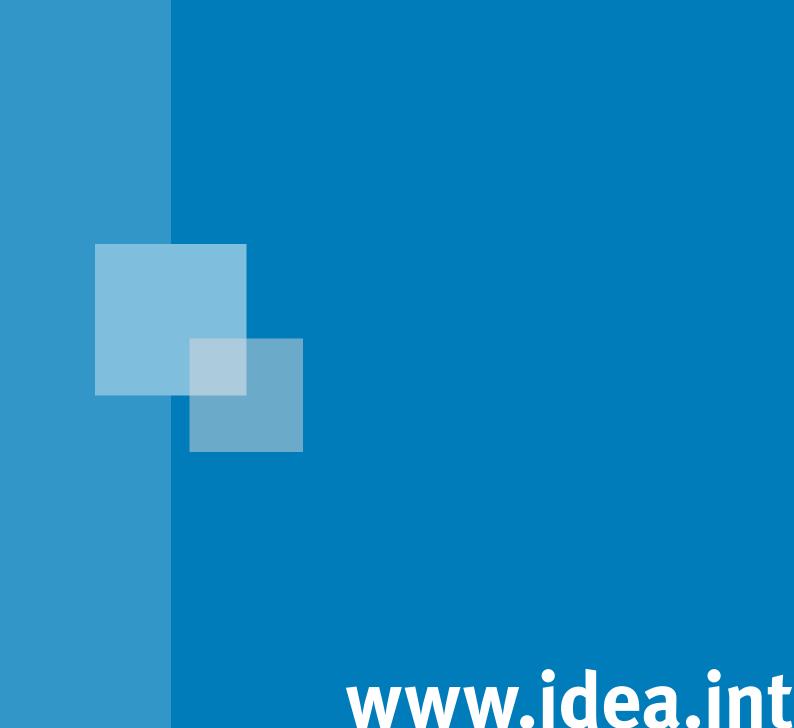# The Organization of American States Mission to Support the Peace Process in Colombia

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THE ORGANIZATION OF AMERICAN STATES MISSION TO SUPPORT THE PEACE PROCESS IN COLOMBIA

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CONTENTS

1. INTRODUCTION

This paper examines the role of the Organization of American States (OAS) in its mission to support the Colombian peace processes. In particular, it focuses on the support provided by the OAS for comprehensive transitional justice mechanisms and reflects on whether and how the mission's activities in this area address state fragility and promote state-building and democracy.

The OAS is the oldest regional intergovernmental institution in the Americas, and it has been holding periodic meetings of various states dating back to 1889.[1] The OAS was formalized through the adoption of a charter in the post-World War II period. Since its inception, it has been dedicated to ensuring peace, security and democracy in the region.

In 2004 the OAS was invited to monitor the disarmament, demobilization and reintegration (DDR) of paramilitary forces in Colombia. The mandate of the OAS Mission to Support the Peace Process (Misión de Apoyo al Proceso de Paz, MAPP) was extended to include the transitional justice mechanisms instituted for the demobilized paramilitary members and then reparations for all victims of the long-running Colombian armed conflict.

In order to analyse how the MAPP contributes to state-building and democracy, it is first necessary to develop an assessment framework by examining concepts, norms and good practices related to state fragility, peacebuilding, state-building and transitional justice. The common elements derived from our review of academic literature, international and regional norms, policy guidance and international human rights treaties and jurisprudence frame our discussion of the MAPP's work in transitional justice mechanisms in Colombia.

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[1]   On the history of the OAS see <http://www.oas.org/en/about/our_history.asp>.

2. CONCEPTUAL FRAMEWORK

Dimensions of fragility

A summary review of academic and policy-oriented literature related to state fragility shows that the concepts of state fragility and state-building have evolved. As intra-state armed conflicts emerged in the post-Cold War period, analysts began to codify, rank and categorize states based on their degree of weakness. States were deemed to be weak, declining, fragile, failing, failed, collapsed or recovering both by Western countries and by international security, foreign policy and development organizations in an effort to bring attention to the risks of conflict, humanitarian crises and security threats.

Discourse related to states affected by conflict or fragility has evolved from that characterized by simplistic definitions used by multilateral organizations (World Bank 2011; OECD 2007 and 2008; DFID 2010; Moreno-Torres and Anderson 2004) and rankings along a linear continuum (Fund for Peace 2014) to one that recognizes the complexity of fragility and the importance of context-specific and national solutions (International Dialogue on Peacebuilding and Statebuilding 2011). A typology of state fragility may seem unnecessary if every situation of fragility requires a context-specific response. However, due to the grave consequences of fragility and conflict, not only for the citizens of the state in question but also for neighbouring countries and the international community generally, a typology can help generate good practice. As Call (2010: 304) suggested, 'external actors require smarter approaches through more refined analytic frameworks and more contextualized responses'.

We expanded our analysis of the elements of fragility in academic and policy literature, and three disaggregated but interrelated dimensions of fragility—capacity, authority (or security) and legitimacy—emerged as commonplace, albeit with qualifications (CIFP 2008; Stewart and Brown 2010; Call 2010; Grävingholt, Ziaja and Kreibaum 2012). Fragility can be viewed as the antithesis of statehood (Grävingholt, Ziaja and Kreibaum 2012: 6), and thus the three dimensions of fragility are important in understanding how responses to fragility are effective strategies for state-building. While definitions of the three dimensions of fragility vary slightly in the literature reviewed, the following definitions are used in this paper:

1. *Capacity* refers to 'the degree that state institutions are able to provide or regulate the minimal provision of core public goods' (Call 2010: 306).

2. *State authority* refers to the state's ability to maintain control over all of its territory and national borders and to respond to armed conflict in a manner that protects its civilian population. Some authors interpret the authority dimension from slightly different but complementary perspectives: the geographic scope of national authority to develop policies and set the national direction (Stewart

2010: 30) and the state's monopoly on the use of force (Grävingholt, Ziaja and Kreibaum 2012: 7).

3. *Legitimacy*, in academic literature related to fragile states, varies in its definition. Some authors (Grävingholt, Ziaja and Kreibaum 2012; Call 2010) refer to a Weberian definition of society's acceptance of the state as the only actor who can set and enforce rules. Due to critiques of a Western-centric approach to fragility, and particularly the legitimacy dimension, some development agencies take a more practical approach. They measure legitimacy by gauging the population's confidence in the state's ability to fulfil its expected obligations. This dimension is generally associated with societal–state relations (OECD 2008 b).

