



Direct inclusion of civil society in peace negotiations

*A case study analysis of the inclusion of victim delegations in the 2012-2016
Colombian peace process*

MASTER THESIS

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“El tema de víctimas es el más importante y difícil de la agenda: con el tema de víctimas se define el modelo de la justicia transicional, una arquitectura integral de medidas para asegurar la verdad, la justicia, la reparación, la no repetición y la reconciliación. Ningún tema genera tanta polarización como la justicia, ningún desafío va ser mayor que la reconciliación, y nada es más importante que lograr la no repetición.”

“The topic of ‘victims’ is the most important and difficult one on the agenda. It defines the transitional justice model; the integral architecture of measures to ensure the truth, justice, reparations, non-repetition and reconciliation. No topic generates as much polarisation as justice, is as challenging as reconciliation and is more important than achieving non-repetition.” [translation]

- F. Hochschild, 2014. Opening statement at the National Forum for Victims in Cali.

Abstract

This thesis advances a theoretical model conceptualising the causal mechanism that links the inclusion of civil society actors to a strengthening of the legitimacy of a peace process. It finds that there are four necessary, although in itself insufficient, parts that shape the causal mechanism: the idea to include civil society actors, the selection process, the representation, and the attitude of the public. Throughout all of these parts, various actors undertake activities to exert causal force and influence the process to their benefit. Understanding how intervention X (the inclusion) shapes outcome Y (a more legitimate peace process) is fundamental to analyse and evaluate inclusive transitional justice mechanisms. The Colombian peace process (2012-2016) is used as a case-study to analyse how the inclusion of victim delegations has affected the legitimacy of the overall process. I find evidence that illustrates a steep increase in confidence and support for the peace negotiations between 2014 and 2015 (corresponding with inclusion of the victim delegations). A significant body of account evidence and *e silentio* evidence hints to a positive effect of the victim delegations, but it cannot be decisively demonstrated, to the exclusion of all other possible causes, that this is directly attributable to the inclusion of the victim delegations.

Keywords: Transitional justice, inclusion, legitimate representation, legitimacy, victims, victim delegations, Colombia

Foreword

This thesis concludes my master in Human Geography: Conflict, Territories and Identities. Unfortunately, it is a product of adaptations and concessions. Just a few days prior to my departure to Colombia – where I would go to conduct field work, follow Spanish classes and do an internship with a victim organisation – the full reality of the Covid-19 crisis dawned on us and forced me to stay in the Netherlands. I consequently had to move back in with my parents and adjust my methods, taking into consideration that I would have to do research based from the living room table rather than in the field. My enthusiasm for Colombia did not waver and the subsequent stubbornness meant I did not want to completely change my topic. However, as a result of this, I have felt myself become more and more alienated from the topic: the process started off as an adventure but by the end had become a dragging responsibility.

I wish I would have had the opportunity to collect my own data and learn more about the situation ‘on the ground’, especially because contextual knowledge and experiences are invaluable for this research method. The inconclusive results of the case study now leave me with a somewhat dissatisfied feeling. Nevertheless, the process of writing this thesis has been very valuable, forcing me to deal with unexpected developments and learn about research methods I had never heard of. I have still learnt a great deal; both about the context of my topic, as well as about doing research. The process was just a little less enjoyable than it could have been.

I want to express my profound gratitude to anyone and everyone that has contributed to this process in some manner. First of all, my friends and peers, with whom I could ventilate my thoughts and ideas to receive valuable input or feedback. Secondly, I want to thank my uncle Arthur, who sent me *De wet van de stilte* (2019) when I learnt that I could not go to Colombia myself. In this book, the author travels through Colombia and tries to get the know ‘the real victims’ of the conflict: people that live in remote areas, have no resources and/or political representation and (still) live in constant fear for their lives. For anyone that is interested in a refreshing perspective on the topic and in what I would have liked my research to look like, I recommend you to read this book. Thirdly, I want to thank my supervisor Dr. Bomert, who was always quick to reply and assist me throughout the process, despite the fact that my topic does not lie within his field of expertise. And last but not least, I want to thank my parents for their unconditional love and support, both in this process and in general. Without you everything would have been a lot, lot harder.

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Glossary

AUC	Autodefensas Unidas de Colombia (<i>United Self-defense forces of Colombia</i>)
CSA/-O	Civil Society Actor/Organisation
ELN	Ejército de Liberación Nacional (<i>National Liberation Army</i>)
FARC(-EP)	Fuerzas Armadas Revolucionarias de Colombia (– Ejército Pueblo) (<i>Armed Revolutionary Forces of Colombia – People’s Army</i>)
GOC	Government of Colombia
IDP	Internally Displaced Person
ICTJ	International Centre for Transitional Justice
LAPOP	Latin American Public Opinion Project
M-19	Movimiento 19 de Abril (<i>19th of April movement</i>)
MOVICE	Movimiento Nacional de Víctimas de Crímenes del Estado (<i>National Movement of Victims of the State</i>)
NU	Universidad Nacional (<i>National University of Colombia</i>)
OIM	Organización Internacional para las Migraciones (<i>International Organisation for Migration</i>)
UN	United Nations
UNDP	United Nations Development Programme
UNGA	United Nations General Assembly
UNSC	United Nations Security Council
USAID	United States Agency for International Aid
UP	Union Patriótica (<i>Patriotic Union</i>); Political party of the FARC in the late 1980s
Bacrim	Armed gangs (Bandas Criminales)
Basta Ya	Enough already
Comunicado conjunto (CC)	Joint statement
Falsos positivos	False positives: Government forces had to meet certain quota of killed <i>guerrilleros</i> under president Uribe. To boost their numbers, they regularly killed civilians and dressed them in guerrilla outfits

Chapter 1: Introduction

1.1 Introduction to the case

Colombia suffered more than five decades of conflict as a result of civil war and the evolving organised criminal activity surrounding the drug market. A long history of political violence and socioeconomic inequalities led to peasant and communist uprisings in the 1960s. The result of these uprisings was the creation of several guerrilla groups, of which the two notable remaining groups are the *Fuerzas Armadas Revolucionarias de Colombia – Ejército Pueblo* (FARC-EP)¹ and the *Ejército de Liberación Nacional* (ELN). Right-wing paramilitaries countered them with complicity of public officials and the elites who sought to protect their interests (ICTJ, 2009). To complicate matters even further, armed groups (*bacrim*s) and drug cartels also sought to advance their own agendas, at times partnering with left- or right-wing groups. This is why the Colombian conflict is dubbed one of the most protracted conflicts in the world.

After four years of negotiations, the Colombian government and the FARC reached a peace agreement in August of 2016. This agreement was hailed as a monumental moment, officially ending 52 years of armed conflict in which more than a quarter of a million people lost their lives and more than six million people became internally displaced (Correa, 2015). One of the most striking features of the peace process was that it sought to offer a central role to the victims of the conflict; something which was until then unique in the world of transitional justice. The formal participation of these so-called *victims' delegations* is by many scholars and policymakers expected to set a precedent for future transitional justice processes, under the assumption that the incorporation of victims in the negotiations promotes reconciliation, legitimacy and the durability of peace.

The 2016 peace agreement aptly reflects the extremely polarised society and deeply entrenched politics that epitomise Colombia. The initial agreement between the government and the FARC was put to a vote in a national referendum on October 2, 2016. People could answer 'yes' or 'no' to the question whether they supported the Final Agreement for the Termination of the Conflict. Since the announcement of the referendum, both the 'yes' and 'no' supporters commenced extensive political campaigns, backed by influential and wealthy patrons. President Santos was the face of the 'yes' campaign, backed by many politicians (left, centre and right-wing) and famous Colombians like Shakira, Juanes, and Falcao (RCN radio, 2016a). Senator and former president Álvaro Uribe, who had promised to tackle guerrilla groups during his presidency, was the most prominent supporter of the 'no' campaign. He was backed by senior members of his own Democratic Centre party and several other politicians. Their most important arguments against the peace deal were the lenient punishments for guerrilleros, the ten unelected seats in parliament that would go to FARC representatives and the – as they called it – legalisation of narco-trafficking (RCN radio, 2016b).

To the surprise of many, the agreement was rejected with a narrow margin of 0.4%² (BBC, 2016). This led to an awkward process of renegotiations, after which the final agreement was signed and ratified by Congress in November 2016, without further involvement of the public. On the one hand, the agreement marked a huge step forward by officially ending a

¹ Hereafter referred to as the FARC. This is not to be confused with the *Fuerza Alternativa Revolucionaria del Común*, the political party of the FARC that was established after the 2016 agreement.

² 50.2% against the agreement, 49.8% in favor. However, the low turnout (37%) allowed the government to disregard the referendum's outcome.

devastating conflict, demobilising thousands of guerrilleros and establishing “one of the most extensive reparation programs the world has ever seen” (Bakiner, 2019). On the other hand, many people (especially victims) argue that nothing has really changed. The original power structures are still in place, many actors of the conflict have not been tried and demobilised combatants are slowly picking up weapons again (Centro Nacional de Memoria Histórica (CNMH), 2013; Grattan, 2019; Anema, 2019). The root causes of the conflict, the extreme inequality and poverty, have not been addressed and many of the obligations (especially by the government) have not been fulfilled. In part this can be attributed to the power of the elite, who have no need for reforms, and because of the reluctance of the government to implement the agreement since right-wing president Ivan Duque came to power in 2018.

This reluctance to implement the agreement by the government, in addition to the high level of insecurity for demobilised combatants and human rights activists³, has led to a lot of domestic and international pressure on president Duque to honour the agreement. Another worrisome development is the depopulation of the transition camps and the call for a return to arms by former commanders of the FARC in August 2019 (Reuters, 2019). The frailty of the peace, distrust of the government by large parts of the population and the number of victims that are not represented and compensated are some of the reasons why it is far too soon to call the peace process a success or completed.

The negotiations included three participatory mechanisms to include victims. Firstly, a web portal to receive written proposals for the content of the peace accords was established, to which 9,306 proposals were sent. Secondly, the parties stipulated a series of mechanisms for direct consultation with relevant actors in Colombia, which facilitated processes of deliberative dialogue with governors and mayors concerning the general issue of the peace process (Brett, 2018). Finally, and most significantly, the negotiating parties proposed the formal inclusion of victims of the armed conflict in the peace talks in Havana. Five delegations of 12 victims each were invited to the negotiating table to offer their expectations regarding peacebuilding and the guarantee of the rights of victims. The members were to be selected on principles of plurality and balance, although they were not intended to represent the millions of victims (Brett, 2018). Especially the latter mechanism, the direct formal inclusion, will be at the heart of this thesis.

1.2 Goal of this thesis

The goal of this thesis is twofold. Firstly, it seeks to contribute to existing transitional justice theories by advancing a model that elucidates how the inclusion of civil society in peace negotiations is imperative for a legitimate peace agreement. The idea is that this model can be applied to analyse the inclusion of any civil society actor in any conflict-resolution setting. Secondly, the model will be applied to the Colombian case to test its robustness and assess if the participatory mechanisms that were adopted in the Colombian peace process (most notably the victim delegations) did increase the legitimacy of the final peace agreement. Inclusion of victims by means of direct participation is a novelty in the world of transitional justice and little research has been done to analyse the functioning and impact of this form of inclusion. This research will add to our understanding of this mechanism and might offer practical implications for future peace processes.

³ At the end of 2019, an estimated 150 ex-combatants and between 300 (government data) and 700 (think tank *Indepaz*) human rights activists were murdered (Reuters, 2019).

The contribution to existing theories

This research is based on the normative and intuitive claim that the inclusion of civil society actors is beneficial for the legitimacy of negotiations and consequently for the prospects of peace. This claim is also underscored in several studies over the past two decades, by scholars who extensively scrutinised the theory that inclusion is inherently linked to legitimacy (Bell & O'Rourke, 2007; Belloni, 2008; Lanz, 2011; Zanker, 2014). Nilsson (2012) finds that agreements inclusive of civil society actors are less likely to lead to conflict resurgence, and Blaydes & De Maio (2010) argue that broad societal participation is key to conflict resolution. Although some studies show mixed effects of the inclusion of civil society actors, overall it has been demonstrated beyond doubt that inclusive negotiations promote legitimacy and durable peace (Wanis-St. John, 2008; Zanker, 2014; Mendes, 2020). This moved the discussion from 'if' to 'how' and led specialists to speculate how to promote inclusive negotiations while avoiding the echo that too many voices makes agreement impossible.

Although normatively the inclusion of victims through victims' delegations seems incontrovertible, an extensive study by the Graduate Institute of International and Development Studies in Geneva concluded that there is a lack of knowledge as to how inclusion can practically work in order to have a positive impact on the quality and sustainability of peace deals without reducing the likelihood that agreements are being reached (Paffenholz, 2015). Paffenholz (2014) herself did advance a framework of modalities how civil society actors can be included in peace negotiations. Losnegard (2017) built on this framework to show the level of inclusion matters: CSOs that are included closer to or directly at the negotiating table, have more opportunities to get points on the agenda or influence the decision-making process.

There have been some studies and reports into the role of victims in the peace process in Colombia (Brett, 2017; Mendes, 2020), but none of these analyse the inclusion of victims as a causal mechanism for a more legitimate peace process. This means that little is known about victim delegations as a participatory mechanism, and how actors undertake activities to influence the outcome of the process. Understanding this process is elemental to determining the effects of the inclusion, and how it can potentially be ameliorated.

One of the reasons why it has been elusive to study the relation between inclusion and legitimacy is because the concept of 'inclusion' has been black-boxed: it is treated as inherently benign concept without room for a critical discussion (Owen, 1994). Figure 1 demonstrates how, on a theoretical level, inclusion is often considered a substitute for legitimacy. Paffenholz (2015) stresses how the push for broader inclusion is often motivated by realpolitik rather than normative assumptions. Conflict parties and mediators often perceive inclusion as a legitimising 'bureaucratic box' to be checked off a list and make no distinction between the notions of participation and representation (Mendes, 2020). I therefore argue that there is a need for a comprehensive model that opens the black box and not only addresses the *how* but also the *why*. What are the causal connections that account for the occurrence of this particular series of events to the exclusion of all others (Harari, 2011)?

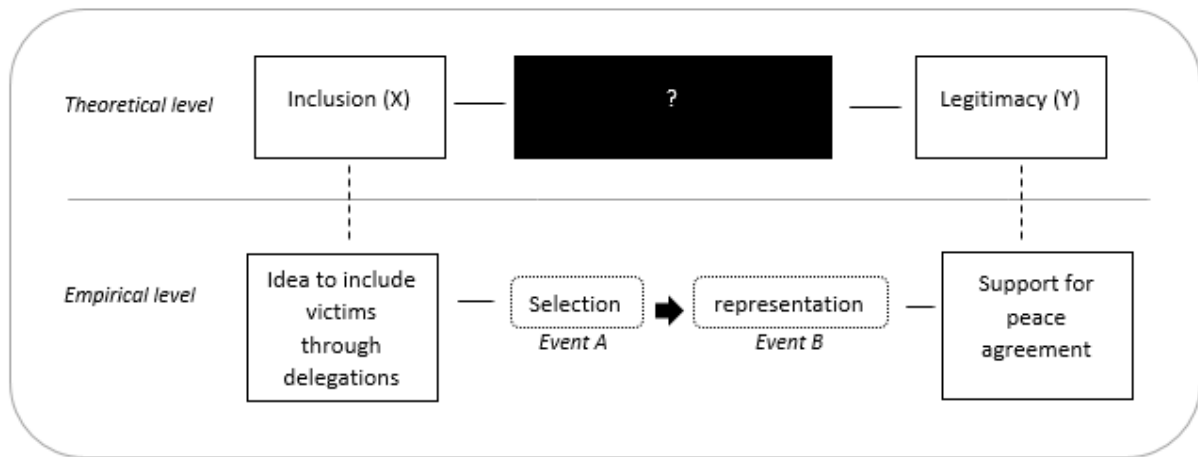


Figure 1: The black-boxed causal mechanism that links inclusion to legitimacy

Relevance of the Colombian case

Colombia has an unrequested experience with transitional justice processes, considering that it has been engaged in as many as ten (failed or successful) peace negotiations in the past three decades (Donkers, 2017). It is therefore not entirely surprising that it is often looked upon as one of the leading countries with regard to innovative transitional justice models. The Colombian peace negotiations between the government and the FARC were hailed as groundbreaking in terms of inclusivity and reparations to the victims. The negotiating parties sought to grant a central role to civil society actors, most notably victims, by including them through written proposals, fora and direct inclusion at the negotiating table. In addition, an extensive reparation program was created to compensate the more than eight million registered victims of the FARC, paramilitaries and government forces (Herbolzheimer, 2016).

As Brett (2017) points out in an extensive report written for the United Nations, this peace process was the first peace process (in the world) where victims were granted a role as active participants. Since the proliferation of transitional justice processes⁴ in the late 1980s, victims have generally been regarded as passive and non-agentive actors within both legal and scholarly debates (Druliolle & Brett, 2018). This powerless and marginalised position meant that decisions were made about or for victims, without actively including them. At the start of the negotiations in 2012, the Colombian government and the FARC both agreed that victims would play a more active role, to ensure a representative, inclusive and therefore durable agreement. The victims – as part of the local communities – were considered to be instrumental in the successful demobilisation and reconciliation and their inclusion in the negotiations would contribute to a more durable peace.

Scholars already spoke of a shift towards more victim-oriented peace processes (García-Godos & Andreas, 2010; Druliolle & Brett, 2018; Rueda Guzman & Holá, 2019), because victims' demands have been increasingly put at the centre of the transitional justice discipline and transitional justice mechanisms like truth commissions, memorialisation projects and reparations programs see to it that victims are heard and repaired (García-Godos, 2016). This is one of the reasons why the Colombian case is the perfect fit to study the relation between inclusion of civil society and the legitimacy of the overall peace process: the Colombian peace process is emblematic for this potential shift, because it disregards the victims as passive actors and grants them a central role. In fact, the participatory mechanisms that were implemented in the peace process – especially the victim delegations – could serve as the foundations for more inclusive and legitimate peace processes in the future (Brett, 2018).

⁴ See Conceptual framework for definition.

One of the studies points out that the victims' delegations actively denounce the idea that they represent a wider group of victims and thereby overlook inherent characteristics of their role (Mendes, 2020). Moreover, inclusion through victims' delegations has not been studied as a causal mechanism, even though it has been regarded as such. This is highly problematic since this participatory model might set the precedent for future peace processes. I therefore argue that more research is needed to carefully scrutinise the effects of participatory mechanisms (with a specific focus on the victim delegations) on the legitimacy of the overall peace process to really know its worth.

