

Rojas Bonilla, F. (2017). "Post-conflict, legal theory and peace dialogues", in: Mejía Quintana, O. (et. AL.). From Dialogue to endorsement. Perspectives around the conflict and the post-agreement in Colombia. Bogotá: National University of Colombia.

It carries out an analysis of transitional justice in the Colombian National Government peace process with the Revolutionary Armed Forces of Colombia, People's Army (Farc-ep), from the point of view of legal theory.

It includes topics on legal theory, two models of justice; law as a social tool; and the right in the post-conflict; and mandatory prison sentence in transitional justice.

Law is a fundamental social tool in the negotiation process between the Farc-ep and the national government, since it provides tools for legal interpretation and argumentation to establish the legitimate possibilities of agreements on transitional justice in the peace talks that are taking place in Havana.

Society in general, and the jurisdictional apparatus in particular, must adopt positive measures that guarantee that those who lay down their weapons –from the highest command of the Farc-ep to the private guerrilla– effectively find opportunities worthy of employment and projection. personal. This implies that Colombians develop and appropriate the idea of the constitutional State, in which pluralism and tolerance for difference constitute the fundamental guarantee for the peaceful coexistence of societies.

The unsystematic nature of the law, due to the problems of linguistic indeterminacy and the infinity of hypothetical situations in which the factual assumption does not fit perfectly into the legal provision, makes it necessary for the government negotiators in Havana and the legal operators to adopt decisions, within the legitimate decision-making framework, which most favor the purpose of peace, without this signifying a total abandonment of the postulates of justice, truth and reparation to the victims established in the Havana agreements, between the National Government and the Farc ep.

In the sense that sanctions are of a contextual and evaluative nature of each society, it is pertinent to sustain that, from the perspective of the guiding principles of criminal law that radiate Colombian legislation, the custodial sentence of the high command of the guerrilla FARC-EP is a possible alternative to achieve the postulate of justice, which at no time constitutes the only solution mechanism, since it only satisfies the sphere of retribution, but does not achieve the other purposes of punishment at all. namely, that of general and individual prevention.

The legal technique must be no longer seen as an enemy of peace that it is better to avoid, but to grant it its own space that facilitates the development of the negotiation in the best terms, without distorting its ontological role as a catalyst for justice. Judges will also play a leading role, since, just as the Constitutional Court has done for the past 24 years, their role in claiming the rights of minority and socially marginalized groups is essential.