In addition to changes in the analysis of the dimensions of fragility, the terminology has changed from labelling states as collapsed, failed or weak to fragile states and then to a more nuanced—some would argue respectful—term, 'situations of conflict and fragility' (OECD 2011). This change has occurred both in the academic literature and in the policy statements of international multilateral organizations such as the Organisation for Economic Co-operation and Development (OECD) and the World Bank. The use of the term *situations of fragility and conflict* reflects the reality of many states, including Colombia, where the gaps in authority, legitimacy and capacity do not reveal generalized institutional weakness or complete loss of authority over national territory but rather gaps occurring in specific territorial regions or with regard to certain governance or capacity issues. Introducing the term *situations* to the international lexicon also addresses situational or episodic fragility (Baranyi and Desrosiers 2012: 448).

Normative guidance for international engagement in situations of fragility or conflict

Peacebuilding

Long-running armed conflicts in Latin America and post-Cold War intra-state armed conflicts in Eastern Europe and Africa gave rise to radical changes in international law and policy. After World War II the United Nations and regional intergovernmental bodies adopted the principle of non-intervention in the affairs of a sovereign country. The UN Charter, Geneva Conventions and the OAS Charter confirm principles of non-intervention in the affairs of another country without consent or explicit invitation. For example, the OAS Charter states: 'The Organization of American States has no powers other than those expressly conferred upon it by this Charter, none of whose provisions authorizes it to intervene in matters that are within the internal jurisdiction of the Member States' (article 1). However, the atrocities committed in places such as Rwanda and Srebrenica spurred the international community to action in terms of military intervention for humanitarian reasons (International Commission on Intervention and State Sovereignty 2001), peacekeeping missions and peacebuilding processes with a focus on state-building.

The intense peacemaking and peacebuilding activities carried out by the international community since the end of the Cold War, including by the UN and regional bodies such as the OAS, with both their success and their failures, have generated serious

reflection (UN 2000), as well as new norms and policies to guide the role of international actors during and after situations of internal armed conflict and fragility. Key norms and policies (from 2000 onward) that provide guidance on good international practice related to peacebuilding, and two major and interrelated peacebuilding strategies—state building and transitional justice—will be described briefly below.

The armed conflicts that occurred in the 1990s in what was then Yugoslavia, Rwanda and other countries led to increased attention to the root causes and aggravating factors that propelled political and social tensions into armed violence. The desire to prevent conflict, negotiate peace and bring the highest-ranking perpetrators to justice (for example, through international and national ad hoc tribunals) brought increased attention to conflict studies. Such studies by the United Nations and academics brought to light the differential impact of armed conflict on women, girls, boys and ethnic minorities and also the absence of women in peacemaking and peacebuilding efforts.

Beginning with UN Security Council Resolution 1325 of 31 October 2000, the UN Security Council has adopted a series of resolutions on women, peace and security that call on the international community to recognize the differential impact of armed conflict on women and girls and to increase women's participation as key actors in peace processes.[2] UN Security Council Resolution 1325 requires armed actors, states and the UN system to: (a) increase the participation and representation of women at all levels of decision-making in the UN system and in peacekeeping operations (articles 1–4); (b) increase the protection of women against gender-based violence during armed conflict (article 10); (c) ensure a gender perspective in UN programming, reporting and in Security Council missions and UN peace support operations (articles 14 and 15); (d) integrate a gender perspective and attend to women's and girls' particular needs in peacekeeping, peace negotiations and post-conflict processes and implementation of peace agreements (articles 5, 8, 12 and 13); and (e) prosecute crimes against humanity, genocide and war crimes, including those involving violence against women and girls (article 11). Subsequent resolutions have brought attention to, or reinforced aspects of, UN Security Council Resolution 1325, especially the continuing problem of gender-based violence and violence against women and girls in armed conflict and the absence of women in peace negotiations and peacebuilding.

At the beginning of the 21st century, UN peacebuilding activities increased in various regions, especially in Africa, due to the number of internal armed conflicts in the post-Cold War period. At the same time, the countries of the Americas were entering a fourth wave of democracy, and authoritarian rule and intra-state armed conflicts in the region, with the exception of Colombia's protracted conflict, had ended. The peace efforts of the OAS after 2000 reflect this situation. OAS resolutions regarding peace and security in the Americas in the first decade of the 21st century concentrate on territorial disputes between states, the MAPP and peace processes in Colombia and broader efforts to promote a culture of non-violence in the region (OAS Declaration of San Pedro Sula 2009).

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[2]   UN Security Council Resolution 1325 (31 October 2000), UN Security Council Resolution 1820 (19 June 2008), UN Security Council Resolution 1888 (30 September 2009), UN Security Council Resolution 1889 (5 October 2009), UN Security Council Resolution 1960 (16 December 2010), UN Security Council Resolution 2106 (24 June 2013) and UN Security Council Resolution 2122 (18 October 2013). For the full texts of these resolutions see the UN Security Council website, <http://www.un.org/en/sc/documents/resolutions/>.

Peacebuilding initiatives by the UN and regional bodies such as the OAS have been possible due to financial support from multilateral and national cooperation agencies. The Development Assistance Committee (DAC) of the OECD has produced analysis and guidelines to encourage effective and good practice in peacebuilding and state-building in situations of conflict and fragility. In 2007, for example, the DAC released the *Principles for Good International Engagement in Fragile States and Situations* (OECD 2007). The application of these 10 principles has been monitored by the DAC International Network on Conflict and Fragility (INCAF) since 2009.

Nine of the 10 principles are arguably applicable to the MAPP:

1. Take context as the starting point;

2. Ensure that all activities do no harm;

3. Focus on state-building as the central objective;

4. Prioritize prevention;

5. Recognize the links between political, security and development objectives;

6. Promote non-discrimination as a basis for inclusive and stable societies;

7. Align with local priorities in different ways in different contexts;

8. Agree on practical co-ordination mechanisms between international actors; and

9. Act fast but stay engaged long enough to give success a chance. [3]

State-building

Scott (2007: 3) notes that state-building is experiencing a renaissance. This resurgence likely coincides with global political developments, including the failure of the policies of international financial institutions that were supposed to reduce poverty through increased private-sector development and academic and policy research related to conflict, fragility and peacebuilding. State-building is studied through various disciplines, and various branches of political science and international relations explicitly or implicitly consider the concept.