1.3 Research question

The underlying rationale of this thesis is to determine how the direct inclusion of victims has affected the legitimacy of the overall peace process. A thorough understanding of the effects it has, will contribute to a framework for future peace processes, with both scientific and practical implications. Existing theories suggest that direct inclusion of civil society actors results in more legitimate peace negotiations, and if made case-specific, this leads to the following hypothesis

The direct inclusion of victims, by means of victim delegations, has resulted in substantially more legitimate peace negotiations (2012-2016) in Colombia.

The idea is to steer the debate from 'faith-based' (inclusion is normatively desirable) to 'fact-based' reasoning (empirical evidence) (Thoms et al., 2008), by carefully scrutinising the selection process of the victims that participated, the level of representation, the experiences of the victims that were included and the public attitude towards the victim delegations. I use the word 'substantially' to indicate that it must be established beyond reasonable doubt that the potentially increased legitimacy of the negotiations can directly be attributed to the direct inclusion of victims; not that it is more likely to be an epiphenomenon – a by-product – of other developments. Testing this hypothesis allows me to pursue both objectives of this thesis: broadly, to advance a comprehensive model to analyse the inclusion of civil society actors as a causal mechanism, and, case-specifically, to analyse the effect of the victim delegations on the Colombian peace process. In other words, I seek to research the causal mechanism that underlies inclusion in general to determine whether the Colombian approach to inclusive negotiations is really as successful as it is portrayed to be (e.g. see Herbolzheimer, 2016; Maldonado, 2017). I must therefore first answer the following question, in order to be able to test the hypothesis:

How does the causal mechanism function that links the inclusion of civil society actors to the increased legitimacy of a peace process?

Critical engagement with the politics of victimhood can be a tricky enterprise, because it might easily be perceived as offensive or 'victim-blaming'⁵ (Druliolle & Brett, 2018). I therefore want to point out that instinctively I agree with the idea to empower victims and by no means seek to undermine the position of victims. Marginalising victims from 'their own' peace process seems like no way to reconcile the population and build durable peace. However, I do not think that we should therefore blindly adopt mechanisms based on good faith. Carefully analysing and scrutinising the process of how victims can be incorporated into a peace process and the

⁵ Victims are often perceived as 'moral beacons', whose position you do not challenge (Druliolle & Brett, 2018).

effects it has might reveal potential pitfalls, hidden agendas and shortcomings of the mechanism that were applied in the Colombian peace process. The outcomes of this research might corroborate, prove inconclusive or refute the posed theory that the inclusion of victims through victims' delegations contributed to the legitimacy and representativeness of the peace negotiations, yet will in all respects contribute to a more solid framework for future peace processes.

1.4 Conceptual framework

It is of vital importance for any research to carefully establish the key concepts that form the basis for the theoretical propositions. Adcock and Collier (2001) refer to this as the translation of abstract theoretical concepts into what they term *systematised concepts*. Many important concepts are contested or ambiguous, hence a researcher needs to clearly outline systematised concepts. This section will therefore elaborate on which concepts are used in this research and how they are interpreted.

Transitional justice

This research takes place within the realm of transitional justice studies, hence a short overview of what transitional justice entails. The key characteristics of transitional justice are accountability, justice and reconciliation, yet it is hard to produce a definition that enjoys consensus among all specialists since the concept has proven to be eclectic and dynamic. Nevertheless, the definition provided by the International Centre for Transitional Justice gives an insight into what it entails: "Transitional justice refers to the ways countries emerging from periods of conflict and repression address large-scale and systematic human rights violations so numerous and so serious that the normal justice system will not be able to provide an adequate response" (ICTJ, 2020, p. 1). Today, this means that transitional justice covers the establishment of tribunals, truth commissions, lustration of state administrations, settlement on reparations, and also political and societal initiatives devoted to fact-finding, reconciliation and cultures of remembrance (Fischer, 2011).

Large-scale human rights violations and abuses undermine the functioning and cohesiveness of any society, in all likelihood resulting in fragile states and weak institutions. The idea behind transitional justice is that countries need to address the violent legacy of oppressive regimes or conflict in order to be able to move forward. Ignoring massive abuses might seem as an easy way out, but the very foundation of any modern democracy is accountability and trust in institutions. This can only be restored if the difficult legal and political questions are asked, which is precisely the role of transitional justice.

The dominant approach within transitional justice studies during a particular period in time is called the transitional justice paradigm. Since the proliferation of transitional justice studies in the late 1980s, this paradigm has shifted from retribution to restoration. Initially, transitional justice was a means to empower newly formed democracies and reinforce their foundations, mainly through mechanisms of accountability and justice through retribution. Over the course of the 21st century, the debate has moved from the periphery to the centre and transitional justice has been normalised as a reconciliatory response to political transitions. This also entails that there is a cautious shift towards a more victim-centred approach (or victim-centred justice (Sriram et al., 2013)). This means that victims no longer fulfil the role of a "powerless individual overwhelmed by grief, a passive object of compassion and a recipient of aid" (Druliolle & Brett, 2018, p. 7), but rather as an active, agentive political actor.

Peace process

In his 2018 article, *The making of peace: processes and agreements*, Stephan Wolff explains that a peace process might be understood as the process towards a non-military solution sought by the respective parties to a conflict, often supported by international involvement. As it indicates and embodies a transition from conflict to peace, it is an integral part of transitional justice.

A peace process comprises of several different elements and phases. The most critical element of a peace process is the peace agreement, in which the quarrelling parties come to terms with each other. Wolff (2018) identifies three stages of the peace agreement: i) the negotiations of an agreement that is deemed acceptable by the parties and their constituents; ii) the implementation of the agreement, the period in which peace agreements become institutionally embedded in the broader social and political environment; iii) the operation of the agreement. This latter relates to the day-to-day functioning of the agreed and how the institutions reshape the post-war society. These three stages “comprise the benchmark” against which processes can be assessed and compared (Wolff, 2018, p. 68).

Wolff’s framework for referring to peace processes will be guiding throughout this research. This entails that a peace process comprises of the exploratory talks between opposing parties, the negotiations, the peace agreement and the implementation of what was agreed upon.

Victims

The Colombian Victims’ and Land Restitution Law (Victims’ Law or Law 1448) sets out the guidelines for who can be considered victims of the Colombian conflict and are eligible for reparations. This law defines victims broadly to include all those who individually or collectively suffered harm as a result of infractions of international humanitarian law (IHL) or gross and serious violations of international human rights law (IHRL) committed after January 1, 1985, whether committed by members of illegal armed groups or state agents (Law 1448, art. 3). It also includes as victims the direct relatives of those who were killed or disappeared. Members of armed groups that did not demobilise before adulthood (18 years of age) and victims of ‘ordinary crimes’ are excluded from receiving benefits, yet can still claim the victim status (Correa, 2015). The government has thus chosen to adopt a wide definition of victims, denouncing the dichotomy between victim and perpetrator, incorporating both ‘good’ and ‘bad’ victims and acknowledging the potentially dual role of people (see Tarlo, 1995; Madlingozi, 2007; McEvoy & McConnachie, 2012; Jacoby, 2014; Druliolle & Brett, 2018).

The definition outlined in Law 1448 seems like a workable systematised concept, since it constitutes a wide, inclusive definition of victims. However, since this research focuses on the legitimacy of the peace, we also have to look at the margins. There are still countless people that do not have the means to claim their victimhood status (because they are not officially recognised as victims or do not have the means to go through official channels), that still perceive themselves as victims of the conflict. These people, that have been victimised by the conflict but not (yet) constructed a victimhood identity (Jacoby, 2014), will be referred to as *invisible victims*, since they are invisible in the data and the peace process.

Civil society

Civil society is a somewhat abstract and contested concept. Within academic literature, it generally refers to actors in the societal sphere, separate from the state (and governmental institutions) and the political sphere (like political parties) (Nilsson, 2012). Civil society organisations thus comprise of religious organisations, human rights groups, trade unions and so on. *Civil society organisations* (CSOs) and *civil society actors* (CSAs) are concepts that are often used interchangeably (Wanis-St. John, 2008; Belloni, 2008; Nilsson, 2012). However, within the context of this research, I make a subtle distinction between the two. While all CSOs

are CSAs, the term civil society actors refers to a wider range of stakeholders. In the Colombian peace process, individual victims are invited to join the negotiating table. While they may be affiliated with civil society organisations, they do not represent anyone other than themselves, hence they are considered CSAs, not CSOs.

Inclusion

Simply put, inclusion refers to who is allowed a seat at the negotiating table. The United Nations Guidelines for Effective Mediation refers to inclusion (in the context of peace processes) as “the extent and manner in which the views and needs of conflict parties and other stakeholders are represented and integrated into the process and outcome of a mediation effort” (UNGA, 2011). This document was the first UN document to directly incorporate inclusivity as a key element of peace processes and served as a moment of consolidation for the discourse of inclusivity (Mendes, 2020).

The role and inclusion of CSA has gradually become more prominent throughout the 21st century. Isa Mendes points out that the consensus among scholars became that if wholesome, durable peace processes were to be established, it seemed reasonable to believe that negotiated agreements needed to surface “amidst a social consensus robust enough to sustain their implementation” (Mendes, 2020, p. 275). This formed the basis for the debate about the issues of inclusion, peace sustainability and legitimacy.

Zanker (2014) makes a valuable contribution to the debate by outlining that there is an inherent tension between inclusivity and exclusivity in peace processes. Peace negotiations face two opposing needs: on the one hand there needs to be the inclusion of the minimum number of actors or factions in order to obtain an agreement, but on the other hand the agreement needs the broadest support possible among political parties and the general population. Civil society actors can play an important role in creating support for a peace agreement among the population., as is the case in Colombia.

Legitimacy

In addition to inclusion, legitimacy also is at the core of the research question. Tyler states that legitimacy derives from “the beliefs citizens hold about the normative appropriateness of government structures, officials, and processes. Of central importance is the belief that rules and regulations are entitled to be obeyed by virtue of who made the decision or how it was made” (Tyler, 2006, p. 375). In other words, legitimacy in political theory refers to the level of support among the public for a particular government, policy or agreement.

A major effect of legitimacy is that it increases the likelihood of compliance with rules and regulations. A government, or in this case peace agreement, that is perceived as legitimate can expect widespread public cooperation for the implementation, and thus increases the chances of success. While it is possible to rule or implement policies merely by coercive force, it has been proven that legitimacy makes governing easier and more effective (Levi et al., 2009).

Closely related to legitimacy – and equally relevant to peace agreements – is *ownership*. Ownership in this respect refers to a common concern that “the various parties must ‘buy in’ to the peace process to ensure the long-term viability of whatever settlement may emerge” (Chesterman, 2007, p. 9). The metaphor has a degree of accuracy, since, in addition to the need for parties to identify with the terms of any agreement, it is also important that actors see that their interests are represented in that agreement. In the Colombian case, scholars often speak about the importance of *national ownership* to indicate that the public has to support the peace agreement for it to be successful and implemented (Zanker, 2014).

Legitimate representation

Inclusion of certain actors or factions in a peace process, especially civil society actors like victims' delegations, is inherently linked to questions of representation. Who is sent to the negotiating table? Who do they (claim to) represent? Is their claim legitimate?

Franziska Zanker, who is considered one of the pioneers in studying political legitimacy and representation within peace agreements, provides a model for legitimate representation in peace negotiations (Zanker, 2014). She refers to legitimacy as citizens' support of a policy, order and regime. She differentiates between input legitimacy and output legitimacy; a further explanation will be provided in the theoretical framework (see Chapter 3).

Representation inherently relates to the exclusion of certain groups or people. Zanker and Mendes both draw from Pitkin's original definition to explain representation: "To represent is to make present again" (Pitkin, 1967, p. 8). Making something such as opinions and voices 'present' in their actual absence – a paradox in itself – is an indication of the complexity of the notion (Zanker, 2014). This too will be further explained in the theoretical framework.

Colombian government

The Colombian government is one of the main actors of the conflict and peace negotiations. However, it must be noted that the government has had different approaches to the conflict and peace process under the various presidents. The conservative politician Juan Manuel Santos was president from 2010 until 2018, during which he initiated talks with FARC and oversaw the negotiations and ratification of the peace agreement. In 2016 he was awarded the Nobel Peace Prize for his efforts to end the conflict. In 2018, Ivan Duque, a politician of the Democratic Centre Party and protégé of former president Uribe, became the youngest president of Colombia. A key element of his campaign was the rejection of the peace agreement with the FARC. His political actions as president have been criticised by both domestic and international actors, since Colombia has seen a stark increase of murders of ex-guerrilla's, union leaders, environmentalists and human rights activists. Moreover, he has resumed war operations, expelled UN Human Rights Observers and has made little to no effort to honour the government's obligations in the 2016 peace agreement.

Hence, when referring to the government during the peace negotiations, I refer to the pro-treaty government of president Santos. When referring to the current government, responsible for the implementation of the peace agreement, I refer to the anti-treaty government headed by president Duque.

Fuerzas Armadas Revolucionarias de Colombia

The guerrilla movement *Fuerzas Armadas Revolucionarias de Colombia – Ejército del Pueblo* (FARC-EP, generally referred to as the FARC) is the other main actor in the peace process. More information about the FARC will be provided in the chapters to come, yet it is important to note that, since the 2016 agreement, there is also a political party called *Fuerza Alternativa Revolucionaria del Común*. This can also be abbreviated to 'FARC', but where I refer to this political wing of the FARC it will be explicitly mentioned.

Chapter 2: Historical context

Colombia has experienced the longest running conflict in the Western Hemisphere, which started over 50 years ago. It is deemed to be one of the most intricate conflicts in the world, with successive waves of confrontation between government forces, paramilitaries, guerrillas and drug cartels. The result has been an enormous loss of life and weakened rule of law, with shifting boundaries between drug trafficking and political crimes (ICTJ, 2009). A staggering eight million people have been officially recognised as direct victims of the conflict (Maldonado, 2017), yet the real number is likely to be much higher. The historical context is necessary to understand the dynamics of the peace process and how victims have come to play such a role. This chapter seeks to outline the origins of the conflict, how this conflict has come to be so protracted and the changing role and position of victims within the conflict.

Like in nearly all Latin American countries, the foundations of the present-day political structures and social fabric originate in the colonial times. The subsequent struggle for independence left a divided country: there was a powerful elite that sought to safeguard and expand its interests, a sizeable urban population but also many remote rural areas where the government was basically absent. The extreme inequality and marginalised position of minorities and peasants has always been deeply divisive and lead to an entrenched political landscape. While these issues have always been at the heart of Colombian unrest, tensions came to an all-time high in 1948. Between 1948 and 1958, Colombia suffered a ‘non-declared’ war, simply known as *La Violencia* (the Violence), which is generally regarded as the origin of the current conflict (Gutiérrez-Sanín, 2018)

Box 1: Facts and figures to put the Colombian conflict in perspective (Maldonado, 2017)

- The reparations program created by the Colombian government in 2011 has registered 8.4 million victims of forced displacement, murder, torture, sexual violence, forced disappearance, and kidnapping among other grave violations of human rights. These numbers indicate that almost 14 percent of the population have suffered directly from the internal armed conflict and consider themselves victims
- With about 6 million internally displaced persons (IDPs), Colombia is exceeded only by Syria, with 7.6 million IDPs.
- During the internal armed conflict, 3 presidential candidates, 1 general attorney, 1 minister of justice, 200 judges, 175 city mayors, and 16 congressmen have been murdered.
- Colombia is the country with the 3rd most land mine victims in the world, exceeded only by Afghanistan and Cambodia.
- During the conflict 3,000 militants of one single political party, the Unión Patriótica (UP), were killed within a period of ten years.
- Authorities have registered 39,058 kidnappings between 1970 and 2010. This figure implies that during that period, every twelve hours one person was abducted in Colombia for political or economic ends. These are only the registered cases: the real number is estimated to be at least three times as high.

2.1 La Violencia and the emergence of guerrilla groups

In 1946, Conservative Mariano Ospina Pérez came into office and was faced with the difficult task of leading the country from a minority position. The Liberals enjoyed a majority of presidential votes and controlled Congress, which Ospina tried to console with a coalition government. In the meantime, Conservatives in the countryside pursued a course of violence to

reclaim political power, to which the Liberals retaliated. The liberals became highly mobilised under Bogota's mayor Jorge Eliecer Gaitán to confront the Ospina government about socioeconomic problems, although Gaitán preferred the democratic course of action over the revolutionary one (Encyclopaedia Britannica, n.d.). On April 9, 1948, Gaitán was assassinated in broad daylight in downtown Bogotá. The subsequent riots came to be known as the *bogotazo*, in which more than 5,000 people were killed, large parts of the city went up in flames and over half a billion dollars of damage was done (Chacón et Al., 2011).

The bogotazo marked the start of ten years of extreme violence and political anarchy in Colombia, in which over 200,000 people lost their lives. Policemen abandoned their posts and joined the riots, prisons released prisoners due to a lack of security personnel and the extreme cruelty perpetrated on victims of the violence has been a topic of continuous study to this day (Encyclopaedia Britannica, n.d.). In 1957, the Liberals and Conservatives brought an end to La Violencia by signing the Declaration of Sitges, in which they agreed to share power for the following 16 years⁶. The violence decreased but the economy had come to a complete standstill, providing fertile ground for Marxist guerrilla groups.

During the 1960s, inspired by the Cuban revolution, many Latin-American countries saw the emergence of Marxist guerrilla groups. The FARC was created in 1964, under the auspices of the pro-Soviet communist party. Other forces with comparable ideologies, like the ELN and EPL soon appeared alongside the FARC. They promoted greater equality through communism and addressed problems like systematic exclusion and the unjust distribution of land: a message that enjoyed a lot of support in low-income, rural areas. Nevertheless, the role of these guerrilla groups was relatively marginal for the first two decades. They consisted of several hundred fighters each, roamed the territories that were still politically undeveloped and suffered several military setbacks throughout the 1970s. (Gutiérrez-Sanín, 2018).

