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Mapping Haiti's Road Toward Justice: Lessons from Colombia and Guatemala

KEY TAKEAWAYS

- Haiti needs a creative, whole-of-society strategy to counter gangs.
- Colombia's transitional restorative justice model and Guatemala's hybrid prosecution system contain useful lessons.
- Similar efforts in Haiti could help deliver justice, strengthen institutions and promote societal healing.

Wednesday, July 10, 2024 / READ TIME: 9 minutes

BY: Nicolás Devia-Valbuena; Gabriel Rojas-Andrade

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Haiti's new interim government faces immense challenges, but none are as urgent as breaking the stranglehold that gangs have over the country's capital, Port au Prince. Force alone will not bring peace, even with the arrival of the modestly-sized and Kenyan-led [multinational security support mission](#). The country instead requires creative, whole-of-society — not just whole-of-government — mechanisms to divert gang members from crime and violence as part of a comprehensive [counter-gang strategy](#).

One place to look, given the scale of atrocities that Haitians have suffered, is the application of transitional and restorative justice mechanisms that allow for healing, truth, justice, reparation and non-repetition. The skillful application of transitional and restorative justice principles could help satisfy the demand for justice while allowing many gang members a path to rejoin society.

Several examples from the hemisphere may provide helpful models: Colombia's transitional restorative justice model and the hybrid prosecution system employed in Guatemala have lessons that could provide justice for Haitian victims of violence and corruption in a way that both respects national sovereignty and strengthens institutional legitimacy.

“These transitional and restorative justice principles ... could also be an important part

of equipping Haiti’s judicial institutions.”

It would also allow for societal reconciliation over past cases, such as the misuse of [PetroCaribe funds](#), the 2018 [La Saline massacre](#) and the 2021 [killing of President Jovenel Moise](#). These transitional and restorative justice principles — as well as acknowledgements of responsibility by those who carried the aforementioned crimes — could also be an important part of equipping Haiti’s judicial institutions to process these cases, while building institutional strength that can be sustained in the future.

Balancing Restorative and Transitional Justice: Insights from Colombia

Colombia endured the longest armed conflict in the Western Hemisphere, which has affected nearly one in five of its citizens over a span of more than 50 years. This complex conflict involved diverse groups including guerrillas, paramilitaries and narco-traffickers, and was marked by serious violations of human rights.

The peace process, which produced the government’s 2016 agreement with the Revolutionary Armed Forces of Colombia (FARC) guerrillas, led to the establishment of the “[Comprehensive System of Truth, Reparations, Justice, and Non-repetition](#).” Central to this system is the Special Jurisdiction for Peace (JEP), which addresses the gravest violations committed during the conflict through a unique blend of transitional and restorative approaches.

[As defined by the JEP](#), transitional restorative justice is a form of participatory, collaborative and forward-looking justice aimed at addressing the harm caused to

victims by different actors during armed conflicts, reintegrating those involved in the conflict back into society, and restoring the social fabric.

This approach involves recognition and accountability processes, contributions to comprehensive reparation and dignity, and measures for prevention, protection and guarantees of non-repetition. The JEP's methodology shifts from traditional punitive justice to a more strategic, restorative and reconciliatory model by making the victims the protagonists of the process in the following ways:

- **Macro cases strategy:** The JEP categorizes violations into "macro cases" to efficiently manage and prioritize the investigation of the most serious crimes. This strategy helps identify patterns and systemic issues within the conflict, facilitating a more focused and effective judicial process.
- **Balancing truth and punishment:** Unlike conventional criminal systems, the JEP emphasizes uncovering the truth and restoring victim's dignity over mere retribution, with the principle of giving back to those harmed by the perpetrators built into the process. Offenders who cooperate with the JEP get reduced sentences and participate in restorative justice projects that directly benefit the victims, such as the restoration and repair of the environment and nature reserves; rural and urban infrastructure renewal; memorialization and reparations related to moral, sociocultural, psychological and emotional damage; education, literacy and training; and searches for disappeared persons.
- **Sentencing guidelines:** The JEP's sentencing framework is tailored to foster cooperation with judicial processes and societal reconciliation. Sentences for offenders can vary significantly, from as little as eight years of restricted freedom and restorative projects for those who cooperate with the process to up to 20 years of imprisonment for those who refuse to collaborate and are found guilty.

The JEP experience offers crucial lessons on how transitional justice mechanisms can be structured not only to deliver justice but also to promote societal healing and reconciliation. In adopting a similar approach, Haiti could:

- **Implement a macro cases system:** By identifying and prioritizing major patterns of violence, Haitian authorities can more effectively address the root causes and key actors within their complex conflict landscape. A JEP-like model adapted for Haiti could include a transitional justice mechanism, with Haitian magistrates identifying macro cases such as gangs who use [gender-based violence](#) as a weapon of war, the use of gangs as [political instruments](#) by elites, human rights violations in the context of self-defense groups ([Bwa Kale](#)), human rights violations in and around Port-au-Prince (including [massacres](#)), and the restriction of movement for goods and services as a weapon of war by gangs, among others.
- **Encourage restorative justice:** Following Colombia's lead, Haiti could benefit from integrating restorative justice principles within its judicial processes. This could include visible and tangible projects that take the geography of conflict into account by moving gang members from areas where they have committed crimes to areas where they can experience their country in a new light. The transitional justice process would also determine which individuals are punished and how — perhaps with lower-level gang members receiving restorative sanctions only, while sanctions for gang leaders would include jail time. This could be a big step toward societal healing, especially for younger gang members (an estimated 30-50 percent of [Haitian gang members are children](#)). Restorative justice projects in Haiti could include assistance to victims and other vulnerable groups; building infrastructure to facilitate return of the displaced; urban renewal projects; rural rehabilitation and reforestation; and the creation or restoration of historical symbols.
- **Focus on reconciliation and truth:** A systematic process for truth-telling and documentation accessible to all Haitians could help heal the country's deep trauma, much as it has in Colombia with the recommendations included in the final report of the [Truth Commission](#) published in 2023.