In this paper, the term state-building is used to refer to efforts to restore and rebuild the state, including institutions and state–civil-society relations, which have been weakened for various reasons, including armed conflict. Scott's literature review on state-building notes the tendency of conflict and security analysts to conflate state-building with peacebuilding. Therefore, in post-conflict settings, the focus is on Western democratic political systems rather than on technical conflict management (Scott 2007: 6).

In 2011, to address this interventionist criticism, the International Dialogue on Peacebuilding and Statebuilding—a platform of 19 countries affected by conflict, as well as development partners and international organizations—introduced the New Deal for Engagement in Fragile States at the Fourth High Level Forum on Aid Effectiveness in Busan, South Korea. The New Deal was an attempt to enhance national ownership of peacebuilding efforts to ensure 'country-led and country-owned transitions out of

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[3] The 10th principle, 'avoid pockets of exclusion ("aid orphans")', is not applicable to a country-specific peace support missions such as the MAPP.

fragility' (PBSB Dialogue 2010: 1).

The OECD DAC has furthered its research and policy guidance regarding effective strategies to address fragility and conflict. A capable state is viewed as the key to political stability and equitable economic growth, two elements deemed critical to poverty reduction and development. A 2011 policy brief (OECD 2011) identifies three dimensions of state-building said to contribute to state legitimacy: (a) political settlement; (b) the capacity and responsiveness of state institutions; and (c) the social expectations of the state and societal capacity. [4] Arguably, these dimensions of state-building respond not only to the legitimacy dimension of the fragility typology but to the capacity dimension as well.

The OAS has an implicit rather than explicit approach to state-building. The OAS Charter and the Inter-American Democratic Charter provide the legal basis for the organization's efforts to promote representative democracy, strengthen governmental institutions, and support the resolution of internal conflicts in Member States while respecting the principle of non-intervention. In the case of the armed conflict in Colombia, the OAS Permanent Council, in Resolution 859 (OAS, 2004) recognized the mandate of the MAPP to support initiatives of the government and civil society and to build a culture of democracy.

State-building within a peacebuilding process will include, at least in the initial post-conflict period, a period of transition where past abuses by the state or other actors are addressed through various mechanisms for the purpose of promoting national reconciliation. Transitional justice initiatives generally form part of more general and systemic state reforms.

Transitional justice

The term and subfield of peacebuilding work emerged in relation to victims' claims for justice in response to gross human rights violations committed during internal armed conflict in Latin America and Eastern Europe in the late 1980s and 1990s. Post-conflict peacebuilding efforts in countries such as Bosnia and Herzegovina, El Salvador, Guatemala, Peru and Rwanda were challenged to 'address effectively the systematic abuses of former regimes but still reinforce—and not derail—the political transformations that were underway' (UN 2008). The goals of transitional justice are to ensure accountability, serve justice and achieve reconciliation (UN Security Council Resolution 616, 23 August 2004).

Transitional justice is used in this paper to refer to a variety of retributive and restorative justice mechanisms that are designed to meet the objectives of accountability, historical accounting, reconciliation and reparations for crimes committed or harm incurred during armed conflict in a period of political transition to a more democratic form of governance that is respectful of human rights. The three-dimensional approach by the International Center for Transitional Justice (i.e. truth, accountability and redress) and the UN Security Council's call for member states to use a 'comprehensive approach to transitional justice in armed conflict and post-conflict situations, encompassing the full

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[4] Political settlement is described as 'the way that leaders of different social groups have divided power amongst themselves, and agreed on the "rules of the game" to resolve conflicts. This settlement determines the character of political processes' (OECD 2011: 2).

range of judicial and non-judicial measures' to address sexual violence in armed conflict (UN Security Council Resolution 2106, 24 June 2013) are adopted in this paper to refer to a broad range of transitional justice mechanisms.

In the landmark decision of Velasquez Rodriguez v. Honduras, the Inter-American Court of Human Rights found that state responsibility included not only human rights violations directly attributed to state officials but also omissions or failure to act. The court found that states have an obligation to prevent, investigate and sanction violations and remedy the victims of violations. These state responsibilities have been affirmed by various organs of the United Nations, including cases brought before human rights treaty committees. As post-conflict peacebuilding missions multiplied in the 1990s and early 2000s, new principles and guidelines emerged to provide a rights-based orientation for the international community's work in transitional justice to ensure that it is anchored in the rights of victims, as enshrined in international and regional human rights treaties.

The rights of victims include three groups of rights. The right to truth is derived from article 2 of the International Covenant on Civil and Political Rights (ICCPR), article 24 of the International Convention for the Protection of All Persons from Enforced Disappearance, principles 2–5 of the UN Approach to Transitional Justice, and article 25 of the American Convention on Human Rights. The victim's right to justice is based on the following human rights standards: article 2 of the ICCPR; articles 4, 5, 7 and 12 of the Convention against Torture; articles 3, 6, 7 and 11 of the International Convention for the Protection of All Persons from Enforced Disappearance; and articles 1(1), 2, 8 and 25 of the American Convention on Human Rights. Finally, victims have the right to a remedy and reparations. The following human rights standards, among others, provide the basis of this right: article 8 of the Universal Declaration of Human Rights; article 2 of the ICCPR; and article 25 of the American Convention on Human Rights.

In 2010 the UN Secretary General published a Guidance Note on the UN Approach to Transitional Justice (UN 2010) that sets out 10 guiding principles and three approaches to achieve the transitional justice objectives of ensuring accountability, serving justice and achieving reconciliation. The guiding principles are:

1. Support and actively encourage compliance with international norms and standards when designing and implementing transitional justice processes and mechanisms.

2. Take account of the political context when designing and implementing transitional justice processes and mechanisms.

3. Base assistance for transitional justice on the unique country context and strengthen national capacity to carry out community-wide transitional justice processes.

4. Strive to ensure women's rights.

5. Support a child-sensitive approach.

6. Ensure the centrality of victims in the design and implementation of transitional justice processes and mechanisms.

7. Coordinate transitional justice programmes with broader rule of law initiatives.

8. Encourage a comprehensive approach integrating an appropriate combination of transitional justice processes and mechanisms.