Up until the late 1970s, the conflict can be considered low-intensity, with only sporadic attacks in remote areas. However, the country plunged into a proper civil war at the beginning of the 1980s. Several factors contributed to this. First, non-state armed actors got access to new, highly lucrative resources in the form of drugs. This considerably reinforced their economic and military position. Second, many previously uninhabited areas became important for the growth of illicit crops and mining. The government was mostly absent in these areas, making it easy for guerrilla groups to establish firm control. Third, more guerrilla groups – most notably M-19 – were created and became key actors in the conflict until their demobilisation in 1990 (Gutiérrez-Sanín, 2018). They were also able to generate considerable societal support, strengthening the political claims of guerrillas. Lastly, guerrilla groups like the FARC could count on combatants that were hardened during La Violencia and possessed the will and military know-how to fight a war. In this favourable context, their numbers rapidly increased from 800 in 1978 to 20,000 in the early 1990s (Gutiérrez-Sanín, 2018). In short, within two decades they transitioned from a marginal ideologically-driven protest group with sporadic attacks to a military organisation with deep interests in drug production and trafficking, and the funds, combatants and hardware to seriously challenge the government.

2.2 The 1990s and 2000s

Over the past three decades Colombia has witnessed a multitude of successful and failed peace processes, with both left- and right-wing groups. Around 1990, the first groups to reach an agreement with the government and demobilise were the weakened and/or relatively small

⁶ An equal sharing of ministerial and other government posts, and equal representation on all executive and legislative bodies (Encyclopaedia Britannica, n.d.).

guerrilla groups, including M-19. However, because of their marginal role in the conflict this had little effect on the violence. The FARC and ELN remained the main insurgencies and proliferated in the first half of the 1990s, only to be countered by the paramilitaries in the second half of the decade. The ELN suffered substantial losses, but the FARC proved numerous times that they were capable of defeating government forces (Gutiérrez-Sanín, 2018). Acknowledging the FARC as a force to be reckoned with, the government under president Pastrana engaged in peace talks with the FARC in 1998. By 2002 the talks had led nowhere and the fighting resumed. On the other side of the spectre, the paramilitaries united under the AUC in 1997. Shortly after, internal conflicts and the perspective of returning to civilian life in favourable conditions led to the official demobilisation of the AUC (2003-2007). Nevertheless, many paramilitaries remain active to this day under different names. The ELN has always refrained from peace talks due to distrust and discontent with the government.

Backed by the United States, president Uribe launched an open offensive against the FARC between 2002 and 2010. This cut their numbers drastically; estimates range from half to two-thirds (BBC, 2018). The military and political commentators speculated that this was the ‘beginning of the end’ of the FARC, yet the FARC resisted the offensive (Gutiérrez-Sanín, 2018). In 2010, after Uribe had been replaced by Juan Manuel Santos, the government once again commenced peace talks with the FARC. These peace talks resulted in the 2016 peace agreement that is central in this research.

2.3 The position of victims throughout the conflict

As mentioned previously, over eight million people have officially been registered as victims of the Colombian conflict. Despite their numerical prominence, they only had a marginal role in the early transitional justice processes. The priority of the peace talks was generally to establish a cease-fire to prevent more casualties and to oversee the demobilisation of combatants in order to limit the risk of recurrence. The transitional justice debate in the 1990s was dominated by the idea that justice and peace were diametrically opposed; a dilemma in which peace was often favoured over justice (Teitel, 2003). Amnesties were a much-used tool to promote demobilisation, bypassing victims’ demands for justice. Notwithstanding, Colombia and the rest of Latin America are often considered the birth ground of transitional justice processes and are appraised for their more restorative approaches (most notably truth commissions and reparation programs) (García-Godos, 2016).

The peace agreement with the AUC and subsequent demobilisation was the first transitional justice process in Colombia that directly linked the demobilisation of combatants to victim rights. Accountability measures were explicitly included in the negotiations with the paramilitaries and were followed by institutionalisation in the form of the Law of Justice and Peace (Law 975). This law intertwined the rights of demobilised combatants and victims in complex ways, which is one of the main critiques (García-Godos & Lid, 2010). Questions have also been raised about the way victims had to claim their rights to reparations (which at times jeopardised them⁷) and about the aspiration of reaching peace with all “organised armed groups at the margins of the law” under one single legal framework (García-Godos & Lid, 2010). Critics have argued that the framework is more motivated by political gain and the protection of economic interests than actual reforms. Still, the direct inclusion of victim rights in the framework can be considered a step towards a more victim-oriented justice.

⁷ More than 20 victims have been killed in the process of claiming their rights. A victim protection program was established in September 2007 (García-Godos & Lid, 2010).

To further see to the rights of victims of the Colombian conflict, in 2011 the Colombian government passed the Victims' and Land Restitution Law (Law 1448). It establishes a framework for comprehensive reparations. This means that the law cannot provide reparations based on individual assessments (as a court would do), but to provide meaningful redress to all victims of the most serious crimes that can recognise and account for the worst effects of the violations (Correa, 2015). The government has allocated an estimated \$29 billion to be divided over a large array of programs, including direct reparations, humanitarian assistance and social policies. It also established a program making the resolution of claims for land accessible for displaced people, of which there are millions in Colombia. At the hands of the AUC, an estimated 300,000 people lost their land per year between 1999 and 2007 (Correa, 2015). The law recognises that people that lost their land should be treated with special consideration, hence reverses the burden of proof. Current owners or occupiers of property where people have been evicted have to provide evidence that they rightfully acquired the land. This law also marked a milestone in the transition towards more victim-oriented justice, yet is still only one step in the vindication of victim rights. As Correa (2015) points out, the implementation of the law is the real challenge, especially because of the ongoing violence, unwillingness of the current administration to implement the law and the poor socioeconomic conditions of many people.

Civil society actors, especially human rights watch groups and victims' representatives, have had a considerable impact on the way victim laws and regulations were shaped in Colombia. They applied constant pressure on the government and third parties and were consulted to inform about victims' needs and how to provide justice and redress. Nevertheless, victims themselves were never directly addressed as political actors. García-Godos (2016) points out that there is an absence of victims as political actors in the contemporary transitional justice literature, and it is safe to say that this has been extended to the actual transitional justice practices.⁸

The negotiations prior to the 2016 peace agreement were unprecedented because they incorporated individual victims in the negotiation process, in which they could share their ideas on how to shape a framework to provide justice, reparations and foster reconciliation. The introduction briefly outlined that there were three mechanisms through which victims could share their ideas on what to include in the peace agreement: they could send written proposals for the content of the peace agreement; there was a series of mechanisms to stipulate direct consultation of relevant civil society actors (including victims' groups); and five delegations of 12 victims each shared their personal stories and ideas during the negotiations in Havana. The participants were selected on principles of plurality to include different stories and ideas, although they were not intended to represent the millions of victims of the armed conflict.

The direct incorporation of victims was mostly driven by local, sub-national and national factors. However, as Brett (2018) notes, the development itself took place in a wider international context of normative changes in the aftermath of the Cold War, based on victims' struggles. The recognition of victims as legitimate socio-political actors with a stake in the peacebuilding process in Colombia reflected shifts within the international framework relative to human rights and transitional justice. Since about the turn of the millennium, civil society actors have assumed an unprecedented role in peace negotiations, with either direct or indirect inclusion in peace processes. In Colombia, civil society became increasingly effective in strategically lobbying the state and international organisations for political recognition and a formal role in peacebuilding. The 2011 Victims' Law and the negotiations of the 2016 peace agreement are

⁸ The case of Guatemala and the formal inclusion of civil society through the Civil Society Assembly in 1994 was paradigmatic and paved the way for the future role of civil society in peace processes (Brett, 2018).

Chapter 3: Theoretical framework

This chapter discusses several theories about inclusion and legitimacy regarding peace processes. Together, these theories provide the necessary building blocks to advance my own theoretical model in the following chapters. The first section discusses Lanz’ model to determine who gets a seat at the negotiating table, based on both practical and normative incentives. This is supplemented by Paffenholz’ (2014) modalities of inclusion, because actors can influence the negotiating process in various respects. The second section provides a brief rundown of Mendes’ (2020) model of how representatives are elected, and Zanker’s (2014) model to analyse if representation can be considered legitimate according to certain criteria. A keen understanding of how to determine if representation is legitimate is elemental to study the effect of victim participation on legitimate negotiations. The last section will provide an overview of the existing literature of victim participation in peace processes in Colombia.

3.1 A seat at the table: who, why and how?

David Lanz (2011) was one of the first scholars to address the need for a better understanding of how is decided who gets a seat at the table. He notes that there are two independent factors that affect the inclusion or exclusion of certain actors in peace negotiations. The first premise regards the practical requirements of the peace process and deals with whether it is more likely to reach a durable agreement with or without the inclusion of a certain actors. The second factor relates to the normative dimension of international mediation: is the participation of certain actors in line with the values of international mediators and sponsors? The dynamics of inclusion and exclusion are a result of the interplay between these two factors.

Both factors can be present or absent, which results in a scheme with four potential scenarios. Table 1 illustrates these four scenarios, in which scenario 1 is the most favourable for the inclusion of civil society actors because the practical and normative implications are mutually reinforcing. Scenario 4 is also unambiguous because both questions are answered negatively. This scenario refers to a situation where the inclusion of an actor is problematic in terms of international norms, for instance if that actor is perceived to be a terrorist or accused of war crimes (Lanz, 2011).

	Practical	INCLUDE	EXCLUDE
Normative			
INCLUDE		<i>Scenario 1: Include-include</i> International norms provide arguments for the inclusion of a crucial stakeholder.	<i>Scenario 2: Include-exclude</i> International norms suggest including a stakeholder, but this complicates peace negotiations.
EXCLUDE		<i>Scenario 3: Exclude-include</i> International norms suggest exclusion, although the participation of a stakeholder is crucial to achieving peace.	<i>Scenario 4: Exclude-exclude</i> International norms provide arguments for the exclusion of a spoiler.

Table 1: Scenarios of inclusion and exclusion in peace negotiations (Lanz, 2011, p. 287)

Scenario 2 and 3 are more problematic, because the factors are diametrically opposed. In these scenarios there is a prominent role for mediators to find remedies to deal with the inclusion-exclusion dilemma, for example through backchanneling or by creating popular support through widescale inclusion (Lanz, 2011).

It has been extensively debated in Peace and Conflict studies that inclusivity in peace processes increases the legitimacy and has a positive effect on creating conditions for durable peace (Wanis-St. John, 2008; Zanker, 2014). The inclusion of civil society helps create support for a peace agreement and acknowledges the vital role that the public plays in the post-conflict reconstruction of societies. However, scholars and policymakers alike increasingly recognise that the inclusion of the public needs not be limited to the phase *after* the agreement is signed, but is also valuable prior to and during the negotiations (Wanis-St. John, 2008). As Zanker puts it: “any peace process needs to be embraced by those who have to live by it, namely the population, whose exclusion from such a process may otherwise alienate them” (Zanker, 2014, p. 65). Since it is impossible for the entire population to be directly involved, civil society actors become representatives for the population. Their involvement creates ownership of the negotiations and outcome of an agreement for the public, in turn creating subjective social pressure to implement the agreement (Zanker, 2014). It has to be within this civic sphere that public participation can be realized.

Thania Paffenholz urges to move beyond the inclusion-exclusion dichotomy and focus on *how* actors can be included. She outlines that there are different modalities regarding the extent in which civil society actors can be included (Paffenholz, 2014):

1. direct representation of civil society groups at the negotiation table, either as their own delegations to the negotiations or as members of official delegations;
2. observer status, with no official roles but a direct presence during the negotiations;
3. official consultative forums that run parallel to official negotiations, endorsed by the mediators and negotiators;
4. less formal consultations, that lack official endorsement from all the stakeholders;
5. inclusive post-agreement mechanisms that involve civil society groups in the implementation of peace agreements;
6. high-level civil society initiatives, non-official Track Two facilitation initiatives that take place in the pre-negotiation phase or parallel to official negotiations and that use a problem-solving approach;
7. public participation, involving the broader population via public hearings, opinion polls, ‘town hall’ meetings, or signature campaigns;
8. public decision making, via referenda and other electoral forms that put major political decisions to a binding public vote (e.g., terms of peace agreements, constitutional reforms); and
9. mass action, campaigns, demonstration, street action, protests, and petitions.

Inclusion thus takes place directly at the negotiating table, but also prior and parallel to the negotiations, as well as during the implementation. The modality of inclusion is closely linked to the amount of influence an actor has: a party that is directly involved might have better chances to put a topic on the agenda than a group with an observer status, yet it is the combination of modalities that makes a peace process truly inclusive (Paffenholz, 2014; Losnegard, 2017).

The shift towards inclusion of civil society actors at the negotiating table is by many considered a much-needed development, yet it also tends to underplay the inherent difficulties of peace processes (Wanis-St. John, 2008). On the one hand there is a need to produce negotiations with the minimum numbers of participants required to get an agreement, while on the other hand there also needs to be the broadest support possible. In this respect, quantity does

not necessarily equate quality. Paffenholz (2015) notes this as one of the main findings of an extensive, multi-year study by researchers of the Graduate Institute of International and Development Studies in Geneva. They compared the results of forty in-depth country case studies regarding inclusive peace negotiations and found that the rate of peace agreements being reached was much higher when included actors were able to influence the quality and/or implementation of the agreements. It was about the quality and influence of their contribution, not the number of participants.

Another interesting finding of the study was that inclusion of civil society was mostly driven by realpolitik, rather than normative considerations. Conflict parties and mediators push for broader inclusion to increase legitimacy and get public buy-in. On the one hand this is not entirely surprising in the highly politicised arena of peace negotiations, yet it also poignantly shows that inclusion is something which is perceived as inherently benign. In this respect, the language of inclusion could be used as a façade by conflicting parties to quickly boost legitimacy. To really look critically at the level of inclusion we need to consider how legitimate representation is.

3.2 The election of representatives

Isa Mendes (2020) seeks to contribute to our understanding of the elusive pre-negotiating process; the place and moment where the dynamics of the peace process are shaped. She explains that the authorisation view of political representation is often incompatible with on-the-ground peace processes (Mendes, 2020). In fact, the whole idea that political representation should always be based on authorisation is false. For instance, even democratic political representatives represent people who voted for someone else (or not at all), so they represent people that did not authorise them to make decisions on their behalf. An alternative interpretation is that someone *does* authorise the representative, but this need not necessarily be the person that is represented.

Mendes follows Rehfeld (2006) to highlight that the choice of representatives depends on three main actors: the represented (the group whose interests will be defended by the representative), the audience (the group before whom the representative needs to be acceptable) and the selection agent(s) (the actor(s) that choose representatives among all those deemed ‘qualified’). In democracies these actors are usually one and the same (see Figure 2) and ‘qualified’ candidates are defined through electoral law and party politics. However, with civil society actors or in negotiated settlements, these actors do not perfectly overlap (see Figure 3).

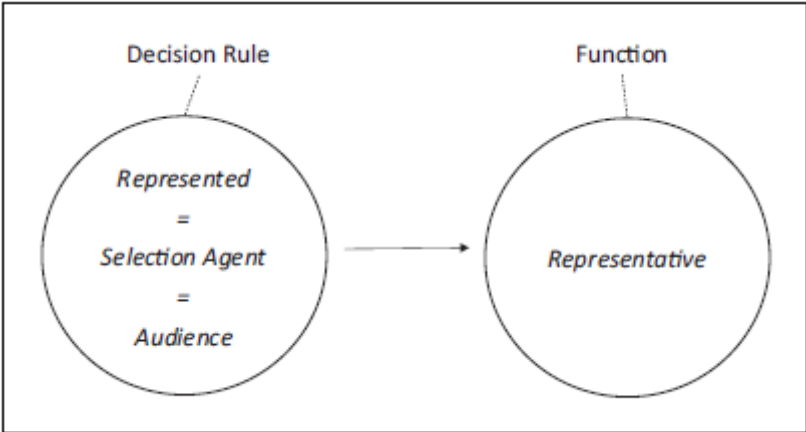


Figure 2: Representative Selection in Representative Democracies (Rehfeld, 2006; Mendes, 2020)

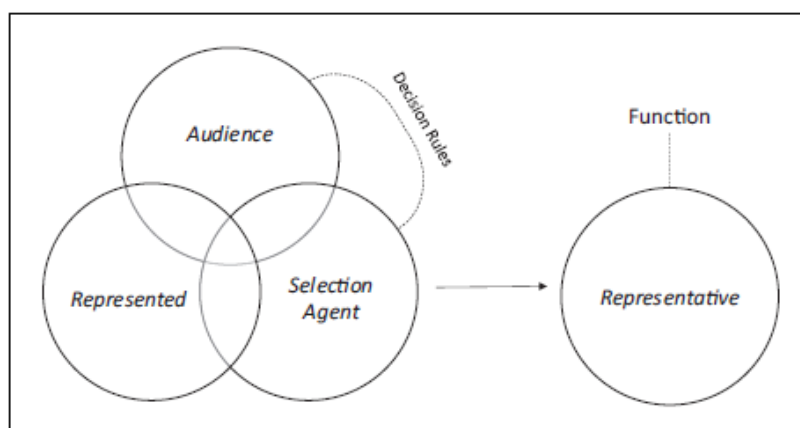


Figure 3: Representative Selection in Peace Processes (Rehfeld, 2006; Mendes, 2020)

The consequence of this is that peace processes do not have the institutional safeguards and predictability that democratic elections have. Pitkin’s and Rehfeld’s typologies are a good starting point to scrutinise the rules for selection of decision-makers and the roles attributed to them. Both sides of the diagram (choice and function) are defining elements for the negotiation table’s participants (Mendes, 2020).

As can be seen on the left side of the Venn diagram, the *choice* is determined by the represented, the audience and the selection agent. It is therefore essential to establish who these actors are and how they interact with each other. In contexts of pre-negotiations, the selection agents of direct participants are often the conflictive parties themselves, mediators and international sponsors. The audience consists of a wide variety of actors and fulfils an important role, because “representation depends formally on the recognition by the audience, not on the coherence of a purported case to a set of rules that the audience uses” (Rehfeld, 2006, p. 15). In other words, the beliefs of the audience as such matter – not whether these beliefs are true – to determine who is acceptable as a representative. These categories are not fixed but fluid: actors can switch between and fulfil multiple roles. The example that Mendes (2020) highlights is that civil society actors can try to force their way into the represented category via public advocacy and influence the audience beliefs (consequently influencing the selection agents and direct participants). If the audience demands decision rules that are not only practical but also normative, this will in all likelihood lead to more inclusive negotiations and representation (be it descriptive or symbolic).

