the post-FARC-EP Colombia.

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