9. Strive to ensure that transitional justice processes and mechanisms take account of the root causes of conflict and repressive rule, and address violations of all rights.

10. Engage in effective coordination and partnerships.

Although the OAS has not issued public guidelines or protocols for transitional justice initiatives, its Inter-American Commission on Human Rights (IACHR) has, in more than one report on the human rights situation in Colombia, expounded on state obligations related to victims' rights to truth, justice and reparations for violations occurring during armed conflict. The IACHR bases its analyses on the American Convention on Human Rights, jurisprudence of the Inter-American Court of Human Rights, OAS General Assembly resolutions and IACHR annual country and thematic reports, as well as UN jurisprudence and international treaties (IACHR 2004 and 2013). Guidance from the IACHR for transitional justice can be summarized as follows:

- Ensure the right to truth for victims, victims' next of kin and society as a whole 'to learn of the conduct of those who have been involved in committing serious violations of human rights or international humanitarian law' (IACHR 2004: para. 18).

- Ensure the investigation, prosecution and punishment of perpetrators of human rights violations and victims' access to adequate and effective judicial remedies (IACHR 2004: paras 20–28).

- Guarantee the effective participation of victims in transitional justice mechanisms (IACHR 2013: para. 532).

- Integrate distinct approaches that are sensitive to the needs of women; children; young people; people with disabilities; indigenous peoples; Afro-descendants; lesbians, gay, bisexual, trans and intersex individuals; and human rights defenders, among other individuals from marginalized groups (IACHR 2013: para. 532).

- Guarantee victims' access, without discrimination, to reparations for harms suffered (IACHR 2004: para. 29).

- Adopt various measures to guarantee non-repetition of human rights violations (IACHR 2004: paras 29 and 33).

The Guidance Note on the UN Approach to Transitional Justice also suggests that the following three approaches be incorporated into transitional justice activities: (a) an approach that takes into account root causes of conflict or repressive rule and addresses the related violations of all rights; (b) an approach that takes human rights and transitional justice considerations into account during peace processes; and (c) one

that coordinates disarmament, demobilization and reintegration (DDR) initiatives with transitional justice activities in a positively reinforcing manner. As will be explained subsequently, the latter approach has been especially relevant to the evolving mandate of the MAPP in Colombia since 2004.

Fragility, peacebuilding, state-building and transitional justice: a good-practice framework

The above norms and policy guidelines reveal a number of common elements to guide good practice. As summarized in Table 1, these common elements will be applied to facilitate our understanding of how the MAPP has contributed to peacebuilding and state-building through its transitional justice activities in Colombia.

Table 1: Common elements of international good practice

Element of international good practice	Corresponding key questions
Context analysis frames strategies	How does the MAPP assess the context? Does it analyse the three dimensions of fragility?
State-building is a priority	How does the MAPP promote state-building? Is the analysis based on political settlement, institutional capacity-building and/or societal expectations and capacities?
Victims' rights	How does the MAPP address the right of victims to truth, justice and reparations? Have DDR efforts reinforced transitional justice efforts?
Victim-oriented, inclusive and differentiated approaches	Are victims central to transitional justice initiatives? Are their needs protected? Are group-specific (differential) measures taken in relation to groups experiencing discrimination? Is their participation promoted?
Promotion of women's rights and participation	How does the MAPP promote the rights of women, ensure a victim-centred approach to gender-based violence and promote women's participation?

3. COLOMBIAN ARMED CONFLICT: CHARACTERISTICS AND DYNAMICS

The origins of the conflict and the main actors

Lasting some 50 years already, the armed conflict in Colombia has been one of the most severe and harmful in the recent history of Latin America, with egregious violations of international human rights and humanitarian law by all armed actors. Although there is debate about its origins, some scholars (Centro Nacional de Memoria Historica 2013b: 49–52) identify 1964 as the beginning of the current armed conflict. There have been three main categories of armed actors over the decades:

1. Various guerrilla groups formed in the 1960s, namely the Armed Revolutionary Forces of Colombia—the People's Army (Fuerzas Armadas Revolucionarias de Colombia—Ejército del Pueblo, or FARC-EP), the National Liberation Army (Ejército de Liberación Nacional), the Popular Liberation Army (Ejército Popular de Liberación), and the 19th of April Movement (Movimiento 19 de abril, or M-19);

2. The armed forces of the Colombian state; and

3. Paramilitary groups organized around a counter-insurgency doctrine, drug trafficking and other illegal activities.[5]

Understanding the dynamics of the armed conflict in Colombia and its actors is not an easy task. According to analysts, there are several features that add complexity, including: (a) the extended duration of the conflict, resulting in degrading practices (violations of international human rights law and international humanitarian law) and difficulty in maintaining lasting agreements; (b) the existence of pro-system actors, such as paramilitary forces, who, rather than confronting the state, share a common enemy with the state; (c) the relations established between armed groups and drug trafficking; (d) the grievous humanitarian situation especially related to forced displacement; (e) the profound influence of geopolitics, especially the policies of the United States in the conflict; and (f) the social polarization resulting from the conflict (Uprimny and Saffon 2008: 167–70).

The conflict has had serious effects on state institutions and society in general that are described briefly below in terms of the three dimensions of fragility. It is important to note that while Colombia is characterized by armed conflict, analysts would not

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[5] After the demobilization of paramilitary groups in 2002, new illegal groups emerged in the Colombian context. These criminal bands, known as bandas criminales (BACRIM) in Spanish, control illegal activities—including drug trafficking—and use violence in order to guarantee the success of their business in a given territory (Suárez Vanegas 2012).

necessarily label Colombia a 'fragile state'.[6] This is due to its long-standing formal democratic traditions, relatively strong central government institutions and the economic development that has taken place despite the armed conflict. It is probably more accurate to describe Colombia as a state experiencing 'situations of fragility'.

The Colombian armed conflict has also been explained from the perspective of a dichotomy between violence and democracy. While the armed resistance can be seen as the consequence of a closed political system that does not respect diverse political ideas or the participation of minorities, the armed conflict itself has produced new opportunities that are reflected, first and foremost, in laws and judicial decisions that protect victims' rights, using strategies that respect differences (Gutiérrez and Sánchez 2006: 18).