The second element of the diagram is the *function* it is supposed to perform. Rehfeld explains that “any particular case of representation is always context-limited: it is defined by the Function towards which it aims, and that Function always specifies that ‘The Representative stands for the Represented in order to do X’” (Rehfeld, 2006, p. 17). The function is therefore the starting point of representation and crucial for the audience it activates (Mendes, 2020). The more strategic a representative’s function, the less likely it becomes that powerful actors bend to activism. Marginalised groups thus have a better chance to be descriptively represented if their function is not considered to be too strategic by the other actors. In addition to the ‘presence’ of representatives, it also about their ‘action’. Rehfeld labels this as ‘performance’: the final result of the representative process (Rehfeld, 2006; Mendes, 2020).

3.3 Legitimate representation

As briefly mentioned in the conceptual framework, legitimacy within political theory can be defined as “the product of satisfying felt needs and solving perceived and observed local problems” (Hanberger, 2003, p. 270), or, in other words, the support among the public for a specific policy, order or regime. Scharpf (1997) proposes a two-dimensional version of democratic legitimacy, based on which Zanker advances a model with input legitimacy (authentic representation or fair proceedings with all relevant stakeholders being involved) on one side, and output legitimacy (effective policies as an outcome) on the other (Zanker, 2014, p. 66). The input side thus refers to the ability for citizens to participate in public discourses (representation), and the output side – the guarantor of legitimacy – to the effectiveness in achieving goals.

The selection of participants is a difficult but crucial aspect of legitimate representation. Zanker, based on Pitkin’s definition, refers to representation as “making something present in its absence” (Zanker, 2014, p. 67). Zanker and Mendes both draw from Hanna Pitkin’s model to explain the different types of representation (see Figure 4). She differentiates between two views on representation. First, there are formalistic views, which identify it with the formal procedures that establish or verify it. Formalistic approaches concern either the ‘before’ or the ‘after’ of representation, claiming previous authorisation or posterior accountability of the representative as its defining trait. The second view concerns the actual substance of representative activity, be it regarding the characteristics of the representative or the actions he or she takes on behalf of his or her represented constituency (Pitkin, 1967; Mendes, 2020).

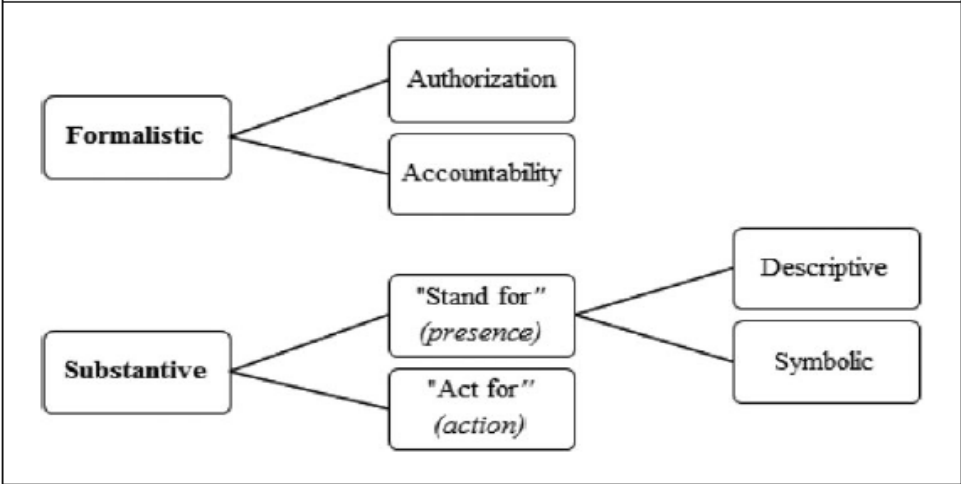


Figure 4: Pitkin’s typology of representation (1967)

Zanker (2014) sought to combine Pitkin’s typology of representation with Scharpf’s idea of the two-dimensionality of legitimacy. The result is a more comprehensive model to study legitimate representation (see Figure 5). First, actual problems and grievances of the represented people need to be addressed. This substantive representation is important for both the input and output legitimacy. Second, the represented people need to feel connected to their representatives and vice versa (descriptive representation). Some symbolic attachment makes the representatives seem more legitimate to those being represented. Together, this refers to the ‘stand for’ or ‘subjective’ part of the representation, upon which the input legitimacy depends. Third, representatives must not only act in the honest interest of those they represent, but should also be responsive to them. During times of conflict it will be hard to collect comprehensive data of the effects, but at least civil society actors should explain their input and role to those they represent. This is because the only way to know whether an agreement is legitimate is through a process of “reflective scrutiny by those who will be affected by the terms of the agreement”

(Ron, 2010, p. 349; Zanker, 2014). Since this idea suggests some accountability and relates to the output legitimacy, it is referred to as accountable representation.

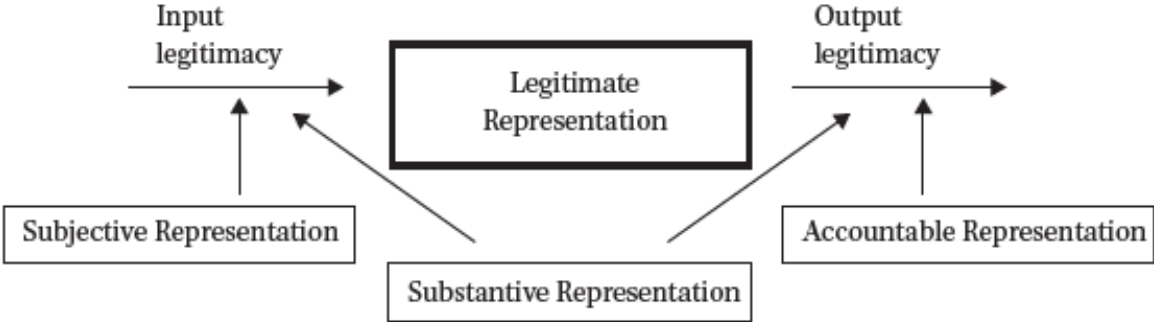


Figure 5: Zanker’s model for legitimate representation (2014)

The categorisations and subsequent models outlined above help us to better understand the legitimacy of a negotiation process, beyond the elusive direct-indirect spectrum of inclusive initiatives. It helps uncover subterranean processes and trends of pre-negotiations that allow us to identify why and how certain actors were included, and others not.

3.4 Case-related literature review

The participation of victims in the Colombian peace process is said to have substantially shaped the outcome of the final peace agreement. Scholars have reviewed and scrutinised several aspects of the process, such as the link between peace agreement provisions and public opinion (Tellez, 2019), the distinction between victims and non-victims (Nussio et al., 2015), the selection process of participants (Mendes, 2020), the determinants of success of the peace process (Donkers, 2016; Wolff, 2018; Bakiner, 2019), and the contribution of this peace process to a more victim-oriented transitional justice paradigm (Brett, 2018). This section outlines their findings, as they underlie some of the theories and findings of this thesis.

In his 2019 article, Juan Fernando Tellez theorises how the design of peace agreements affects the public support for peace. He identifies four key settlement provisions that mould public response, notably i) transitional justice provisions, ii) parameters for the cessation of conflict, iii) post-conflict distribution of power, and iv) the root causes of the conflict. Tellez argues that civilians tend to simplify complex phenomena like peace processes, and evaluate agreements based on how its provisions administer justice among those they consider to be ‘perpetrators’ and ‘victims’ of the conflict (Tellez, 2019). Other factors that influence people’s attitudes relate to whether they experienced the conflict first-hand and whether they identify with one of the conflicting parties.

In the case of Colombia, Tellez (2019) finds consistent evidence that agreements that treat perceived perpetrators leniently or fail to redress victims are broadly unpopular. In addition, such weak transitional justice provisions helped drive opposition to the peace process referendum in Colombia’s urban areas. Civilians who voted ‘No’ in the October referendum showed much stronger preferences for punitive transitional justice measures than ‘Yes’ voters, indicating that the former group was sensitive to transitional justice issues during the peace process (Tellez, 2019). Finally, political partisanship and the urban-rural divide played a considerable role in the 2016 referendum.

Since the contribution of victims is pivotal in this peace process, it is elemental to understand how the opinions and views of victims are shaped. Nussio et al. (2015) make a valuable

contribution in this respect with their transdisciplinary study of the differences between victims and non-victims. Drawing from resilience theory, they outline how traumatic events have only limited effects on people's views and that people are rather well equipped to deal with adversity. They find that there is no significant difference between the desires of victims and non-victims in the aftermath of the Colombian conflict in relation to the punishment of perpetrators and reparation of victims. This counterintuitive finding may be attributed to the aforementioned psychological resilience, but might also be explained by social desirability (Nussio et al., 2015). Either way, it is good to be aware that there is not necessarily a difference between the views and desires of victims and non-victims in this respect, especially since there is a stark division in the inclusion of victims vis-à-vis non-victims.

Mendes' (2020) article sought to reframe the validity of inclusive mechanisms through a lens of political representation. Inclusion is often referred to in Peace and Conflict literature as an inherently good trait, yet it leaves little room for critical discussion about the political contention. The model she outlines breaks down the elusive idea of inclusion and enables us to identify different actors and forms of representation. She finds that inclusion of victim delegations in 2014 sought to improve the legitimacy of the peace agreement, yet rejected the notion of representation. By refusing to accept the representative features while focusing on the lack of a formal mandate of the victim delegations, they missed out on some of the most important aspects of representation in this effort (Mendes, 2020). This finding underscores that including any civil society actor not necessarily equals genuine inclusivity and legitimacy.

It should be kept in mind that the effect of the inclusion of victims on the final peace agreement should be considered in a wider context. There are several determinants for the success of a peace agreement in Colombia. The first is the political context of the peace agreement, like genuine interest to make the agreement a success, and potential agreements with other actors (like the ELN) (Wolff, 2018). The second elemental factor is widespread support (Wolff, 2018). Donkers (2016) underscores that if the people – who are instrumental for reconciliation and reintegration – do not support the agreement, there is little reason to believe that the implementation of the agreement will succeed. The divisiveness became poignantly visible with the 2016 referendum regarding the agreement, which makes successful implementation dubious at best. Hence, failure of the peace agreement does not necessarily mean that the inclusion of victims cannot be considered a success.

Onur Bakiner (2019) adds to our understanding of why peace processes succeed or fail by exploring the *negotiation framework* in the Colombian (2012-2016) and Turkish (2012-2015) peace processes. The negotiation framework refers to the inclusivity, transparency and institutionalisation of a peace process. He notes that “failing to provide the nonstate armed actor with any guarantees and limiting the ownership of the peace process to a small number of actors creates a highly fragile framework that is vulnerable to external shocks and changing political opportunity structures” (Bakiner, 2019, p. 490). A fragile framework is the reason why the Turkish peace negotiations failed, in contrast with the Colombian peace negotiations that resulted in an agreement.

In their substantial volume on *The Politics of Victimhood in Post-Conflict Societies* (2018), Druliolle and Brett elaborate on how victims are perceived and which role they fulfil in the aftermath of a conflict. They draw from many cases to explore the struggle for recognition, the functioning of reparation programs, the politics that constitute victimhood and more. In one of the chapters, Brett takes a closer look at how victims shaped the Colombian peace process, and in particular political subjectivity of victimhood. He argues that, by taking victims' demands into account, we may develop a peace process in which transitional justice mechanisms

ultimately respond to a victim-oriented approach. He remarks that victims have gradually refocused the agenda towards inclusivity (along the lines of Mendes' model) and then took advantages of this conjuncture to emerge as political actors rather than passive victims. The contributions of the victim delegations reframed the narrative, shaped the perceptions of the negotiating parties and "precipitated important changes at the individual level of both victim and perpetrating actor: a first step, perhaps, in the direction towards social and individual reconciliation" (Brett, 2018, p. 296).\

The overarching theories regarding inclusion and representation in peace processes, combined with the in-depth case-related analyses, provide me with the building blocks to study the causal mechanism between inclusion and legitimacy in the Colombian case.

Chapter 4: Methods and methodology

This chapter elaborates on the method that underlies this research, the data collection, the ontological and epistemological assumptions and potential limitations. The method I have chosen, theory-testing process-tracing, is one of the lesser-known methods in the social sciences. Nevertheless, several volumes have been written to demystify process-tracing methods, of which Derek Beach's and Rasmus Brun Pedersen's *Process-tracing Methods: Foundations and Guidelines* (2013) will be guiding throughout this research. This chapter seeks to outline what process-tracing is in order to guide the reader through this research and justify my decisions, but refrain from pondering on technicalities. The footnotes will provide basic technical explanations, but for more information about specific aspects of the method I refer to chapters of Beach and Pedersen (2013).

4.1 Theory-testing process-tracing

To test the central theory about the relationship between the inclusion of victims in the peace process and more legitimate negotiations and durable peace, this research uses the method of theory-testing process-tracing. Beach and Pedersen outline that process-tracing is arguably the only adequate research method for tracing causal mechanisms, because it uses “detailed, within case empirical analysis of how a causal mechanism operates in real-world cases” (Beach & Pedersen, 2013, p. 1). It enables us to explore potential relations (through causal mechanisms) and update the “degree of confidence we hold in the validity of a theorised causal mechanism” (Beach & Pedersen, 2013, p. 2). It differs from other small-*n* methods by only making within-case inferences, rather than cross-case inferences about causal relationships, making it especially suitable to study a peace process with unprecedented mechanisms.

Beach and Pedersen (2013) identify three types of process-tracing: theory-testing, theory-building and explaining-outcome. Theory-testing process-tracing deduces a theory from existing literature and then tests whether evidence shows that each part of the hypothesised causal mechanism is present, enabling the researcher to make inferences if the mechanisms functioned as expected. Theory-building process-tracing attempts to build a generalisable theoretical explanation from empirical evidence, inferring that a “more general causal mechanism exists from the facts of a particular case” (Beach & Pedersen, 2013, p. 3). Finally, with explaining-outcome process-tracing the researcher seeks to produce a “minimally sufficient explanation” (Beach & Pedersen, 2013, p. 3) of a puzzling outcome in a specific historical case. The three types share that the evidence can both be qualitative and quantitative, but differ, among others, in the types of inferences that are made and whether the research is theory- or case-centric (Beach & Pedersen, 2013).

Since this research seeks to test evidence and validate an existing theory, theory-testing process-tracing is the perfect match. Colombia has gathered unrequested expertise in the fields of transitional justice and peace processes, given the numerous peace processes throughout the past decades. Because of the widescale, integral approach and unprecedented inclusive mechanisms, the 2016 peace process in particular has been followed by the watchful eyes of both domestic actors and the international community. This has resulted in an extensive body of literature, data, reports and personal stories, written by all kinds of actors, with different intended purposes and for distinct audiences. I would therefore argue that there is little need for creating a new database to answer the research question. Rather, a new, holistic approach is needed, incorporating government data, scientific studies, reports by victim organisations and

personal accounts of both included and excluded victims, so as to see what the effects are of the inclusion of victims on the legitimacy of the peace process.

4.2 A three-step process

Theory-testing process-tracing is based on the assumption that we know both X (intervention) and Y (outcome), and that we can use logical reasoning to formulate a plausible causal mechanism based on existing theorisation. Figure 6 illustrates an abstract example of a theory-testing case study, based on a three-step scheme. Beach and Pedersen (2013) explain the different steps as follows (Beach & Pedersen, 2013, Chapter 2):

- The first step in testing whether a hypothesised causal mechanism (CM) was present in the case, is to conceptualise a causal mechanism between X and Y, based on existing theorisation along with making explicit the context within which it functions. All aspects between X and Y, notably the different actors and actions, need to be elaborated upon and contextualised in order to be able to assess their impact and *how* the outcome has come about.
- The second step is operationalising the theorised causal mechanism, translating theoretical expectations into case-specific predictions of what observable manifestations each of the parts of the mechanism should have if the mechanism is present in the case.
- The third step is collecting empirical evidence that can be used to make causal inferences, updating our confidence in whether i) the mechanism is present and ii) the mechanism functioned as expected. Step 3 proceeds step-wise; testing whether evidence is sufficiently reliable and indicates that each part of the mechanism was present. Based on the evidence, the researcher can then accept or reject the hypothesised causal mechanism.

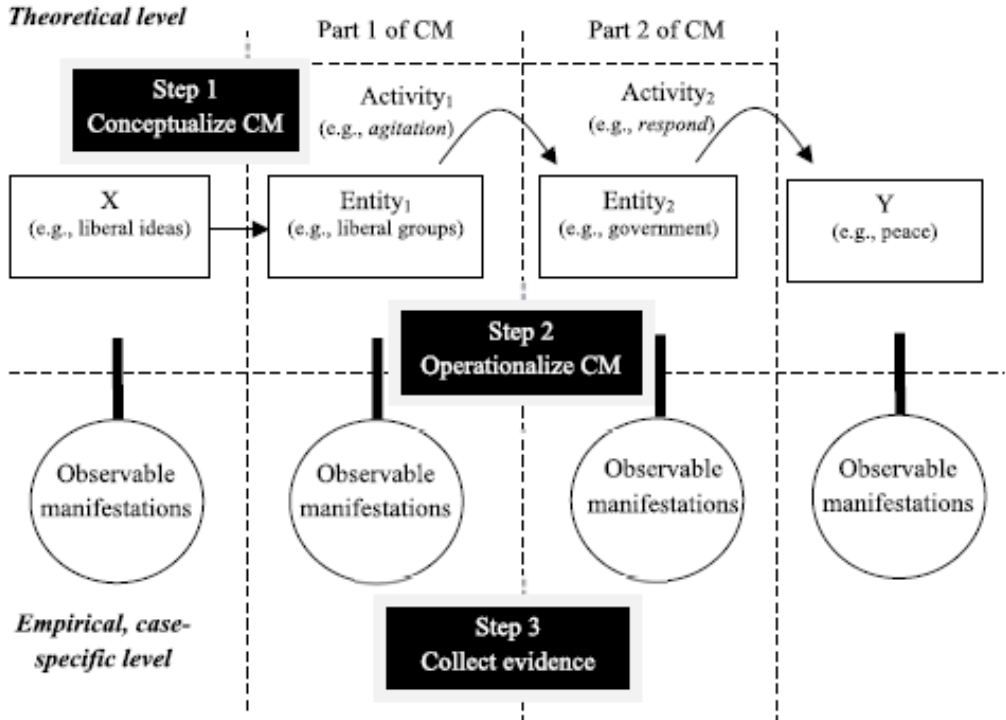


Figure 6: Theory-testing process-tracing (Beach & Pedersen, 2013, p. 15)

4.3 Ontology and epistemology

Beach and Pedersen (2013) discern two debates that dominate the philosophy of science: what the nature of causality as such is (mechanisms or regular associations) and whether causality can be understood in a probabilistic or deterministic fashion. I will briefly outline the debates and relate them to this research.

