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“The deal was not about forgiveness, but about moving forward”

Questions and answers with [Valerie Rosoux](#) and [Mark Anstey](#) on peace, reconciliation and the Colombian referendum

1) It seems that a small majority of the Colombian voters have rejected the agreement, largely because of questions of justice and reconciliation. Could you quickly describe how these issues were addressed in the peace agreement?

Under the agreement, rank-and-file fighters could be granted amnesty, while those suspected of being involved in war crimes, crimes against humanity and genocide will be judged in special tribunals. That means that no pardons will be granted for these crimes (taking of hostages, torture, forced displacement or disappearance, extrajudicial executions, or sexual violence). By contributing to truth-telling and admitting wrongdoing, defendants could get reduced sentences and alternative sentences such as community service work, like removing land mines planted by the FARC).

This transitional justice regime attempts to balance the rights of victims to justice, truth and reparations with the government's obligation to prosecute and punish the crimes that were committed.

2) Issues of peace versus justice, of rewarding perpetrators and punishing victims, but also a focus on the crimes of only one side and not the other, typically need to be addressed in a peace process. Do you think these issues were addressed sufficiently in the Colombian process

and what could have been done to avoid the current rejection?

The issues of peace versus justice were central during the whole negotiation process. Several experts consider that there is probably no other peace process in the world where victims have occupied such a central role. Thousands of victims presented proposals to the talks. Under the agreement, new transitional justice mechanisms give priority to truth-telling and repairing the damages inflicted on victims, without renouncing the need for justice. The rural regions in Colombia, which have been the most affected by the conflict with the FARC, voted in majority in favour of the peace deal (such as Chocó, Vaupés, Cauca, Putumayo, Nariño and La Guajira), while the votes against the agreement were largely cast in the urban provinces. Mr. Uribe, the former president, had argued that the agreement was too indulgent on the rebels, who should be prosecuted as murderers. However, the parties could hardly have done more in order to balance all needs. A punitive approach offers leaders of the rebels no way back and locks the parties into further rounds of violent conflict.

The rejection of the agreement cannot only be understood as the symptom of a lack of consideration regarding the issues of peace versus justice. In the aftermath of a civil war that lasted more than 50 years, wounds are not only open, but also festering. Six million people

were displaced, and 220,000 people were killed in the fighting. Therefore, the current distrust towards the FARC is not surprising. Moreover, the question of sincerity is always problematic. Are the former rebels sincere? What are the genuine reasons behind their statements? These questions remain open.

However, the deal was not about forgiveness, but about moving forward. It is striking that a referendum of this sort can be framed for voter in terms of whether past crimes should be ‘forgiven’ (in a legal sense) for foot soldiers and managed within a logic of leniency for leaders. Such a framing is past oriented. A future oriented approach might frame the referendum whether voters prefer to put their own or their children’s lives at risk in a continuing war, or end the war through a system of lenience. In some instances the purpose may be less a reconciliation of parties with one another, more a reconciliation with the world as it really is.

Of course rebels might have only become interested in a deal if they are at risk of defeat – in which case the government might want to pursue the war to total (unlikely) victory but there will be costs in such an approach in lives and the economy. The fact that the FARC is interested in staying with the process despite its rejection by voters indicates that a deal has become preferable to continuing hostilities. In which case it will be a pity if the moment is lost for a deal that might reduce a loss of life.

3) Assuming that the parties remain committed to peace, what can be done now in terms of reconciliation which would enable the peace process to continue?

The negotiation process will likely continue, but with other parties at the table. Beyond the conflict between the Colombian government and the FARC, a deal has to be found between Mr. Santos, the Colombian president, and Alvaro Uribe. In this regard, the zone of potential agreement is extremely thick. How can

we negotiate reconciliation in seeking harsher punishments for former rebels?

The willingness to simply “redo” the process in being tougher might be illusionary. If the ceasefire ends, will a pretty large part of the Colombian population consider that those who campaigned for ‘No’ are now responsible for new deaths and victims? There is much at stake. Post-conflict situations are precarious. Up to forty percent of peace agreements slip back into violent conflict within a decade. Therefore there is probably no alternative to a process of joint problem-solving. Although terribly frustrating for victims, incomplete justice sometimes appears as a practical necessity. The Colombian case illustrates a general question raised by Hannah Arendt: how to exercise justice after crimes “that one can neither punish, nor forgive”?

In order to cope with that issue, the central question is maybe not whether justice is done, but rather how one goes about doing it in ways that can also promote peaceful coexistence between parties. In the long term, justice does not only concern the way to compensate victims as much as possible, but also – and even more – the necessity to revise the system in which parties are in relations so that injustices perpetuated in the past would no longer be possible in the future.

Valerie Rosoux and Mark Anstey are finalising a book on negotiation and reconciliation based on a [PIN/Clingendael project](#).