Uprimny and Saffon have referred to Colombia's commitment to formal democracy and institutions to explain the fact that the state has not lost legitimacy completely: 'Despite the persistent armed conflict and the resulting grave human rights violations, the Colombian institutions have been able to maintain important democratic characteristics' (2008: 170). As one example of this commitment to democracy, the 1991 Constitution and the jurisprudence of the Constitutional Court have guided state institutions and maintained a relatively healthy balance of powers between branches of government.

Impact on the authority, legitimacy and capacity of the Colombian state

The Colombian state has not maintained a presence throughout the national territory. In several regions, the state's critical duties of administering justice and guaranteeing the security of the civilian population have not always been fulfilled. The absence of state security and justice institutions throughout Colombian territory results in a gap in the state's authority mainly in rural areas, though also in some urban ones. In this sense, even though the Colombian state has been able to implement local government structures and mechanisms, economic strategies, and administer justice in large urban centres, the institutional vacuum in rural areas has been filled by illegal armed actors that replace the state in both political and economic arenas. For example, illegal armed groups determine the economic activities of the local population, imposing their own 'taxes' or generating illicit economic opportunities.

In addition, the human rights and humanitarian impact of the armed conflict has had serious repercussions with respect to legitimacy factors such as state–societal relations and institutional governance. Human rights violations are serious evidence of the legitimacy gaps in Colombia.

The most recent reports from the Centro Nacional de Memoria Histórica (National Centre for Historical Memory) indicate that, between 1958 and 2012, a total of 220,000 people died as a consequence of the armed conflict, and that 81 per cent of those were civilian deaths. Since 1985, there have been 150,000 victims of targeted killings and

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[6] E.g. the 2015 Fragile States Index ranks Colombia sixth (at the high-warning stage) out of 178 countries (Fund for Peace 2015).

11,751 victims of massacres committed by all the armed groups involved in the conflict. In this same period, 25,007 cases of enforced disappearance were reported. According to official figures, 4.7 million men, women and children were internally displaced by violence and at least 8.3 million hectares of land have been abandoned or usurped (ibid: 28). Sexual violence, generally committed against women, has been used as a weapon of war to punish, humiliate and intimidate communities and social organizations. The state has been unwilling or unable to investigate, prosecute and sanction human right violations, leading to high levels of impunity (Centro Nacional de Memoria Histórica 2013a: 23–25, 28, 98).

Finally, while the protracted armed conflict in Colombia has resulted in serious human rights violations and a complex humanitarian situation, the landscape is further complicated by the weak capacity of local governments in responding to local needs and by the absence of state institutions and public services in rural areas. The conflict has been seen as both a consequence of, and a cause of, the weakened capacity of the state, especially at the local level, to provide basic public services and protection for the civilian population: 'In these years of war, the centre of the country saw the strengthening of its institutions, meanwhile in the periphery problems of governability, corruption, and lack of legitimacy persisted . . . The gap between the institutionalized urban centres and the remainder of the country still appears to be deep' (Uprimny and Saffon 2008: 28).[7] These centre–periphery gaps in governance and capacity are clearly related to the authority gap noted above.

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[7] The Resource Centre for the Analysis of Conflicts (Centro de Recursos para el Analisis de Conflictos, CERAC) has tracked the level of intensity of armed conflict by municipality (CERAC n.d.).

4. PEACE PROCESSES, TRANSITIONAL JUSTICE AND THE MAPP MANDATE IN COLOMBIA

During the past five decades of armed conflict in Colombia, there have been several attempts to achieve a political agreement to end the confrontations. Ever since the administration of Belisario Betancur (1982–86), Colombia has witnessed ceasefire agreements, failed peace processes and the demobilization and return to political and civilian life of armed groups—during the 1990s—such as the M-19, the Workers' Revolutionary Party (Partido Revolucionario de Trabajadores) and the Socialist Renewal (Corriente de Renovacion Socialista). One of these attempts occurred in 2003, when President Álvaro Uribe Vélez successfully negotiated peace agreements for the demobilization of the united paramilitary forces (Autodefensas Unidas de Colombia, AUC). These agreements are known as the Santa Fe de Ralito agreements.

The first expression of transitional justice was used during the implementation of the Santa Fe de Ralito agreements and the legal framework of the 2005 Justice and Peace Law. The law set the conditions for the DDR process for paramilitary groups and their prosecution in specialized tribunals in exchange for public confessions. It also established guarantees for the right of victims to truth, justice and reparations through prosecution and other mechanisms oriented to reparations and national reconciliation. One of the most important institutional results of this law was the creation of the National Commission for Reparation and Reconciliation (NCRR), which had as its central task the presentation of a public report about the origins and evolution of illegal armed groups in Colombia since 1964. This temporary institution has been an important reference for the reconstruction of memory about the armed conflict in Colombia.

The Santa Fe de Ralito agreements, along with the legal and institutional framework set out in the agreements, provided the entry point for the OAS mission. In this context, the OAS mission to support peace in Colombia was defined in a January 2004 agreement signed with the government of then-President Uribe. The functions assigned to the MAPP in this first agreement were to verify the peace process, ceasefire, and demobilization, disarmament and reintegration initiatives; support state and civil society initiatives such as policies, programmes and activities; and support local initiatives in communities in conflict zones in order to build confidence and promote reconciliation, a democratic culture of peace and non-violent conflict resolution. Also in January 2004, the OAS Permanent Council adopted Resolution 859, 'Support to the Peace Process in Colombia', authorizing the establishment of the mission and its mandate. Since this first agreement, four additional protocols and one addendum have been signed. The time required to implement the Santa Fe de Ralito agreements and new peace processes undertaken by the Colombian Government with armed actors led to adjustments to the MAPP's mandate and functions in additional protocols signed in 2007, 2010, 2011, 2013 and 2014.

The evolution of the mission can be described in three stages. The first stage covers the period from its inception in 2004 to the adoption and early implementation of the Justice and Peace Law in 2005. In this period the mission's emphasis was on monitoring the DDR process for members of the AUC. This included verifying the cessation of hostilities, the ceasefire, destruction of weapons, and fulfilment of social and economic commitments made on behalf of demobilized groups and their security conditions after demobilization. Another important function in this first stage was that of verifying the dismantling of paramilitary structures, the cessation of actions against civilians and the different ways in which communities were affected by post-demobilization processes.