The nature of causality between X and Y is explained according to two different theories. Firstly, the neo-Humean understanding sees causality as a ‘hook’ or ‘force’ between X and Y, but contends that we cannot measure the ‘secret connection’ that links causes and effects.⁹ Causation is therefore taken to mean “nothing but the regular association between X and Y, controlled for other relevant possible causes” (Beach & Pedersen, 2013, p. 24). The second ontological position is a mechanistic understanding of causality. Researchers from this position are interested in the theoretical process whereby X produces Y and in particular in the transmission of what can be termed as causal forces from X to Y (Beach & Pedersen, 2013). In other words, X produces Y through a causal mechanism linking the two, and this mechanism can be studied. The purpose of this thesis is to trace the steps for participation of victims in the peace process and to study the mechanism, hence the mechanistic understanding underlies this research.

The second debate pertains to whether causality can be understood as probabilistic or deterministic. Probabilistic theories assume that there are both systematic and non-systematic (random) features of reality. For example, geneticists believe that children inherit a large part of their cognitive abilities from their parents (systematic), yet they do not expect that all children have the same IQ as their parents (random) (Beach & Pedersen, 2013). This causal relationship would be considered probabilistic, because even exact knowledge of the parents’ IQ will not enable us to exactly predict the child’s IQ, but it does enable researchers to make a fair estimation.

The term *deterministic* is primarily used to refer to discussions of necessary and sufficient causes in individual cases or combinations of these types of conditions. Deterministic causal relationship means for qualitative social researchers that apparent acts of randomness and chance are because of limitations in the theories, models and data, not because reality itself is random. As Beach and Pedersen explain, this means that what we are examining is not whether “a given X tends to covary with Y in a population but whether X is either a necessary and/or sufficient cause of Y in an individual case” (Beach & Pedersen, 2013, p. 76). In other words, a condition is necessary if the absence of a mechanism prevents an outcome, whereas the presence of the mechanism ensures it. The different parts that make up the causal mechanism ($X \rightarrow [(n1 \rightarrow) * (n2 \rightarrow)] Y$) should all be necessary: if they are superfluous they can be left out of the equation. This ontological position is generally adopted for small-*n* case study research – like this one – to explain the role of X in Y, whereas probabilistic ontologies are suitable for large-*n* case studies to discern patterns (Beach & Pedersen, 2013).

4.4 Data collection

As Beach and Pedersen note, given the difficulty of measuring complex social phenomena such as democracy, we cannot fully measure what is happening in reality. Even with the best

⁹ According to the example provided by Beach and Pedersen, Hume argued that you can see an object fall to the ground, but we cannot observe the gravitational forces that caused the object to fall (hence the ‘secret connection’) (Beach & Pedersen, 2013, p. 24).

measuring instruments, we can gain only a selected sample of observations of a given phenomenon. Therefore, we are forced to infer from a small set of empirical observations that a theory was the cause of the phenomenon. In other words, we make an inferential leap from what we can observe empirically to conclude that an underlying causal explanation exists (Beach & Pedersen, 2013).

Since this research relies solely on secondary data collection, it is of critical importance to thoroughly scrutinise and contextualise the sources. Empirical material needs to be evaluated before it can be submitted as evidence on which to base causal inferences. This process needs to be transparent and open to scrutiny to ensure that it is as objective as possible. Based on Bayesian logic, the idea is to find evidence to strengthen our confidence in the existence of a hypothesised causal mechanism. If strong evidence is found, and other explanations can be eliminated, one can conclude that causal mechanism is present in this case.

Box 2: Bayesian logic

Beach and Pedersen (2013) draw from several other scholars to underscore that Bayesian logic should be utilised as the inferential underpinning of process-tracing methods, enabling us to transparently and systematically evaluate the evidence. As Bennett explains, in Bayesian logic it is not the number of pieces of evidence that is important, but rather “the likelihood of finding certain evidence if a theory is true versus the likelihood of finding this evidence if the alternative explanation is true” (Bennett, 2006, p. 341). Beach and Pedersen (2013) go on to explain that Bayes’ theorem states that our belief in the validity of a hypothesis is, after collecting evidence (posterior), equal to the probability of the evidence conditional on the hypothesis being true relative to other alternative hypotheses (likelihood), times the probability that a theory is true based on our prior knowledge. Here, we use the term *hypothesis* to refer to hypotheses about the existence of each part of a theorised causal mechanism. In a formula, it looks like this: $\text{posterior} \propto \text{likelihood} \times \text{prior}$ (Beach & Pedersen, 2013, p. 84). This is the very basis of Bayesian logic (for more info, see Beach & Pedersen, 2013, Chapter 4 and 5).

The type of empirical material that is collected in process-tracing methods is by Collier et al. (2010) termed *causal process observations* (CPO). They define it as “an insight or piece of data that provides information about the context or mechanism and contributes a different kind of leverage in causal inference. It does not necessarily do so as part of a larger, systematised array of observations” (Collier et al., 2010, p. 184). This means that only after evaluation – based on case-specific contextual knowledge – empirical material can be considered evidence. It can then be used to make with-in case inferences about the causal mechanism.

Evaluating evidence in process-tracing involves four distinct steps (collection, content evaluation, assessment of accuracy, and probability of evidence) that should be transparently described in one’s research. Beach and Pedersen (2013, p. 122) discern the following steps:

- First, we collect empirical data, based on the predictions for what type of evidence we should expect to see if the hypothesised causal mechanism is present.
- Second, we assess the content of our collected observations, using our contextual knowledge to determine what our observations tell us in relation to what evidence was predicted to occur.
- Third, we critically review our observations. Is it evidence of what we intended to measure? What are potential sources of error and can we correct for them? This involves evaluating our confidence in the accuracy of our measure in terms of the estimated probability that the measure is accurate, depicted in Bayesian logic as $p(e)$ (see Beach & Pedersen, 2013, Chapter 6).

- Finally, we can make stronger inferences when the evidence is highly unlikely¹⁰. The probability of specific pieces of evidence need to be assessed based on contextual knowledge of a case.

The range of possible sources to collect evidence from is very wide. Any material that can be considered reliable might contribute to validating a certain mechanism, ranging from interviews to archived material and from public speeches to newspaper articles. To categorise evidence in process-tracing methods, empirical material can be divided in five different kinds of evidence. Pattern evidence relates to the prediction of statistical patterns in the evidence; sequence evidence deals with the spatial chronology of events predicted by a hypothesised CM; trace evidence is evidence which mere existence is a proof that something happened; account evidence deals with the content of empirical material and lastly, e silentio evidence is the lack of an observable manifestations in a context where it would be expected (Beach & Pedersen, 2010, p. 99-100).

To answer this specific research question, I will mostly look at public announcements, interviews, reports by the government, NGOs and supranational bodies (like the United Nations) and memoirs of victims, i.e. mainly account evidence. These will include both primary sources (witness accounts of a process) and secondary sources (sources based on primary sources).

4.5 Limitations of this method

Like with any research method, theory-testing process-tracing has some potential pitfalls. It is good to be aware of these limitations in order to be able to address them. For instance, since this research relies heavily on data and materials that are produced by others, a shortage of available data will lead to inconclusive or, at best, temporary conclusions. It can make it impossible to eliminate alternative causal processes that also fit the evidence (George & Bennett, 2004). It is therefore of the utmost importance to ensure triangulation of sources, without sacrificing quality for quantity. Internal and external validity are key in finding a causal relationship, therefore the operationalisation of the key concepts and the causal mechanism must be accurate and clear (Van Leeuwen, 2016).

Another limitation is that while process-tracing enables us to make strong within-case inferences, it is not compatible with generalisations beyond the individual case (Beach & Pedersen, 2013). This research is likely to produce some conclusions about the effects of including victims in the peace process in Colombia, after which recommendations will be made for future research, policies and peace processes. However, it must be kept in mind that the findings of this research need not necessarily be true for other cases in which victims are included in the peace process.

¹⁰ Because, following Bayes' logic, "the more improbable the evidence (p(e) low), the stronger our ability to update our confidence in the posterior probability of the validity of a theorised mechanism when we find e" (Beach & Pedersen, 2013, p. 122).

Chapter 5: Identifying the causal mechanism

If we take the notion of legitimacy in the broad sense, common within political studies – the extent to which the public supports a regime, policy, or specifically in this case a peace agreement – there are different aspects of the peace negotiations that can potentially increase the legitimacy. Every element of the negotiation framework¹¹ may contribute to the extent in which the public supports a peace agreement. However, it is not within the scope of this research to investigate all potential causal mechanisms, but rather to strengthen our confidence in inclusivity as a causal mechanism for the increased legitimacy of a peace process. This chapter theorises and contextualises the causal mechanism based on the previously discussed theories, and outlines how it can be operationalised in practical terms. After this has been done, observable manifestations will be presented to illustrate if and how the causal mechanism functions. The chapter concludes with the results, which is where the observable manifestations will be ascribed an inferential value.

5.1 Conceptualisation of the causal mechanism

As Figure 7 shows, the first step in testing whether a hypothesised causal mechanism is present in the case is to conceptualise a causal mechanism between X and Y based on existing theorisation. By explicitly conceptualising the activities that produce change, the mechanistic approach to causal mechanisms draws our attention to the actions and activities that transmit causal forces from X to Y; that is, how the mechanism produces an outcome and the context within which the mechanism functions (Beach & Pedersen, 2013). In this case the theory is that the inclusion of victims in the peace negotiations directly contributes to the legitimacy of the peace agreement (and consequently to durable peace), but it is essential to uncover *how* and *why* inclusion contributes to legitimacy. Inclusion does not equal legitimacy: there are parts (or steps) in between where actors undertake activities and thereby exert causal force, which influence the level of legitimacy of the peace agreement. Every one of those parts should be *necessary* but *insufficient* in itself for the causal mechanism to function.

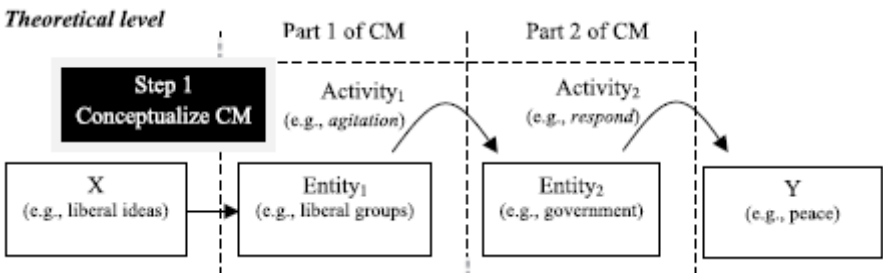


Figure 7: An abstract example of the conceptualisation of a causal mechanism (Beach & Pedersen, 2013, p. 15)

Figure 8 illustrates how the theorised causal mechanism functions in this case and the parts it includes:

- Independent variable X: Participation of victims in the peace negotiations to foster inclusivity.

¹¹ The information management mechanisms, the scope of inclusivity and legal guarantees of a peace agreement. See Bakiner (2019) for the negotiation framework.

- Part 1 ($n_1 \rightarrow$): The parties of the conflict need to outline and develop the idea to undertake intervention X. In this case that would mean that the inclusion of particular actors needs to be a viable option for the parties to the conflict and the mediators.
- Part 2 ($n_2 \rightarrow$): Once the idea has been formulated to include civil society actors, i.e. victim delegations, a process of negotiations begins in which the selection agents (the parties to the conflict and mediators), the audience and the represented all exert force to influence the selection of the representatives, for normative and/or political motives.
- Part 3 ($n_3 \rightarrow$): After the selection of civil society actors (i.e. victim delegates), they are directly or indirectly included in the negotiation process (in various modalities). Since it is impossible for the entire population to be directly involved in the peace negotiations, civil society actors represent groups of people and try to influence and shape which topics are addressed and/or adopted in the agreement.
- Part 4 ($n_4 \rightarrow$): Once the victim delegates have shared their stories and made their demands, we hope to see some feedback from the represented and wider public, which indicate that they support the contribution of the delegates and peace process.
- Outcome (Y): Combining conclusions from the works of Zanker (2014), Paffenholz (2014) and Losnegard (2017)¹², we may assume that the inclusion of victim delegations increased the legitimacy of the overall peace process. Only after one can verify the existence of the aforementioned parts, determine how causal force is exerted by actors and study the support among the public for this particular aspect of the peace process, one can draw conclusions regarding to what extent a process is perceived as more legitimate by the public and how the legitimacy of said agreement is affected by the inclusion of victims.

¹² Zanker showed that the inclusion of civil society actors, if done properly, is always desirable. Paffenholz (2014) provided the framework of modalities to determine the various levels of inclusion, and Losnegard (2017) built on this to show how modalities closer to the negotiating table are more likely to get points on the agenda and influence the negotiations.

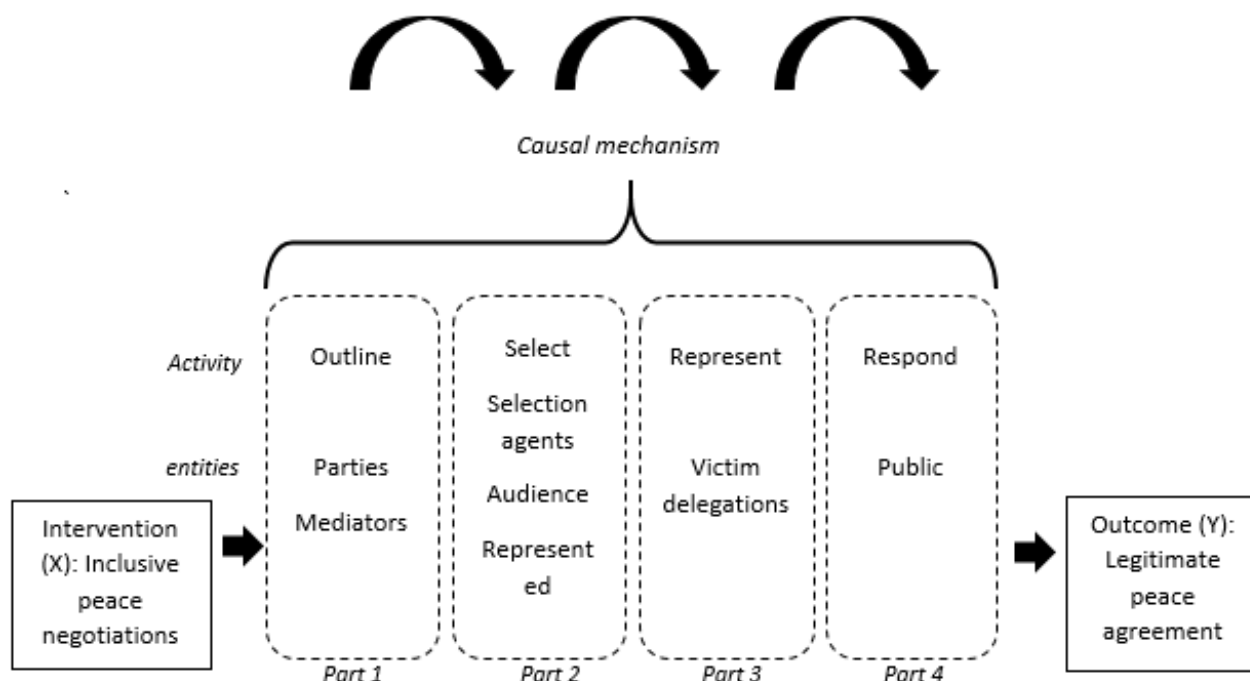


Figure 8: Conceptualisation of the theorised causal mechanism.

5.2 Operationalisation of the causal mechanism

Once the causal mechanism has been theorised, the next step of theory-testing process-tracing is the operationalisation of the causal mechanism. The theorised parts of the model depicted above need to be translated into case-specific predictions of which observable manifestations each of the parts of the mechanism should have if the mechanism is present in the case (Beach & Pedersen, 2013). It is key to analyse which actors participated and which activities they undertook to influence the outcome, in order to be able to study a specific part of the causal mechanism and verify its existence. Each of the parts will be operationalised individually, because each part may need to be tested with different empirical material and according to different techniques¹³.

Part 1: Idea to include victims in the peace process

Whether the inclusion of civil society actors (notably victim delegations) is considered a viable option by the selection agents is, according to Lanz' model, dependent on two factors. The inclusion of civil society actors needs to be practical: that is, it needs to increase the likelihood of reaching an agreement and resulting in durable peace. In addition, the inclusion of those actors also needs to correspond with the international norms in mediation. The most comfortable situation for mediators is when practical requirements and international norms are mutually reinforcing, which means there is a practical rationale for inclusion (Lanz, 2011).

Since there was broad support for the inclusion of victims in the peace negotiations in Colombia, among the parties to the conflict as well as the mediators (Brett, 2018), this case appears to be a scenario 1 situation. This means that both factors were present and should be observable. Public announcements by the government and the FARC, internal documents or notes of meetings and reports by various UN bodies (both as mediator and as human rights

¹³ See Methods and Methodology for different techniques of data collection.

watcher) will provide insight in how the various actors perceived that the inclusion of victims would increase the likelihood of a durable agreement. These documents might also show how perceptible the actors were for internal and external pressure while working out the specifics of the inclusive mechanisms. The specifics of the victim delegations were laid out in Joint Statement #39, which is when the general idea became an actual plan.

The UN is mandated as the international authority for conflict mediation and its frameworks for conflict mediation are paradigmatic. In this respect, it makes sense to analyse how the UN valued inclusivity and the role of victims in peace negotiations at the time of the negotiations in Colombia. If the UN resolutions, guidelines and reports outline the importance of inclusive peace resolution and specifically a role for victims, it is safe to say that the international norms were favourable for the inclusion of victims in Colombia.

Part 2: The selection process

After the idea has been voiced to include victims and a plan has been drafted, it needs to be decided how to choose the representatives. According to Mendes' model (2020), the choice of representatives is determined by the selection agents, the audience and the represented. It is therefore essential to establish who these actors are and how they interact with each other. The selection agents are generally the parties in conflict and mediators, although in this case the government and FARC tasked the mediators and Catholic Church with this responsibility to bolster objectivity and legitimacy. The audience refers to a broad range of actors that determine who is acceptable as representative, notably a wide variety of civil society organisations and the parties of the conflict. The represented refers to the people that are supposed to be represented, in this case the victims.