Strengthening Institutions and Dismantling Corruption: The Experience of Guatemala

Just like Haiti, Guatemala faced its own set of challenges in the mid-2000s. Ten years after signing the 1996 peace accords that ended more than 30 years of civil war, the

country faced soaring rates of criminal violence, with a [homicide rate](#) of 44 per 100,000 inhabitants — a rate similar to that of Haiti today and 29 percent higher than when the peace agreement was initially signed.

Multiple factors contributed to this violence, including urban gangs and competition among international drug trafficking groups. Criminal structures had also [captured state](#) institutions, using violence and corruption to maintain systems of political and economic privilege.

Recognizing the threat that these corrupt structures posed to justice and security institutions, civil society groups embarked on a years-long advocacy effort, culminating in a request by the Guatemalan government to the U.N. to strengthen the country's justice system, enabling it to identify and dismantle powerful criminal networks.

The mechanism created by the U.N. and the Guatemalan government was highly innovative. The International Commission Against Impunity in Guatemala ([CICIG](#)), which began operations in 2007, carried out complex, high-profile investigations in cooperation with national prosecutors and police, providing state institutions with the technical expertise and political independence needed to hold powerful actors accountable.

The commission's mandate also allowed it to propose reforms, such as legislation that established high-risk criminal courts, a witness protection program and legal procedures for asset forfeiture. CICIG did not prosecute cases in Guatemalan courts, but it could accompany trials by presenting evidence and supporting prosecution strategies. The commission supported investigations that uncovered criminal structures in the highest ranks of the Guatemalan government, including a scheme to [defraud customs](#) that brought down the country's president and vice president in 2015.

CICIG went beyond conventional technical assistance missions by working proactively with national authorities to strengthen the capacity of the state. It combined international expertise with the host country's knowledge and human capital. Because it operated with the host country's consent, the commission was less intrusive than an international tribunal and operated not only in compliance with national laws, but also with the collaboration of local institutions.

“Properly structured and supported, an international commission against impunity in Haiti would build national capacities and empower institutions and civil society.”

Neighboring [Honduras](#) and [El Salvador](#) later established similar hybrid mechanisms, this time with the cooperation of the Organization of American States. These systems could provide blueprints for a similar mechanism in Haiti. Properly structured and supported, an international commission against impunity in Haiti would build national capacities and empower institutions and civil society to reform and beat back corruption.

A hybrid commission, backed by international expertise and financial support, could work with Haitian prosecutors to shed light on the PetroCaribe corruption case, as well as on the killing of President Moïse. It could also help Haitian legislators create and implement judicial reforms to make the system more transparent, independent and effective.

Guatemala's CICIG and the mechanisms established in neighboring Honduras and El Salvador also offer cautionary lessons, however. All three came under attack when they threatened powerful domestic interests. The CICIG enjoyed “[too much success](#),” triggering a harsh backlash from elites. The Guatemalan government [shuttered](#) CICIG in 2019. Honduras [declined to renew](#) its mechanism in 2020, with El Salvador [dissolving its own mechanism](#) in 2021. Their demise underscores the need to maintain broad political and popular support while strengthening the capacity of domestic justice and security institutions to operate on their own.

Building a Haitian Model

Haitians finally have an opportunity to rebuild their country after years of intensifying crises. Whether they succeed in building a democratic future with sustainable peace and security depends on the decisions Haitian political leaders take today.

The new government faces urgent needs for security, economic revival, and the restoration of health, education and other vital public services. But it must also start the process of building strong, transparent judicial institutions. Allowing criminal structures to remain intact and unpunished while leaving victims to fend for themselves would trap Haiti in recurring cycles of conflict and corruption.

Imparting justice — especially in countries emerging from violent conflict — is a delicate balancing act. Haitian society faces contentious debates over how to design its own mechanisms to punish violent, corrupt actors while helping traumatized victims heal and restoring social trust. Finding the right balance will require an inclusive dialogue process that allows the Haitian people to develop and lead their own anti-corruption and institution-building processes.

The restorative approach of Colombia's JEP and the hybrid mechanism of Guatemala's CICIG may provide useful tools. But Haitians themselves will need to

choose the combination that best fits their needs and design their own roadmap toward a future that combines both justice and peace.

Gabriel Rojas-Andrade is the director for restorative justice with USIP's Colombia program.

PHOTO: Morning in a neighborhood of Port-Au-Prince, Haiti. July 18, 2021. (Federico Rios/The New York Times)

The views expressed in this publication are those of the author(s).

PUBLICATION TYPE: Analysis

ABOUT THE AUTHORS

Nicolás Devia-Valbuena

Program Analyst

Gabriel Rojas-Andrade

Director, Restorative Justice, Colombia

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