During this first stage, several civil society organizations expressed their disagreement with the mission's activities and accomplishments. According to their pronouncements, civil society organizations perceived no significant contribution by MAPP to ensuring respect for human rights in the country, and given the non-compliance with the ceasefire agreement and the consolidation of the paramilitary strategy, the mission's role was seen as uncritical support for the demobilization process (Alianza de Organizaciones Sociales y Afines por una Cooperación para la Paz y la Democracia en Colombia 2006 and Coordinación Colombia 2005).

In the second stage, from 2006 to 2011, MAPP monitored the implementation of the Justice and Peace Law. This included monitoring the strengthening of institutional capacities, analysing the conditions for access to the judicial process, providing support to victims and monitoring the implementation of judicial decisions. These and other specific functions were not set out in detail until an additional protocol between the Colombian Government and the OAS was signed in 2010. The functions specified in this additional 2010 protocol included: support to the implementation of the National Policy on Social and Economic Reintegration of demobilized combatants; monitoring of the implementation, application and public dissemination of the justice and peace process; monitoring of, and support to, the government's programmes to remedy and compensate individuals and groups of victims, the reconstruction of the social fabric and the reconciliation process; and support to recruitment prevention efforts (especially those concerning the recruitment of minors by non-state armed actors) by the state, civil society and international agencies. These functions continued into the third stage.

The third stage, from 2011 to the present, focusses on the adoption of another transitional justice law: the Victims and Land Restitution Law of 2011. This new law was intended to establish measures to guarantee the rights of all victims to truth, justice and reparations (not only the victims of paramilitary forces). The MAPP continued monitoring advances, providing technical support to state institutions and identifying difficulties and challenges in the implementation of transitional justice activities, including the monitoring of the new land restitution programme as a reparation mechanism for victims of forced displacement.

It is important to note that, in November 2012, the Colombian Government and the FARC-EP began peace negotiations in Havana, Cuba. By the end of 2015, the ongoing negotiation process had achieved agreements on key issues for the social and political conflict in Colombia, including rural development, political participation of former insurgents, illicit drugs, and transitional justice. This latter accord sets out accountability mechanisms for human rights violations perpetrated by the FARC- EP. In early April 2016 the Government and the FARC-EP were still negotiating the terms

of a ceasefire despite the earlier announcement that a final agreement would be signed by 23 March 2016.

Given that this paper is focused on issues more directly related to transitional justice, the following sections concentrate, for the most part, on the efforts of the MAPP during stages 2 and 3 (from 2006 onward). In the first two years (2004–05) the approach to fragility will be considered.

5. THE MAPP AND GOOD PRACTICES IN TRANSITIONAL JUSTICE

This section analyses the work of the MAPP in terms of the common elements of international good practice in fragility, peacebuilding, state-building and transitional justice, as set out in Table 1. The presumption is that contributions by the MAPP to each of the five common elements of international good practice through its work in relation to transitional justice will demonstrate support for the promotion of state-building in Colombia.

The authors reviewed all published reports of the MAPP submitted to the Permanent Council. These include 18 so-called quarterly reports available on the MAPP website.[8] In addition, the authors reviewed various MAPP publications related to transitional justice and the 2013 external evaluation of the mission available online (Universalia 2013).

Context and fragility analysis

The reports to the Permanent Council analyse the dimensions of fragility without an explicit definition of fragility and without direct reference to the concept or its dimensions. The context analysis at the outset of the reports focuses primarily on the state's authority gaps in specific territories and on the dynamics of the conflict (in 17 of 18 reports). The implicit authority analysis in the reports describes the lack of territorial control by the state in specific regions, the characteristics and activities of illegal armed groups operating in specific territories and, in 2004 and 2005, the indices of violence categorized by human rights violations.

Authority

Through its quarterly reports, the mission's verification of the disarmament and demobilization of paramilitary members and their structures allowed public armed forces to recover territorial control and prevent entry by other illegal armed groups in the territory (Fifth Report 2005: 4, 10). The mission verified the disarmament of 31,000 paramilitary members during its first phase (Universalia 2013: 70) but beginning in 2006 (Sixth Report 2006: 8) the mission noted that other armed actors were filling the void left by the demobilization of AUC units. These new groups could not be described with precision: 'they represent an amalgamation of various forces and interests from

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8   While the OAS refers to these as 'quarterly' reports, they have not been published four times per year on a regular basis. Finding 31 of the external evaluation makes reference to the quality and regularity of the reports: 'reporting on the MAPP/OAS occasionally misses the "essence" of what has been accomplished in the field, and the irregularity of reports prevents wider communication of the organization's processes and actions' (Universalia 2013: 58). An incomplete list can be accessed on the MAPP/OAS website, <http://www.mapp-oea.org/informes-semestrales/>.

different illegal sectors' (Seventh Report 2006: 6). In 2007, however, the mission was able to describe each newly formed group and its activities according to its region of operation. This focus on the lack of territorial control by the state continues through all but one quarterly report reviewed through to September 2013 (Eighth Report 2007: 7–9).

In some reports, the mission makes more explicit calls on the Colombian state to increase its authority. In 2010, for example, it called on the state to exert 'control over its territory to gradually ensure the presence of the security forces in municipalities, extend and strengthen the presence of the entire state apparatus, and provide communities and victims with the forums for participation that they need to exercise their rights' (Fourteenth Report 2010: 3). In 2011 the mission again noted an authority gap due to the 'incipient state presence in the most (conflict) affected territories' (Fifteenth Report 2011: 1).

The effects of armed conflict on the population are described consistently in early reports through indices of violence, including kidnappings, murders and mass murders (Second Report 2004: 9; Third Report 2005: 3, 15), although the presentation of violations of human rights and humanitarian law is sporadic after the last report of 2005 (Fifth Report 2005: 3). Indicators of violence were reported based on information shared among several governmental and non-governmental organizations that entered into partnerships with the MAPP (Third Report 2005: 3). Violations of the ceasefire agreement between the AUC and the state are also noted in the reports from 2005 to 2006 (Fourth Report 2005: 4; Fifth Report 2005: 8; Sixth Report 2006: 14). As newly armed groups continued to appear where the AUC units had demobilized, the references to ceasefire violations stopped (Seventh Report 2006: 8).