In analysing the dynamics between the various actors in the selection process, the period between the official announcement to include victims at the negotiating table (Joint Statement #39) and the moment that the delegations actually participated is of particular interest. Within this period, victims assumed an active role in the peace negotiations through an interplay of interests and pressure between the government, FARC, UN, civil society organisations and the broader public. In this respect too, public announcement and internal reports and articles by the government, FARC and the organisers¹⁴ will shed some light on how this selection process played out, starting with the idea to include civil society actors up until the point that it was publicly announced that victims would participate in the form of delegations. In addition, throughout this period, victim organisations like MOVICE mobilised support and amassed political momentum through campaigns and reports, so their contribution was pivotal for the dynamic of the selection process. Lastly, the participants for the victim delegations were selected after three regional and one national forum for empowerment of victims. Analysis of these type of documents, announcements, output by victim organisations and forums should enable us to observe the dynamic interplay of the selection process.

Part 3: Representation

Once the representatives have been selected and join the negotiating table, several questions arise. One of those questions relates to the modality in which the representatives are included in the peace negotiations. It seems evident that the victims were directly included at the negotiation table (modality 1 of inclusion (Paffenholz, 2015)) by means of five different delegations, yet it still worthwhile to scrutinise what their exact role was and to what extent their input contributed to the final agreement and was genuinely valued. Witness accounts of both the victims that were present, as well as of representatives of the other actors, will elucidate

¹⁴ In addition to the UN, the UNDP and Catholic Church were appointed as the organisers of the victim delegations.

how they experienced the role of the victims at the negotiating table and how this might have had an impact on their decisions.

Another set of questions relates to the level of legitimate representation. Who do the representatives claim or intend to represent? Who do they actually represent? Is there any accountability to or interaction with the represented? Zanker's model of legitimate representation offers the necessary theoretical tools to analyse the legitimacy of the representatives and address these questions. If this part of the causal mechanism is present, we should be able to observe that actual problems and grievances of the represented are addressed, that there is a symbolic attachment of the represented to the representatives, and that there is some kind of responsivity of the representatives to the represented. In other words, both input and output legitimacy need to be present for the representation to be truly legitimate.

In all likelihood there is a substantial body of empirical material that will elucidate the role of the representatives and their relation to the represented. For starters, the UN, National University of Colombia (NU) and Catholic Church were tasked by the government and FARC to organise the victim delegations, so there should be documents and announcements how they envisaged and evaluated the role of the participants. The government and FARC also incorporated a term in Joint Statement #39 that they would reflect on the functioning of the delegations after each delegation had visited, to work out any inconsistencies. This ought to shed some light on the modality of inclusion and the intention. Second, interviews and personal stories, reports and surveys by victim organisations and other empirical material that maps to what extent victims could relate with the participants should enable us to analyse the interaction between the participants of the victim delegations and other victims.

Part 4: Attitude of the public

This part of the causal mechanism will in all likelihood prove to be the most problematic, since we seek to determine how the direct inclusion of victims has been received by the victims and wider public, and in this respect has contributed to the legitimacy of the overall peace process. However, this is only one variable of many that affect how the peace process is perceived by the public. The initial peace agreement was rejected in October 2016, which indicates a lack of support for the agreement. However, this lack of support may be attributed to a multitude of reasons, among others the lenient punitive measures (Tellez, 2018) and the perceived "legalisation of narcotrafficking" (Murphy & Cobb, 2016).

It is therefore elemental to study *the effect of the direct inclusion on the legitimacy of the peace process*, not the legitimacy of the peace process in general. Ideally, we would be able to observe pattern evidence in the form of polls or questionnaires, which would indicate most conclusively how the represented victims and broader public feel about the direct inclusion of victims and how this shaped or changed their view on the peace process. Exploratory research uncovered various studies that analyse the democratic values in Colombia, support for peace process and even the support for specific provisions of the final agreement (LAPOP 2014; 2015; 2018).

Additional material in the form of account evidence might be expected, indicating support for, the impact of and potential criticism against the victim delegations. It is likely that the parties of the conflict and/or mediators have reflected on the contribution of the direct participation of the victims, that civil society organisations have demonstrated their support or criticism by means of reports or communiqués and that newspapers or websites have published columns that elucidate how citizens feel. If the victims and/or public are discontent with the role or set-up of the victim delegations, we would also expect to be able to observe this. In itself these sources might not be conclusive, but put together they can help construct a picture of how the victim delegations have bolstered legitimacy for the peace process.

Table 2: Overview of the operationalisation of the causal mechanism

	Idea to include Victims	Selection process	Representation	Public attitude
Information	<p>Practical implications of including victim delegations</p> <p>International norms regarding inclusion of victims</p>	<p>Who were the actors?</p> <p>The dynamic between the actors</p> <p>How was decided which victims to include? When? By whom?</p>	<p>What was the role of victims? → modalities</p> <p>Who did they intend to represent?</p> <p>Who did they represent?</p> <p>How can the represented hold representatives accountable?</p>	<p>How do the represented and public voice their opinion?</p> <p>To what extent do they support the victim delegations?</p> <p>Has this increased the legitimacy of the peace process?</p>
Theory	Lanz' model for inclusion	<p>Mendes' model for the choice of representatives</p> <p>Paffenholz' modalities for inclusion</p>	Zanker's model for legitimate representation	
Actors	Selection agents	<p>Selection agents</p> <p>Audience</p> <p>Represented</p>	<p>Parties to the conflict</p> <p>Mediators</p> <p>Civil Society Actors (victims)</p>	<p>Public</p> <p>Civil Society Actors</p> <p>Media</p>
Causal Process Observations	<p>Public announcements</p> <p>Internal reports and meeting notes</p> <p>UN Guidelines</p>	<p>Reports by organisers</p> <p>Interviews attendees</p> <p>Notes of meetings</p>	<p>Notes and memoires about the negotiations</p> <p>Reports and interviews of included CSA</p> <p>Scientific literature</p>	<p>Surveys, polls and questionnaires</p> <p>Reports by included and excluded CSA</p> <p>Reflection by organisers</p> <p>Columns</p>
Type of evidence	Account evidence	Account evidence E silentio evidence ¹⁵	Account evidence E Silentio evidence	Pattern evidence Account evidence
Sources	<p>Government</p> <p>FARC</p> <p>UN</p>	<p>Government</p> <p>FARC</p> <p>UN and other organisers</p> <p>CSOs</p>	<p>CSOs (like MOVICE and MAPP-OEA)</p> <p>Scientific research</p> <p>Media</p>	<p>Newspapers/websites</p> <p>Scientific research</p> <p>CSOs</p>

¹⁵ The absence of expected observable manifestations as evidence (Beach & Pedersen, 2013).

5.3 Testing the causal mechanism

This section covers the causal process observations that relate to the various parts of the causal mechanism. In other words, it compiles the relevant sources that are necessary to prove or disprove the existence of each part of the causal mechanism in this specific case.

Part 1 of the CM: The idea to include victims

On August 26, 2012, the government of Colombia and the FARC signed *The general agreement for the termination of the conflict and the construction of a stable and lasting peace*, through which they framed the peace negotiations. The preamble of the agreement states that “peacebuilding concerns society as a whole and requires participation by all those involved, without distinctions [...]”. The agreement specifically addresses *Victims* as one of the six topics on the agenda and promises that compensating victims (both in terms of justice and truth) is at the heart of the agreement. They also agreed that “to guarantee the widest possible participation, a mechanism will be established to receive, by physical or electronic means, proposals from citizens and organisations on the points of the agenda. By mutual agreement and within a given period of time, the Table can make direct consultations and receive proposals on these points, or delegate to a third party the organisation of spaces for participation” (Art. VI.6). The inclusion of this term demonstrates the government’s and FARC’s intention to create a base for widespread support through inclusive mechanisms, although it does not outline in detail how the mechanisms should function and which role is attributed to victims specifically.

One year prior to the official start of the negotiations, the Santos administration adopted the *Victims and Land Restitution Law*. This served as a foundation for the subsequent peace talks and illustrated the government’s sincerity to deal with the legacy of the conflict. Art. 192 of the law guarantees that “victims should be included in the design and implementation of the law, as well as the plans, programmes and projects that are created to serve this goal” [*translated from Spanish*]. Art. 193 complements this by granting a spot at the at the ‘negotiating table’¹⁶ on national, regional and local levels, including women, children and elderly. Unidad para las Víctimas, the government body that was created to assist victims and monitor the implementation of *Victims’ Law*, illustrates in its reports that the scale of the reparations and inclusivity are unprecedented, that it seeks to repair the largest number of victims ever and serve as a model for the international community (Unidad para las Víctimas, 2015). The government had thus already demonstrated its genuine intent to ensure for victims to have a central role, prior to the peace negotiations with the FARC.

Nevertheless, the government appeared to be reluctant to involve victims directly at the negotiating table in Havana. In a speech given by Sergio Jaramillo, High Commissioner for Peace, on behalf of the government, he underscored that the implementation of the agreement is not going to be decided on by the Government and the FARC, but by “all the citizens in the regions in a later phase of transition in one great exercise of participation and joint construction of peace” (Jaramillo, 2013). He also reiterated that it was established in the general agreement that civil society could voice their opinions by sending written proposals with their ideas about what should be included in the agreement, in addition to consultation with civil society actors through forums. Through these means, victims could have a say in the negotiations. However, FARC communiqués and reports by (international) advisers and organisations all underline that the FARC actively advocated for direct inclusion of CSA, i.e. victims, at the table in Havana. The government only agreed to this after considerable pressure by the UN and civil society (Zambrano & Gómez Isa, 2013; OIM, 2014; UNDP, 2014; FARC-EP, n.d.).

¹⁶ Mesa de Participación de Víctimas

From the outset of the negotiations the FARC made it clear that inclusivity was a key element for the success of the agreement. In the ‘ten minimal proposals for political participation’ (FARC-EP, 2013a; 2013b), they specifically mention “guarantees for political and social participation of peasant, indigenous and Afro-descendant communities, as well as other excluded social sectors” (FARC-EP, 2013b). In another communiqué published on the official website of the FARC, they claim that “during the discussion of item 5 of the Agenda, the FARC put on the table the claims of victims’ and human rights’ organisations, trying to correct the deficiencies of a discussion that had failed to provide an active and leading role to the victims of the conflict and to human rights defenders, limiting their participation to the organization of some meetings in Colombia in which there was no possibility of dialog with the members of the Negotiating Table” (FARC-EP, n.d.). This indicates that they, as mentioned in the general agreement, perceive the victims as elemental for the transition to peace. But more importantly, it stresses that they recognise the victims as political actors with agency and a stake to actively participate and represent themselves.

The second part of Lanz’ model focuses on whether the international norms were favourable for inclusive negotiations. Since the 1980s, the UN has adopted a multitude of resolutions in which it records the rights to which victims are entitled, like the basic principles of justice for victims¹⁷ and the right to remedy and reparation for victims¹⁸. However, these resolutions regard victims as passive subjects that are “defenceless and need to be protected”, rather than as legitimate social actors with a stake in peacebuilding (Druliolle & Brett, 2018, p. 7).

If one looks at the content and discourse of the resolution and guidelines that were adopted by the UN over the past decade, it becomes strikingly clear how inclusivity has come to dominate the mediation discourse. Just before the exploratory talks between the Colombian government and FARC commenced in 2011, the UNSC produced a report in which it examined “the challenges by the UN and its partners in providing professional mediation assistance to parties in conflict” (S/2009/189). In the ‘lessons learned’ section, it outlines how to resolve disputes, establish a lead mediator, manage spoilers and empower local and regional actors for mediating. There is, however, no mention of civil society inclusion, victims, female empowerment, third-party interests or creating national ownership of an agreement. In other words, it merely focuses on the parties of the conflict and the role of the mediator.

At the outset of the peace negotiations, during the pre-negotiations, the UN took a landmark step and adopted its first resolution (A/65/283) on mediation: *Strengthening the role of mediation in the peaceful settlement of disputes, conflict prevention and resolution*. The resolution recognised the contributions of all key actors – Member States, the United Nations system, sub-regional, regional and other international organizations, and civil society – and “provided fresh perspectives on the use and further adaptation of mediation to contemporary disputes and conflicts” (A/65/283). One year later, the implementation of the resolution was evaluated in report A/66/811. The report recognises that the field of mediation has become more diverse, and that local mediation efforts complement regional and national initiatives. Local mediators command local legitimacy, have context-specific knowledge and have often established contact with the parties of the conflict.

In addition, women and children are “rightfully demanding a greater voice in political transitions”, as they are disproportionately affected by armed conflict. The report in particular

¹⁷ UN Resolution A/40/34 (1985): *Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power*.

¹⁸ UN Resolution A/60/147 (2006): *Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law*.

notes that “the need to make mediation processes more inclusive of the broader society has focused new attention on the process management aspects of mediation, such the creation of different mechanisms to facilitate participation of and communication with the public” (A/66/811). In the *UN Guidance for Effective Mediation*, which complements the report, it is outlined how mediators have to take the needs of other stakeholders into consideration and address the inclusion-exclusion dilemma. In other words, mediators should assess actors’ interests but the report does not go as far to actively advocate for the widespread inclusion. The resolution and report do not even mention victims or acknowledge that they possess any agency. In 2016 the UN took its mediation framework a step further by reviewing the UN peacebuilding architecture and adopting twin resolutions A/70/262 and S/2016/2282¹⁹. Among others, these resolutions explicitly emphasize that inclusivity is key to advancing national peacebuilding processes and objectives, and that more women should participate and lead in all decision-making levels of peacebuilding²⁰. It also outlines the importance of national ownership and leadership in peacebuilding, because this increases the likelihood of successful implementation of a peace agreement. Incorporation of local and regional stakeholders in both the negotiations and implementation, public support for an agreement and women’s participation have thus become elemental aspects of the UN peacebuilding framework. It is safe to say that the discourse of inclusivity has come to dominate the debate, albeit still not addressing victims as political actors.

Part 2 of the CM: the selection process

When the peace talks were announced through the General Agreement in August 2012, civil society organisations and other stakeholders immediately petitioned for participation in the negotiations. Many civil society organisations, but most notably MOVICE, had already heavily pressured the government to integrate truly inclusive mechanisms and do justice by the victims in Law 1448 (MOVICE, 2008 & 2013; Brett, 2018). They had accumulated considerable political influence and enjoyed the momentum of inclusive discourse and actions. So, when the government and FARC announced in June 2014 (Joint Statement #37) that victims should directly participate in the negotiations, it only made sense to incorporate victim organisations while developing a set of criteria based on which the victims would be chosen to participate. The most notable organisations were MOVICE, which had already published a report with propositions on how to deal with and treat victims (MOVICE, 2013) and Colombia sin Heridas (Colombia sin Heridas, 2014), but after forcing their way into a meeting of the negotiating table to demand a seat, Fundación Víctimas Visibles was also offered a role (Arenas, 2014).

Other civil society organisations, like Corporación Sisma Mujer, Ruta Pacifica and Casa de Mujer, have brought women together in a National Women’s Summit for Peace to posit a peace agenda and advance the interests of women, whom have suffered disproportionately throughout the Colombian conflict. The Summit, which took place in 2013, enjoyed support of the UN and five donor countries, as well as government approval (Brett, 2018). The Summit was concluded with a joint statement of all participants towards the parties of the conflict, which contained three central issues: i) the requirement that women participate in the peace talks at a binding and influential level; ii) the demand that gender and women’s rights be incorporated into the peace agreements; and iii) the demand that there be an immediate de-escalation of violence against women (UN Women, 2015; Brett, 2018). Two weeks after this statement, the parties to the conflict acknowledged the lack of women in the peace process and recognised the

¹⁹ Resolutions starting with A/... were adopted by the UN General Assembly, resolutions starting with S/... were adopted by the Security Council. In this case they are mutually reinforcing.

²⁰ See A/72/707 for a review of the twin resolutions.

“important role of women in conflict-prevention, conflict-resolution and peacebuilding” (Joint Statement #25; UN Women, 2015).

On July 17, 2014, the government and FARC released Joint Statement #39 in which they stated that “the delegations of the Colombian government and FARC inform the public that we have agreed on the mechanisms for the direct inclusion of the victims of the internal conflict at the negotiating table in Havana, and we recognise that their voice will be a fundamental input in the discussions about this point [Point V: Victims]. The UN system in Colombia and the Centre for Reflection On and Follow-Up to the Peace Dialogues at the National University (NUPD) of Colombia, in consultation with various victim organisations, will be in charge of the organisation and selection process of the victim delegates. We invite the Episcopal church [Catholic Church of Colombia] to cooperate in said process to contribute and guarantee that everything is in accordance with the following criteria” [*translated from Spanish*].

- The delegations should be balanced and selected based on principles of pluralism and discretion. The delegations should also reflect the whole universe of violations and should include victims from different geographical locations, socioeconomic backgrounds and ethnicities.
- The members of the delegations should be direct victims of the conflict and represent no one other than themselves.
- The members of the delegations will have full autonomy to share their point of view.
- The participation of the delegations underlines the objective to end the conflict and foster reconciliation.
- The Table will review the functioning of the selection mechanism for every delegation that visits, to make recommendations (if necessary) for future delegations.²¹

Lastly, there should be a gender focus to ensure that women would have a central role in both the negotiations (and other peacebuilding activities and projects) [*translated from Spanish*].

In short, the mediators (the UN and National University of Colombia) were tasked with organising the forums for victims, after which the delegates to go to Havana would be chosen in consultation with the Catholic Church. By actively distancing themselves from the selection process, the government and FARC sought to increase the legitimacy of the delegations and the process as a whole (OIM, 2014; Brett, 2018).

²¹ See Joint Statement #39 for the full statement.

