

Colombia's Integral System of Truth, Reparations, Justice and Non-repetition:

FAQ (Frequently Asked Questions):

THE SYSTEM:

Q: What is Colombia's Integral System of Truth, Reparations, Justice and Non-repetition?

A: The Integral System is an agreement between Colombia's government and the FARC (Armed Forces of the Colombian Revolution), and constitutes part of a broader Peace Agreement to end Colombia's 50-year-long civil war. The Peace Agreement must still be finalized, signed, approved by the Colombian people and incorporated into Colombian law. The Integral System will include a truth commission, reparations for victims of violence, an agreed system of justice for past international crimes, and measures designed to avoid a repetition of those crimes.

Q: What is the purpose of the Integral System?

A: Together with other components of the Peace Agreement, the Integral System seeks to end the armed conflict, promote reconciliation and justice, and respect the rights of victims and Colombian society under international humanitarian and human rights law.

Q: What is the Special Jurisdiction for Peace?

A: The Special Jurisdiction for Peace implements the justice component of the Integral System. It is designed to guarantee the rights to truth, reparations, justice and non-repetition for victims of war crimes, crimes against humanity, serious human rights crimes, and similar crimes under Colombian law, committed during the civil war. The Special Jurisdiction will be exercised by a newly established Tribunal for Peace.

TRUTH:

Q: How will the Tribunal for Peace ensure respect for the internationally recognized right of victims to learn the truth about the international crimes committed against them?

A: The Tribunal for Peace will allow reduced sentences for those guerrillas who fully and publicly disclose the truth of their international crimes, and who accept responsibility for their actions. Guerrillas who disclose the truth about very serious crimes, and accept responsibility for them, will be sentenced to labor and effective restriction of liberty for five to eight years.

In contrast, guerrillas who fail fully to disclose the truth, or to accept responsibility, may be prosecuted before the Tribunal for Peace and sentenced to up to 20 years in prison. These far harsher sentences for non-disclosure will give guerrillas a strong incentive to disclose the full truth and accept responsibility for their actions.

In addition, the Integral System established by the peace accords includes a truth commission, which will examine the broader truth of what happened in the civil war, and why, beyond the facts and responsibilities of particular crimes.

REPARATIONS:

Q: How will the Tribunal for Peace ensure respect for the internationally recognized right of victims to reparations for international crimes committed against them?

A: Guerrillas who fully disclose the truth and accept responsibility for very serious international crimes will be sentenced to five to eight years of labor on projects to provide reparations to victims, which will also entail effective restriction of their liberty (see below). For example, if guerrilla violence caused the forced displacement of a community, the guerrillas may be required to labor on farms in the community, provided the community agrees. Prior to sentencing, the guerrillas must propose a plan of work by which they propose to provide reparations. They must consult with victims in the area affected, in order to hear their views and to ascertain whether the victims accept the plan. The victims will also have the right to make their views known to the Tribunal for Peace. Only then will the Tribunal for Peace impose its sentence and order sanctions. The Tribunal may accept, reject or modify the proposed plan of reparative labor.

In addition, other components of the Integral System will require the FARC to provide reparations programs, beyond those imposed case-by-case by the Tribunal.

JUSTICE:

Q: How will the Tribunal for Peace ensure respect for the internationally recognized right of victims to justice for international crimes committed against them?

A: Guerrillas who do not fully disclose the truth of their actions and accept responsibility may be prosecuted before the Tribunal for Peace and sentenced to up to 20 years in prison. Those who do fully confess, and who accept responsibility for very serious international crimes, may still be sentenced to five to eight years of reparative labor, with effective restriction of their liberty.

For lesser crimes or for persons with lesser responsibility, sentences could be shorter. But since crimes against humanity and war crimes are by nature very serious, there should be few, if any, sentences of less than five to eight years for the persons most responsible for these crimes.

Q: Will the sanctions restrict the liberty of guerrillas who tell the truth and accept responsibility for their crimes?

A: Yes. Their liberties, including their freedoms of movement and residence, will be effectively restricted. The Tribunal for Peace will determine the place where they will perform labor for purposes of reparation and where their liberty will be effectively restricted. Their compliance

and good behavior will be monitored by national or international observers. The Tribunal on Peace will determine whether they have complied with the conditions of their sentence.

Q: How will the Tribunal for Peace know whether guerrillas are fully disclosing the truth?

A: The Tribunal will receive full reports from Colombia's Prosecutor General -- who has investigated FARC crimes for many years -- as well as reports from other Colombian State agencies, human rights organizations, and victims' groups. The Tribunal will be empowered to compare all this information with the disclosures made by the FARC.

Q: Is the Colombian Jurisdiction for Peace the same as the "truth for amnesty" approach used in South Africa at the end of apartheid?

A: No. In South Africa, perpetrators who agreed to tell the truth were amnestied. In contrast, Colombian guerrillas who tell the truth about serious international crimes will not be amnestied. They will be sentenced to five to eight years of reparative labor, with their liberty effectively restricted as described above. In addition, they must not only tell the truth, but must also publicly accept responsibility for what they did -- a form of moral reparation, which experience worldwide has shown is highly valued by victims.

LESSER CRIMES:

Q: What will happen to guerrillas who have not committed international crimes?

A: No one will receive amnesty for crimes against humanity, war crimes, genocide, or serious international human rights crimes such as extrajudicial executions, forced disappearances, torture, sexual violence, forced displacements, taking civilian hostages, grave deprivations of liberty, and recruiting or using child soldiers, or for similar crimes under Colombian law. However, amnesty may be granted for rebellion and related political crimes as well as other crimes inherent in the act of armed rebellion.

Such an amnesty will in any event shield perpetrators only from criminal prosecution, and only for those crimes. Victims will retain the right to sue perpetrators for any damages caused by those crimes.

Q: Why allow any form of amnesty at all?

A: The 1977 Geneva Protocol II calls for the "broadest possible amnesty" at the end of hostilities in a civil war. If there were no such amnesty, guerrillas might never make peace. However, no amnesty can or will be allowed for serious crimes under international humanitarian and human rights law, or for similar crimes under Colombian law.

Q: Will guerrillas responsible for kidnapping civilians be amnestied?

A: Rarely, if ever. Nearly all kidnappings of civilians in a civil war qualify either as the taking of hostages (a war crime) or grave deprivations of liberty (crimes against humanity if carried out

systematically). The FARC admit that they kidnapped civilians as a matter of policy until 2012, when they finally revoked their policy, recognizing that it was an “error.”

NON-REPETITION:

Q: How will the Tribunal for Peace ensure respect for the internationally recognized right of victims to non-repetition of the international crimes committed against them?

A: If perpetrators continue to commit internationally recognized crimes, or similar crimes under Colombian law, they will lose the benefit of their reduced sentences, and can also be prosecuted for any new crimes. More broadly, the peace accords will provide for the demobilization, disarmament and reintegration of FARC members into the peaceful political life of the nation. This will make repetition of war crimes less likely.

OTHER PARTICIPANTS:

Q: Will only the FARC guerrillas be eligible to submit to the Special Jurisdiction for Peace?

A: No. Colombian security forces may choose to participate under terms that will be fair and comparable, but not identical, to the justice provisions governing the FARC. Separately, the smaller ELN guerrilla group, with which peace talks are currently underway, may also choose to participate in the event it reaches a peace accord with the Government. In addition, persons who provided financial or political support for paramilitary combatants may choose to participate. However, paramilitary combatants, who have already had the opportunity to participate in Colombia’s earlier “Justice and Peace” law, will not be eligible to submit to the Special Jurisdiction for Peace.