Capacity

Gaps in the capacity of state services present obstacles to optimal implementation of the reintegration of demobilized personnel and victim-centred transitional justice processes. In 2005, for example, the MAPP's work in communities where paramilitary members were demobilized concentrated on promoting a 'transition to institutionalism' (Fourth Report 2005: 4–5) as reintegration processes advanced. The mission made explicit references to weak state capacity when noting insufficient health care, education, access to credit and occupational training for demobilized paramilitary members and their family members (Seventh Report 2006: 9–10; Eighth Report 2007: 12; Tenth Report 2007: 7; Eleventh Report 2008: 16). Early in its mandate, the mission recognized the accumulated capacity and experience in Colombia generally (Second Report 2004: 7), and it also noted specific improvements in decentralized service delivery for reintegrated individuals (Tenth Report 2007: 7).

In more recent reports, the MAPP has observed that, while state authority has increased in territories where illegal armed groups operate, especially through a military and judicial presence, community members observe deficiencies in social and community investments. One MAPP report suggests that this weak service delivery (capacity) perpetuates illegality in these territories (Sixteenth Report 2012: 5). This combination of weak authority and weak capacity contributes to victims' insecurity and thus limits the progress of transitional justice mechanisms meant to respond to victims' rights claims, such as their participation in the trial of accused perpetrators and access to

land restitution (Eleventh Report 2008: 7–8, Eighteenth Report 2013: 11–12). The MAPP's work to strengthen transitional justice mechanisms and state institutions will be assessed in subsequent sections.

Legitimacy

References to society's lack of confidence in the state and its institutions appear infrequently in the MAPP's reports to the OAS Permanent Council. In reference to the mechanisms set out in the Justice and Peace Law to prosecute and sanction demobilized paramilitary members, the mission emphasized that 'an important issue at this stage is the reestablishment of confidence of the communities in the (state) institutions so that they will intervene more actively' (Thirteenth Report 2009: 3) in the participation procedures established for victims. Recent reports related to the implementation of the Victim and Land Restitution Law also note the need to reconstruct relations directly between the community and state institutions that were undermined by a paramilitary presence (Seventeenth Report 2013).

State-building

While the reports make no explicit reference to a state-building strategy, the MAPP makes observations and sets out recommendations that implicitly seek to strengthen the authority, legitimacy and capacity dimensions of the fragility–statehood paradigm. As mentioned previously, the OECD DAC policy suggests state-building efforts address three interrelated dimensions: political settlement, institutional capacity-building and societal expectations and capacities. It is important to note that the OAS Charter and key resolutions do not identify state-building as a function of its mandate; however, state institutions and processes are inevitably strengthened through MAPP's specific mandate to both provide technical support and monitor state policies.

Political settlement

The OECD DAC defines political settlement as the way in which groups divide power and resolve conflicts. In other words, state-building in this dimension would strengthen political processes that determine how state and social groups interact.

The mission's reports indirectly refer to political settlement. As mentioned above, confidence-building is critical to the success of transitional justice mechanisms and ultimately to state-building. In the first phase of its mandate, the MAPP observed negotiations between the government and the AUC; however, subsequent political settlement activities were, naturally, less prominent.

As the MAPP entered its third phase, the mission appeared to increase its confidence-building activities between state institutions and communities, or at least direct references increase in latter reports. In 2011, for example, the mission 'fostered reengagement with authorities. This reengagement has shown that building community trust in institutions is one of the foundations for building peace in Colombia' (Fifteenth Report 2011: 16). The mission also called for state action in this regard: 'building confidence in communities affected by the violence and the constant fight against corruption are two issues in which the Government should intervene' (Fifteenth Report 2011: 16).

In its Seventeenth Report (2013), the mission provides three suggestions for the Colombian state to enhance confidence and trust among victims of the armed conflict so that they engage in the transitional justice mechanisms provided for in the law: (a) the implementation of effective institutional initiatives that re-establish the rights of victims and thus their confidence in the state as guarantor; (b) the application of actions that 'do no harm'; and (c) the establishment of direct dialogue with communities so they are informed and can participate and understand their rights (Seventeenth Report 2013: 4).

Institutional capacity-building

Given the more narrowly defined mandate and functions related to the DDR process in the first phase of the mission, observations of activities that could be construed as institution-building were limited to identifying the need, mentioned above, to 'transfer to institutionalism' in communities affected by conflict and the absence of the state.

As the process of disarming, demobilizing and reintegrating paramilitaries evolved to the transitional justice stage under the Justice and Peace Law, the MAPP was positioned, from the second stage of its mandate, to monitor, and provide technical support to strengthen transitional justice processes and the responsible state institutions.

Due to its mandate, the MAPP indirectly contributed to institutional capacity-building through joint work arrangements with institutions such as Colombia's Office of the Ombudsman (Defensoría del Pueblo) (Third Report 2005: 11) and the Office of the High Commissioner for Peace (Fourth Report 2005: 2); recommendations for strengthening key institutions, such as the attorney-general (Ninth Report 2007: 12 and 17) or the prison system (Sixteenth Report 2012: 4), that lacked resources or capacities to fulfil institutional obligations; analysis of the transitional justice mechanisms of the Justice and Peace Law to make recommendations for implementation of the Victims and Land Restitution Law (MAPP 2011); and analysis of land restitution in the Justice and Peace Law for consideration in the application of the Victims and Land Restitution Law of 2011 (OAS 2013).

A review of the reports submitted to the Permanent Council reveals the following type of direct institutional capacity-building activities of the mission: (a) strengthening local actors, such as the municipal ombudsmen (personerías) (Eighth Report 2007: 16); (b) coordination of an inter-institutional meeting of justice institutions to discuss divergent interpretations of provisions of the Justice and Peace Law (Thirteenth Report 2009: 4); (c) coordination of inter-institutional visits to conflict-affected zones without a state presence; and (d) coordination of institutions working on land restitution.

An important contribution to institutional capacity-building was the development and implementation of specific strategies to influence key state institutions responsible for aspects of transitional justice (Millares). In addition, in order to accompany and monitor the provisions of the Law on Victims and Land Restitution that require actions by several state institutions, the mission developed inter-institutional thematic strategies to improve state response to victims and community needs (Millares).