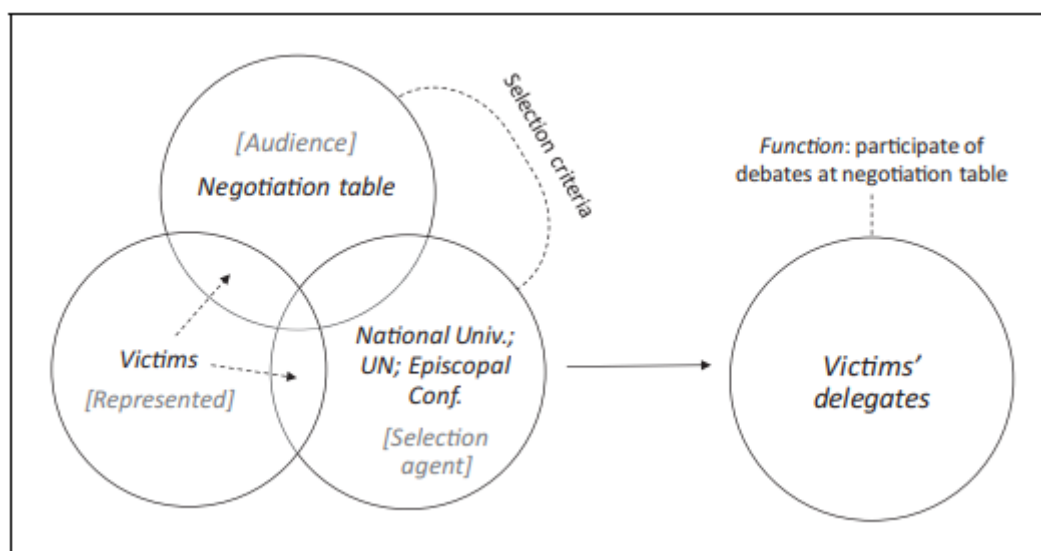


Figure 9: Selection of victims' delegation in the Colombian peace process (Mendes, 2020, p. 290)

El Espectador, one of the country's leading newspapers, closely followed the developments and announcements regarding the peace talks. It interviewed Augusto Castro, president of the Episcopal Church, about his meeting with delegations of the government and the FARC. The church was tasked to 'pave the way' in the discussion of victims and victims' rights, and Castro remarked that they firmly believed that, in line with Joint Statement #39, "the victim delegations should reflect the whole universe of violations of human rights and IHL that have occurred throughout the internal conflict [...] and the composition of the delegations should be balanced" [translated from Spanish] (El Espectador, 2014). The OIM's weekly updates underline the role of the church, in that the church will provide direct support to the UN and the Universidad Nacional as they organise five teams of victims' representatives who will travel to Havana starting on August 12 (OIM, 2014).

Based on the criteria outlined above, and under heavy pressure by the parties of the conflict and the civil society actors, the mediators and Episcopal Church had to select sixty delegates that reflected the whole universe of violations. This complex, sensitive and controversial task was initially made even more intricate by the fact that both parties did not consider themselves perpetrators: the government said that the guerrilla was the only party that carried out illegal violations so only the FARC should be obliged to face their victims, whereas the FARC argued that they had not victimised civilians at all and the government and paramilitary forces were the sole perpetrators (Brett, 2018). The organisers sought to balance the number of victims by each party, while mitigating the perception that the numbers of victims by each party adamantly reflected their relative responsibility in the conflict. Nevertheless, the polemic of the delegations was mostly focused on whom the perpetrator had been to determine the level of responsibility (Semana, 2014). One attendee remarked that: "the delegations were perceived of as a type of popular tribunal through which the parties would be able to achieve moral ascendancy by maximising the number of *accusers* that their adversary would have to face" (Brett, 2018, p. 281).

In a report which Brett (2017) wrote on behalf of the UNDP, he outlines that the three regional forums in Barranquilla, Villavicencio and Barrancabermeja, in combination with the submitted proposals and consultation with civil society organisations, were used to identify key stakeholders of all territories and backgrounds to participate in the delegations. The three regional forums and the national forum in Cali offered a platform for victims to exchange stories, propose initiatives for the peace process and ventilate thoughts about how to deal with

the aftermath of conflict in terms of reconciliation and justice. Especially the national forum in Cali, with approximately 1,500 victims present, assisted in establishing a general discourse and list of demands from the perspective of the victims. The shared sentiment was that truth, acknowledgement and reparations for the victims were the most important pillars for the peace process to be legitimate and durable. As the UNDP reflected: “it is fundamental that the damage suffered by the victims is acknowledged and that they are treated with the respect their individual stories merit” (UNDP, 2014a). Moreover, victims prefer to see themselves as survivors rather than victims, because victims are generally stigmatised as actors devoid of agency (UNDP, 2014b; Druliolle & Brett, 2018).

Fabrizio Hochschild, coordinator on behalf of the UN, said that “one of the most important conclusions of the forum in Cali is that the victims, more than anything, want both the government and the FARC to tell the truth about the conflict, about the disappeared, about the homicides and about the kidnapped” [*translated from Spanish*] (UNDP, 2014a). In addition, the victims called for acknowledgement of victims that suffered at the hands of actors that are not included in this peace process, like demobilised combatants, mining corporations, multinationals and (foreign) armies (UNDP, 2014a).

The victim delegates were chosen among the participants of the various forums, but only after all forums were concluded. This means that there was interaction between (some of) the represented people and the representatives, albeit they were not yet aware of their respective role. On the one hand, there is reason to believe that the representatives were aware of the demands of some of the victims they supposedly represented, notably those they met and conferred with at the forums. On the other hand, the participants at the forum were only a fraction of the total number of victims, so it cannot be assumed that all those victims felt represented by the final sixty delegates that travelled to Havana.

La Silla Vacía, a political news website in Colombia, poignantly elucidates the lack of legitimate representation in various articles. Despite the pluralistic and representative approach, there were still many groups and individuals that felt like their stories were lost and that they were marginalised from the peace process. The articles offer a platform to several leaders or representatives of various civil society organisations that felt like La Mesa Nacional (the negotiating table) did not have legitimacy among victims. Rosa Amelía Hernández, leader of a victim organisations for afro-descendants in Córdoba, adequately summarised the general sentiment among many civil society actors: “Nobody feels represented by La Mesa. How are they going to represent us? It is a complete lack of respect” [*translated from Spanish*] (Arenas, 2014). There is a strong sense of distrust towards participants of the negotiating table, and hence also towards the election of the victim delegates. This distrust is based on years of victimisation at the hands of some of the participants at La Mesa, but also because several delegates of specific regions were accused of running clientelist networks and/or buying votes to favour their own region (Arenas, 2014).

Part 3 of the CM: Representation

With regard to the victim delegations, the simultaneous adoption and rejection of inclusive discourse proves to be problematic in terms of legitimate representation. This becomes most obvious in Joint Statement #39, which outlines the criteria for the selection of the victim delegates. Victim delegates are included to reflect the whole universe of violations and should include victims from all different categories and geographies. It appears that this request for plurality and balance has been fulfilled. Women, who have been victimised disproportionately, made up 60% of the delegates (see Box 3) and a wide variety of victimisations were represented by victims or their relatives – kidnapping, massacres, forced displacement, sexual violence, threats, disappearances, child recruitment and *falsos positivos* (Brett, 2017). At the same time,

it is italicised that delegates represent no one other than themselves (Point 2 of Joint Statement #39), and therefore do not need to justify or be responsive to other victims.

Box 3: Composition of the delegations (UNDP report: Brett, 2017, p. 28).

The five delegations included:

- 36 women and 24 men
- Victims aged between 19 and 78 years of age
- Victims from 25 of the country's departments, including Valle del Cauca, Cauca, Antioquia, Cundinamarca, Huila, Nariño, Santander, Caquetá, Bolívar, Chocó, Magdalena, Meta, Norte de Santander and Tolima
- 10 victims from the national level in Bogotá
- Victimising events such as the violation of the right to life: homicide, extra-judicial executions (such as the false positives), massacres and forced disappearance; forced displacement; threats; kidnapping; sexual and gender violence; victims of anti-personnel mines; victims of forced recruitment of children and adolescents; victims of the right to freedom of expression
- Diverse sectors of the population, such as human rights defenders and their families; politicians from across the country; Afro-Colombians; Indigenous peoples; peasant farmers; journalists; teachers; trade unionists; businessmen and women; members of the security forces; the LGBT population; civil society leaders; cattle ranchers; victims of forced recruitment
- Victims of a wide range of perpetrators, including the state security forces; the FARC and the ELN, paramilitary organisations, and many individuals who had been victims of a diverse set of perpetrators.

Central to the experience of the victim delegates were a lot of mixed feelings. Interviews with the delegates themselves, as well as other attendees or people that closely worked with them, illustrate that people were very grateful to be offered a chance to contribute to the peace process and have an opportunity to directly confront (representatives of) the institutions that inflicted harm upon them. At the same time, reliving those distressing moments and facing the perpetrators triggered anxiety and feelings of unsafety. Daniela Cordona, the counsellor for the victim delegates in Havana, elaborates in an interview on what the victims expected and how they experienced their role in the negotiations. She mentions that the victims' strongest demand was that it would never happen again (no repetition), in addition to a demand for truth. Victims demanded to know what happened to kidnapped or disappeared family members (La Patria, 2015; Brett, 2017). With respect to reconciliation and justice provisions, every victim is an individual case and has his/her own take on things. Forgiveness and being able to move forward is a personal process and cannot be considered a collective decision (La Patria, 2015), although in Cordona's experience all delegates understood that reconciliation is the only durable way to achieve peace.

Brett (2017), who closely followed the negotiations for the UN and interviewed the victim delegates, underscores Cordona's remarks. Some of the delegates seized the opportunity to go to Havana with both hands, because they wanted to share their story and contribute to peace. For others, accepting the invitation was not as self-evident. One of the delegates explained that her response to the invitation was double:

"I experienced a lot of mixed emotions, knowing that I would once again encounter a past that was full of pain. But it was important to go [...] I knew this was an important space for the pain

left by the war, for the bodies of women that have suffered in this war” [translated from Spanish] (Brett, 2017, p. 45).

This sentiment of an opportunity and/or obligation not just to themselves, but to the entire country, was shared by almost all delegates. Or, as another delegate expresses:

“I never thought about my story as the story to represent a region, or the whole country. It was therefore a difficult decision to go, because it did not feel as my place. [...] Nevertheless, it is our obligation as victims and Colombians to represent the country” [translated from Spanish] (Brett, 2017, p. 46).

The victim delegates believed that their contribution was meaningful and made an impact on the peace process because they embodied the bridge between a hurtful and dark past and a future of tolerance and dialogue over conflict (Brett, 2017). The delegates give names and faces to the statistics that tend to dominate the peace process. Consequently, the government and FARC might be more likely to acknowledge their own role and the damage they inflicted throughout the conflict. With the arrival of the victim delegates, the peace talks were no longer exclusively in the realm of armed actors; those affected by the violence began to impose a moral framework on the peace negotiations (Brett, 2018). The Colombian state and the FARC gradually began to acknowledge and accept the impact of their own military actions, despite initial reticence.

On an individual level, the participation of the victim delegates made a huge impact. In interviews, 45 of the delegates indicated that they had “returned transformed from the visit to Havana” (Brett, 2018, p. 290), most notably because of the opportunity to face their perpetrators and start a process of psychological healing. In addition, the delegates came to perceive themselves as having assumed a formal and legitimate role in the peace process (Brett, 2018). They felt like they were offered an opportunity (and therefore had a responsibility) to make an impact and voice their demands as victims, which vindicated their status as victim and legitimised their struggle. Their collective contribution, as voiced by a member of the UN, was that:

“the delegations ultimately represented a significant force through which citizens contributed to building peace with justice and dignity ... an essential enterprise because if a peace process fails to satisfy the majority of victims, it will be neither ethical nor sustainable” (Brett, 2018, p. 288).

The close involvement of victims contributed to creating national ownership over the peace process, and therefore ameliorated the perspective of a sustainable and durable post-conflict scenario. The integral approach to transitional justice offered incentives to the FARC to lay down their weapons, while simultaneously offering the victims some sort of consolation. In the words of one victim delegate:

“The justice we seek as victims is not an unmovable righteousness that obstructs the peace process. I believe that peace has to be greater than the desire for justice. However, it must also achieve a delicate balance: we cannot attain such a low level of justice that it impairs the dignity of victims. Essentially justice must be a restorative justice” (Brett, 2018, p. 293).

Based on the interviews with the victim delegates and delegates of the conflict parties, Brett (2017; 2018) concludes that the participation of victims through these delegations substantially altered and humanised the nature of the peace process, in addition to recognising the victims as key to the negotiations. The victims’ proposals gradually came to legitimise the proposals already put forward by the parties of the conflict, especially with regard to justice.

Part 4 of the CM: Attitude of the public

The Latin American Public Opinion Project is a research unit that analyses the public opinion towards societal and political developments in Latin American countries. In 2015, it produced a hefty report, based on an extensive study across the regions that were most heavily affected by the conflict, on the democratic values and the support for the peace process. Figure 10 illustrates that the level of support for a negotiated settlement with the guerrilla was relatively stable between 55 and 60% since the start of the pre-negotiations. Between 2014 and 2015 this number rose with roughly 20%, indicating a boost of support for and confidence in a negotiated end of the conflict.

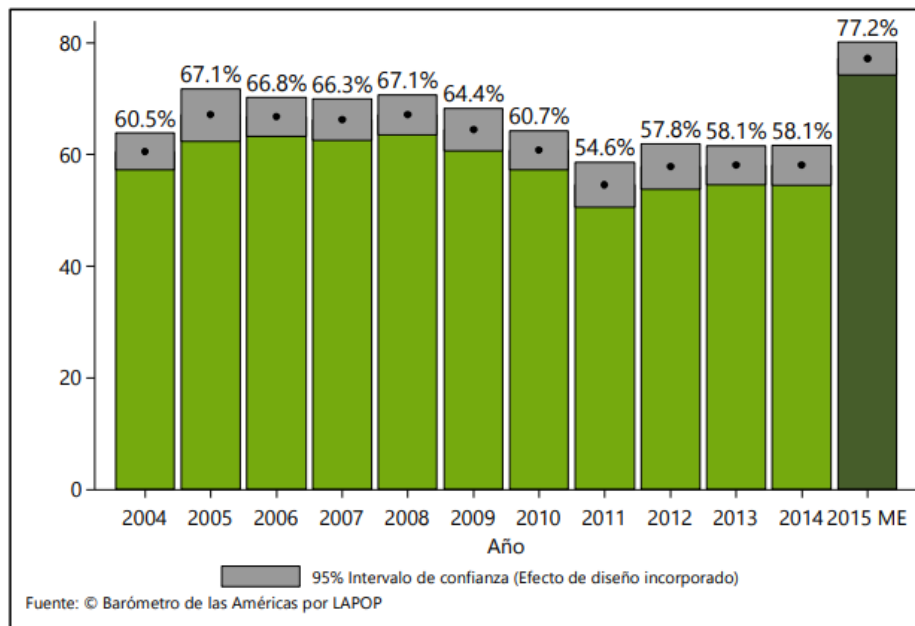


Figure 10: Support for a negotiated settlement with the guerrilla (LAPOP, 2015, p. 80)

Asked whether they support these particular peace negotiations (with the FARC), just over 65% of the respondents answered affirmatively. As Figure 11 shows, this is also a 12% increase compared to the year before. The researchers did not follow up on this development with questions why there was increased confidence and support for a negotiated settlement, although the researchers do mention the ceasefires and gradual demobilisation of the guerrilla throughout the peace process as potential reasons to explain this.

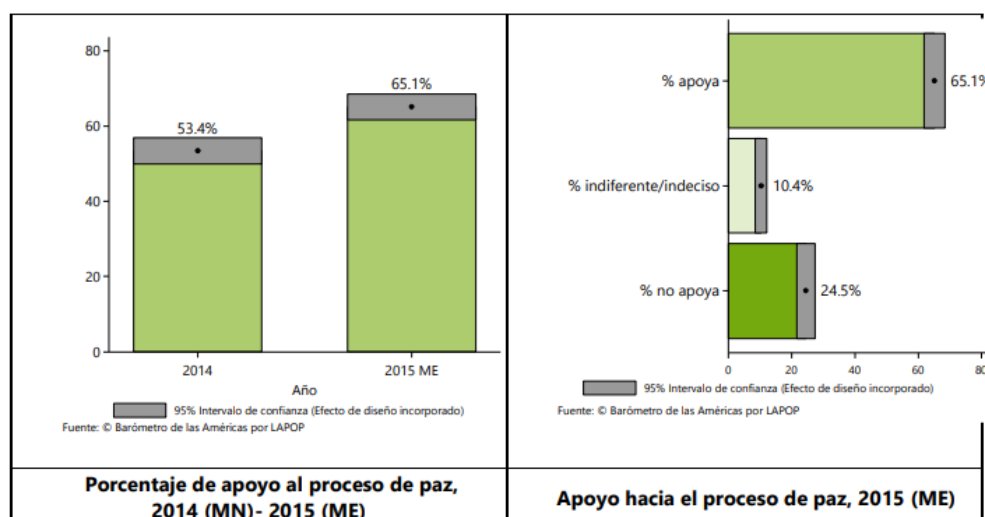


Figure 11: Support for the peace process between the Santos government and the FARC (LAPOP, 2015, p. 81)

5.4 Results

The causal process observations that have been presented in the previous section provide an insight in how the theorised causal mechanism functions in practice. Based on the probability that we would be able to make the observation in a specific context, we can determine an inferential weight as to what extent a certain observation updates our confidence in the theory.

First of all, all observable manifestations suggest that there was a favourable political climate for the victims of the Colombian conflict to be included in the 2012-2016 peace negotiations. In a country with over eight million registered victims, a peace process that would marginalise victims would not be legitimate nor durable, a fact of which all parties seemed well aware. Communiqués by the FARC, the government and the High Commission for Peace and the discourse in the General Agreement all indicate that inclusivity and a central role for victims were to be pivotal throughout the whole process. In addition, the *Victims and Land Restitution Law* (2011) showcased the government's genuine intention to compensate victims and provide a solid (legal) base for victims and civil society organisations to claim a role. Political interests and normative convictions thus interlaced, and consequently reinforced each other: since the outset of the negotiations it was a question of *how* rather than *if* victims should be included.

The exact modality in which victims were to be included did spark some controversy. Internal progress reports (notably by the OIM) and public announcements by the conflict parties illustrate that initially the government was reluctant to include victims directly at the negotiating table, since the public could already send in written proposals and participate in the forums. After pressure by the FARC, the mediators and especially by civil society, the Santos' government adjusted its position and agreed to bring sixty victims divided over five delegations to Havana to join the talks.

The international norms on conflict mediation and transitional justice, judged by UN resolutions and advisory frameworks, is closely linked to the Colombian peace process. In fact, they appear to be mutually reinforcing. Just prior to the start of the peace negotiations in Colombia, the UN published its first resolution on conflict mediation (S/2009/189). This resolution was devoid of any inclusive lingo and attributed no active role whatsoever to any other actors than the conflict parties and mediators. From there on, parallel to the peace

negotiations, the UN started to adopt resolutions in which inclusivity and public ownership became key elements of conflict mediation. The UN supported and supervised the inclusive mechanisms in Colombia's respective contexts, but these mechanisms were ahead of international frameworks for conflict mediation. Bearing in mind that the UN was involved in the Colombian peace process through ten different sub-organisations (Brett, 2018), there was a lot of input to update the transitional justice paradigm.

In light of transitional justice processes all over the world, it is safe to say that the Colombian peace negotiations are unprecedented in their inclusive scope and mechanisms. However, if we take into consideration the devastating effect of the decade-long conflict, the excessive level of victimisation, the earlier failed peace talks and the previously adopted laws, it is not entirely surprising that the government, FARC and mediators recognise the importance of including the people (especially victims), creating public ownership and fostering a reconciliatory climate. The observations thus confirm what was to be expected in this specific context, and do little to update our confidence in this part of the causal mechanism.

The same can be said with regard to the dominant international normative framework. The UN was heavily involved in the Colombian peace process, sought to mediate between the government and the FARC and supported the inclusive mechanisms. Even though the approach might have been somewhat ahead of the dominant international norm, there have been no signals whatsoever that the UN would not support the methods or approach in Colombia. This means that the observed resolutions and approach by the UN merely confirm what was to be expected in this specific context: that both practical implications of inclusion and dominant (international) norms reinforce each other and that this provided a solid base for the genuine inclusion of victims and other civil society actors. In this respect, the observable manifestations carry little inferential weight and do not significantly update our confidence in this part of the causal mechanism.

The selection process of representatives in a post-conflict setting proves to be an extremely intricate and ambiguous process. The observations portray the complex dynamic between the selection agents, the audience and the represented, and how these categories are fluid and can be shaped or bended according to an actor's interests. The fluidity of these categories is best demonstrated by Joint Statement #39, in which the government and FARC outline the parameters for the selection process. As the likely selection agents, they could have had a final say in which victims would be invited to Havana, but in a genuine attempt to legitimise the process they transferred this decision-making power to the mediators and victim organisations. Consequently, as part of the audience they could voice their opinion and try to influence the selection agents in their favour. This resulted in a stormy polemic, evidenced by national newspapers that described the selection process as sort of a popular tribunal and victim organisations that felt excluded from the selection process (La Semana, 2014; El Espectador, 2014; Bermudez Liévano, 2014; Fundación Víctimas Visibles, 2014; Beittel, 2015).

The inherent tension of post-conflict representation is adamantly reflected in the parameters for the selection of the victim representatives (Joint Statement #39). On the one hand, for representation to be considered legitimate there needs to be input and output legitimacy, meaning that the represented actually feel like the representatives seek their best interests, and that there is some kind of responsiveness (Zanker, 2014). On the other hand, in post-conflict settings there is often need for swift decision-making to make use of the political and societal momentum. In the case of Colombia, this means that it is not realistic to consult with the millions of victims who should represent them. By carefully selecting sixty delegates that are balanced and pluralistic among the whole spectre of victimisations, the parties of the conflict and mediators have made an honest attempt to ensure legitimate representation. The opportunity for the public to send written proposals and for victims to participate in the forums means that

there was some sort of connection between the representatives and represented, and that the delegates were aware of the victim's demands (UNDP, 2014a; UNDP 2014b). This ensures some level of input legitimacy. Nevertheless, Joint Statement #39 also specifically mentions that the delegates represent 'no one other than themselves' and have full autonomy to share their story. This means that there is no form of responsibility from the representatives to the represented, and thus negates any form of output legitimacy (Zanker, 2014; Mendes, 2020).

Brett's (2017) report about the impact of the victim delegations offers a valuable insight in how the victim delegates themselves perceived their role and contribution in the peace process. Various excerpts and quotes indicate that the delegates experienced their visit as a responsibility not just to themselves, but to all victims and Colombian people. The delegates wanted a chance to confront their perpetrators and share their stories in order to humanise the conflict. Reparations, truth and reconciliation were favoured over retributive justice by the delegates, which is underscored by Daniele Cordona (who has counselled all the delegates in Havana) (La Patria, 2015).

Joint Statement #39 and the parameters it sets is itself one of the most striking and noteworthy observable manifestations because it shows how the Colombian government and FARC genuinely wanted to grant a central role to the victims in the peace process, while at the same time undermining the legitimacy of the victim delegations by creating ambiguous expectations. The *E Silentio* evidence is in this case the most compelling form of evidence: the complete lack of accountability and correspondence between the represented and representatives after they have visited Havana indicates that representation is not entirely legitimate in terms of Zanker's model and thus somewhat undermines the legitimacy of the victim delegations. Considering the genuine attempt to ensure legitimate representation, it is surprising to find that there is no responsibility. Consequently, this updates our understanding of the theorised causal mechanism because it lays bare the paradox of post-conflict representation. Additional observations elucidate the power play between the government (OIM, 2014), FARC (FARC 2014; OIM, 2014) and victim organisations (MOVICE 2008; 2013; Colombia Sin Heridas, 2014) in order to influence the selection process.

The mechanism was designed in close cooperation with victim organisations, but never put to a vote for the public (based on the underlying assumption that they would support it and because it would be a bureaucratic hassle). Unfortunately, this means that there are no hard numbers that indicate the level of support for the victim delegations (like there are regarding the support for the overall peace agreement) (Univision, 2016). In addition, major news outlets (El Tiempo, La Semana, El Espectador, La Patria, La Silla Vacía), advisory bodies (OIM, UN chapters, Universidad Nacional, Episcopal Church), academic reports (Norwegian Peacebuilding Research Centre (2014; 2016), LAPOP (2014; 2015; 2018), Brett (2017)) nor victim organisations (MOVICE, HUMANAS, Colombia Sin Heridas, Unidad para las Víctimas, PCN, and more) seem to have any hard data in the form of polls, questionnaires, or other quantitative research that indicate *to what extent* the victim delegations have contributed to the legitimacy of the overall peace negotiations. In other words, there is no pattern evidence to confirm or negate this part of the theorised causal mechanism.

However, there are observations that enable me to tell something about the impact of the victim delegations, albeit circumstantial. First of all, we can observe widespread support among socially active victims (for example at the forums for victims). The consensus at the forum was that the victim delegations were a good step towards the acknowledgement of victims as active political actors (UNDP, 2014a; 2014b; 2014c; Bret, 2017). Many civil society organisations expressed their active support (like those mentioned in the previous paragraph) (Losnegard, 2017), which together represent hundreds of thousands of victims. It might be a stretch to assume that all these victims' convictions are aligned with the organisations that they

are tied to, but it is reasonably safe to assume that a significant majority agrees. In a representative study across the Colombian population, Nussio et al. (2015) found that the opinion of victims regarding transitional justice mechanisms hardly differs from the opinion of non-victims. The fact that (at least) the majority of victims supports the victim delegations, could therefore indicate that this is also the case for non-victims.

Another circumstantial observable manifestation is a research report by the LAPOP (2015), which clearly illustrates how the public opinion towards a negotiated settlement with the guerrilla/FARC has increased considerably between 2014 and 2015. The victim forums and subsequent participation of the victim delegations took place in the second half of 2014, and directly corresponds with the increase in confidence of and support for the peace process. However, this was a very turbulent period in the peace process, so this increase could be potentially be attributed to various developments (ceasefire, demobilisation of combatants, advanced negotiations), so there is insufficient data to prove a direct correlation.

All in all, these observations hint towards a positive effect of the victim delegations on the legitimacy of the overall process, but it is too fragile and indirect to draw conclusions or update our confidence in this part of the causal mechanism.

Chapter 6: Final remarks

6.1 Conclusions of this research

The primary goal of this research was to advance a theoretical model that elucidates the causal mechanism between the inclusion of civil society and the increased legitimacy of a peace process. Based on existing theories, the model outlines four distinct parts that are all necessary but insufficient in itself for the causal mechanism to function. First, the idea needs to emerge among the parties of the conflict and the (potential) mediators, that it is beneficial for the peace process to include civil society actors. Then, it needs to be determined how to select the civil society actors. There is usually a framework which dictates the ‘playing rules’, and within these parameters the selection agents, audience and represented will try to influence the outcome by lobbying and exerting pressure. Once the representatives have been selected, they participate in a certain modality and represent the interests of the represented (at least in theory). If this representation is truly legitimate, there ought to be input and output legitimacy. After the representatives have participated we can, with the right data, analyse which effect the inclusion of a civil society actor has had on the peace process. If the outcome is different than expected, we can trace back the steps to determine where the mechanism deviates from the theory and how this affected the process.

To test this model, I selected the Colombian case because it introduces a novel participatory mechanism, and I hypothesised that *the direct inclusion of victims, by means of victim delegations, has resulted in substantially more legitimate peace negotiations (2012-2016) in Colombia*. The word *substantially* is somewhat indeterminate, but Bayesian logic dictates that it has to be proven to the exclusion of all other possible causes that X results in Y, hence the choice for this word. There are many factors in a peace process that affect the legitimacy of the process (Bakiner, 2018), so it has to be demonstrated beyond reasonable doubt that the inclusion of the victim delegations did directly increase the legitimacy of the peace process; not the demobilisation of combatants, the transparency of the negotiations or another development.

The results of this research are inconclusive and do not permit me to convincingly confirm or negate the hypothesis, because it cannot be demonstrated to the exclusion of all other possibilities that X, the inclusion of victim delegations, led directly to Y, a more legitimate peace process in the eyes of the public. Research by the LAPOP (2015; 2018) illustrates a steep increase in support and confidence among the public for the negotiations between 2014 and 2015, after years of relatively stable numbers. This directly corresponds with the inclusion of the victim delegations, but I have only been able to produce account and *e silentio* evidence. To demonstrate beyond doubt that the inclusion of victim delegations bolstered legitimacy among the public (and is responsible for the increase in support and confidence), pattern evidence is elemental. However, there is a lot of indirect evidence that hints towards a significant impact of the victim delegations. There was widespread support to directly include victims at the negotiating table among the selection agents, the audience and the represented (at least among those who actively voiced their opinion). As reported by the news outlets, there was a stormy polemic to decide who should be included as delegates, but it was never up for debate whether the mechanism itself was beneficial: everyone agreed that it was. In addition, there was widespread support among victim organisations and individual victims, whose priorities were the truth, no repetition and to have some say in the peace process (Brett, 2017). If Nussio et al.’s (2015) theory is correct that there is little difference between the opinion of victims and

non-victims regarding transitional justice provisions, this indicates that the public as a whole (a combination of victims and non-victims) would mostly support the victim delegations.

As mentioned in the introduction, the purpose of the model was not merely to test the intuitive hypothesis that the inclusion of civil society in peace negotiations bolsters legitimacy. The model also enables us to see how various actors undertake activities to exert causal force and influence the process. This is the true contribution of this research: it offers a tool that helps us better understand and analyse inclusive mechanisms. In the case of the victim delegations, the mechanism functioned largely as theorised, although the analysis also uncovered some discrepancies between theory and practice. For instance, existing theory suggests that the parties of the conflict are the likely selection agents to invite civil society actors, but after the Santos administration and the FARC published the framework for the victim delegations, they transferred the decision-making power to the mediators and influenced the process as part of the audience. Likewise, Zanker's (2014) theorem about legitimate representation dictates that, for representation to be truly legitimate, there needs to be input and output legitimacy. The represented need to feel a (symbolic) connection with the representatives, the representatives need to genuinely represent the interests of the represented and there needs to be some form of responsibility or accountability. The simultaneous adoption and rejection of this representative role causes a tension. On the one hand, the delegates are included to represent the whole universe of victimisations, feel a strong responsibility to the other victims and are very much aware of the interests of the represented (for example because they all attended the forums and shared experiences and ideas). On the other hand, they explicitly represent no one other than themselves, so there is no form of accountability or responsibility. In this case, it appears that, in combination with the written proposals and forums for victims, the delegates were well aware of their role and felt a strong obligation to do right by the other victims, so in the end it seems like the rejection of their representative role did not really affect their legitimacy among the other victims. Nevertheless, analysis of the mechanism lays bare this wedge between theory and practice, and thus updates our confidence in our understanding of the theory.

All in all, it appears that the inclusion of victims has extensively shaped the Colombian peace process. For the first time in the world of transitional justice, victims assumed a truly active role as political actors, influencing the peace negotiations at all levels: from petitions to protests and from direct negotiations to forums and workshops. The Colombians understand that, in order to reconcile millions of victims with demobilised combatants, it is fundamental to include the people that have to live it. The victim delegations as participatory mechanism have, despite its imperfections, offered a platform to people that felt marginalised and neglected throughout fifty years of conflict, and facilitated a form of reconciliation and healing on individual and group-level. I share Brett's (2018) opinion that this process has undoubtedly shaped formal peace making irreversibly, and that the Colombian approach could serve as the foundation for a redesigned, more victim-centred transitional justice paradigm.

6.2 Position within the academic debate

This research touches upon two debates within the realm of transitional justice studies. Firstly, on a theoretical level this thesis sought to open the black box a little further that still exists between the inclusion of civil society actors and the legitimacy of a peace process. Only recently the first scholars have studied the relation between the modality of inclusion and legitimacy, which uncovered that inclusion should not be studied as something inherently benign. It is possible that the parties of a conflict and/or mediators (pretend) to do the right thing for the wrong reasons, by adopting inclusive discourse but marginalising civil society from the actual decision-making. The genuine inclusion of civil society, and thus indirectly the public, should

be a priority in post-conflict settings. It should not just be another bureaucratic box to be ticked off throughout a peace process: creating support for and ownership over a peace agreement among the people that have to live it is essential for the successful implementation.

Recent studies have sufficiently demonstrated that the genuine and pervasive inclusion considerably increases the legitimacy of a peace process or agreement (Wanis-St. John, 2008; Blaydes & De Maio, 2010; Zanker, 2014; Losnegard, 2017). Hence, we can deduce that if intervention X: *the proper inclusion of CSA*, then outcome Y: *a more legitimate peace process*. However, this relation has not yet been studied as a causal mechanism. This is what this research contributes to existing theories. The theoretical model I have developed enables us to study the actors, dynamic and processes that underlie that inclusion and explain *why* X causes Y. It can be used to study the effect and impact of an intervention on the legitimacy of a peace process, and elucidate the functioning of a participatory mechanism (from which lessons can be drawn for future processes).

Secondly, throughout transitional justice processes all over the world, victims have been regarded or rendered as apolitical actors. It was the unspoken consensus that decisions should be made for victims, rather than by victims. Just over the last decade or so, various scholars have started the debate on victims as passive actors versus victims as active political actors (Jacoby; 2014; García-Gódos, 2016; Brett & Druliolle, 2018). Gradually, the importance of including civil society (and specifically victims) dawned on scholars and experts. As a result, victim organisations are more and more often included in peace processes (in various modalities), like in Guatemala and Colombia. Still, as García-Gódos (2016) remarks, there is an absence in transitional justice literature of victims as political actors.

This thesis sought to make a modest contribution to this gap by selecting the Colombian peace process as a case study; a peace process where victims were directly included at the negotiating table. Even though it does not conclusively prove that the inclusion of the victim delegations increased the legitimacy of the peace process, it very much hints in this direction and thereby underscores what the aforementioned scholars also conclude: the inclusion of victims in peace processes as genuine, political actors is beneficial for the legitimacy and durability of peace processes and fosters a climate of reconciliation and healing.

6.3 Limitations

There are several notable limitations of this research that need to be taken into consideration. First of all, theory-testing process-tracing allows a researcher to make within-case inferences, based on the case-specific causal process observations. The results and conclusions of this research thus only explain this specific case and cannot be translated to other cases. The model that I advanced is an overarching framework that can be used to analyse other cases, but this does not mean that it will produce the same results. In addition to the fact that this method does not allow cross-case inferences, it also heavily depends on contextual knowledge. Observable manifestations can only be admitted as evidence after a certain inferential weight is ascribed to them (see appendix). This inferential weight is determined by the probability of the observation in a specific context, which is subjective. A profound contextual knowledge is thus key, but I have only had limited resources to work with. I have immersed myself in reports, articles, documentaries, interviews, books and websites, but I still lack the on-the-ground knowledge and/or experience to fully understand the probability of certain observations in this specific context. Other researchers or experts may therefore ascribe a different inferential weight to observations and thus arrive at different conclusions.

Another limitation of this research pertains to the lack of new empirical material. It relies solely on existing sources, which is tricky because those sources were written by an author with a certain intention, for a specific audience. A keen understanding of the context of a source is pivotal in order to determine its value, which requires a lot of research. Moreover, the most salient source of information – the website of the negotiating table, with all the updates and proposals – was taken offline after the negotiations were concluded. I have only been able to retrieve certain documents of this website, scattered across numerous websites. This was also the case for some newspaper articles, which hampered my research.

The lack of empirical material can be (partially) attributed to the Covid-19 crisis, which restricted intercontinental travel and torpedoed my field work. Qualitative and quantitative research would have made a valuable contribution to this research, and in all likelihood would have enabled me to draw more solid conclusions. This notwithstanding, it is also my own naivety and inexperience that led to the inconclusive findings. I was already deeply invested in this topic and research method, and based on exploratory research I (mistakenly) believed that outcome Y was given and that I would be able to find pattern evidence and draw hard conclusions. As a matter of fact, I did find a lot of data about how the peace process and certain transitional justice provisions were received by the public, but those proved to be the wrong proxies for what I was measuring. If I had realised this sooner, I could have steered the research in a slightly different direction.

With hindsight knowledge, it might also have been interesting to test the model based on the congruence method, rather than via theory-testing process-tracing. In theory-testing process-tracing X and Y are known, and can be used to test the hypothesised causal mechanism linking the two. In the congruence method, based on the value of the independent variable (X), researchers test whether the prediction about the outcome that should follow from the theory is congruent with what is found in the case (Beach & Pedersen, 2013). Since I initially made assumptions based only on theories and misplaced proxies, I assumed Y was a given and theory-testing process-tracing was the most suitable method to make within-case inferences. However, it turned out that outcome Y was not a given and that the congruence method might have better enabled me to test whether the selected case was congruent with the theorised model.

There are ample opportunities for future research to build on the ideas that are proposed in this thesis, both in breadth and in depth. The model I have advanced touches upon several interesting theories, but the parameters of this thesis only allow me to superficially address the underlying debates. It is safe to say that every one of the theories merits a thesis on its own, so a more profound understanding of the interlinking parts could update the value of the model. Moreover, more data is required in order to draw hard conclusions from this case-study. Quantitative research among Colombian citizens would shed more light on the effect of the victim delegations on the public attitude. Additionally, if victim delegations are also incorporated in future peace processes, it would especially be interesting to analyse those and compare them with the Colombian case, in order to be able to make cross-case inferences.

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