Societal expectations and capacities

It is important to note that, from the beginning, the mission had a mandate to provide 'support to local initiatives in conflict zones that promote confidence building and reconciliation activities for the purpose of developing a culture of democracy, peace and pacific conflict resolution' (Convenio 2004: article II, 2.1(d)).

In early reports, there is limited mention of community-based activities by the MAPP. However, other OAS entities, such as the Trust for the Americas and the Pan-American Development Fund, provided support for community initiatives, including radio programmes and confidence-building activities (Sixth Report 2006: 5).

In the second phase of its mandate, the mission implemented projects to strengthen individual and organizational capacities in communities affected by violence and in communities receiving demobilized individuals. For example, a project in communities in Bolivar was implemented to 'reactivate community ties, re-establish interpersonal confidence and inter-community confidence and generate agreements and common proposals' (MAPP 2011: 72). Mission activities to strengthen community leadership and conflict resolution capacities were reported to a greater degree in 2007 (Tenth Report 2007: 12–13) and 2008 (Eleventh Report 2008: 14–15).

It is important to note that the external evaluation of the MAPP for the period of 2010–13 recognized the application of the 'do no harm' approach in its community-level work and the confidence this generated in the local population (Universalia 2013: finding 23).

The MAPP has also shared information with journalists at the local level in order to increase their knowledge about transitional justice (Millares).

Rights of victims

The internationally recognized right to a remedy for victims of gross violations of international human rights law and serious violations of international humanitarian law is commonly referred to as the right to truth, justice and reparation.

MAPP reports and publications related to transitional justice do not explicitly incorporate a human rights approach. However, the monitoring and technical support work reported by the MAPP in relation to transitional justice mechanisms contribute to strengthening the state's international and national human rights obligations and the victims' exercise of their rights. The mission's support for the right to a remedy in each of its three interrelated aspects is assessed below.

Truth

In 2004 the MAPP reported on a pre-agreement with the Catholic Church to support the recovery of memory related to human rights violations in Sierra Nevada. The purpose of the agreement was 'to seek testimony and reports of human rights violations, exchange of information and joint verification procedures in the case of complaints of human rights violations alleged to have been committed by the Colombian United Self-Defence Forces, among others' (Third Report 2005: 11).

In the second stage of the mission's mandate, a significant effort was made to support truth-seeking initiatives. For example, the MAPP monitored victims' attendance at the confessions of demobilized paramilitary members who engaged with the administrative process preceding the special judicial process defined in the Justice and Peace Law. As of August 2011, the Attorney General had initiated 2,777 voluntary confessions, with 1,390 of them having been concluded by that date (MAPP 2011: 33). From 2006 to July 2011, 54,005 victims attended confessions, and 19,972 asked questions (MAPP 2011: 40). During this stage of its mandate, the mission monitored the confessions of demobilized paramilitary members and identified obstacles to victims' ability to attend live or taped broadcasting of the confessions and insecure situations that resulted for victims (MAPP 2011: 41). In addition, MAPP officials visited prisons in the United States 'in order to hear the views and demands of the extradited former self-defence leaders regarding their involvement in the Justice and Peace process and to invite them to continue participating in it, in order to safeguard the victims' rights to truth, justice, and redress' (Fourteenth Report 2010: 10). The MAPP promoted the use of collective voluntary confessions among demobilized guerrilla and paramilitary forces as an ideal method for reconstructing mass violations such as massacres and displacements (Fourteenth Report 2010: 12).

In the second stage, the mission's reports note the contribution made by reports from the Historical Memory Group of the National Reparations and Reconciliation Commission to the reconstruction of human rights violations (Fifteenth Report 2011: 11–12). The MAPP also implemented at least one collective-memory project at the community level during the second stage of its mandate (Fourteenth Report 2010: 21).

Justice

In the second stage of its mandate, the MAPP monitored judicial procedures related to the Justice and Peace Law. Once the prosecution verified confessions, demobilized individuals could apply to be charged and tried under the law's special criminal procedures. An exhaustive study of the Justice and Peace Law noted that the number of demobilized individuals who engaged with the law decreased at each stage of the process (MAPP 2011: 60). And of the 405 individuals who applied to be tried under the special criminal procedure (prior to June 2011), only four received sentences, and three of those perpetrators received only partial sentences (MAPP 2011: 60).

MAPP reports from 2007 to 2011 record the results of its monitoring of trials of demobilized combatants under the Justice and Peace Law. The mission noted many issues of concern during the trials, such as the murder of leaders of victims' associations (Ninth Report 2007: 11; Fourteenth Report 2010: 4); the lack of legal representation for victims in the judicial processes, which is especially critical because there is direct contact between the victims and perpetrators in court (Eleventh Report 2008: 12; Twelfth Report 2009: 11; Thirteenth Report 2009: 4); the importance of Supreme Court rulings, which revealed weaknesses in the investigation and preparation of cases by the prosecution, for due process considerations (Fourteenth Report 2010: 5–6); and the very low number of confessions related to sexual violence (Sixteenth Report 2012: 4).

In 2012 the mission undertook a series of activities with the Rodrigo Lara Bonilla Judicial School—the entity in charge of strengthening the capacities and competencies

of Colombian judges and magistrates through continuous training processes—and other institutions with responsibilities under the Justice and Peace Law to identify the lessons learned from that law that could strengthen the application of the land restitution mechanisms for victims under the Victims and Land Restitution Law (MAPP 2013b).

Reparations

As DDR activities evolved to transitional justice activities in 2006, the MAPP monitored the establishment of the National Reparations and Reconciliation Commission and the launch of the Commission's participatory process to define the reparations model for victims of violations of human rights law and international humanitarian law (Seventh Report 2006: 10–11; Eighth Report 2007: 15). The mission continued to monitor the Commission's work, recommended areas that it needed to strengthen (Fourteenth Report 2010: 9), and collaborated with the Commission in inter-institutional activities (ibid).

In the second phase of its mandate, the mission monitored seven of eight 'collective reparations' pilot projects implemented under the leadership of the National Commission for Reparation and Reconciliation (Comisión Nacional de Reparación y Reconciliación, CNRR) (Fourteenth Report 2010: 19).

The Justice and Peace Law also called upon demobilized individuals who availed themselves of the above-mentioned special criminal procedure to address victims directly at hearings and compensate their victims for moral and financial harm. Decisions in these cases should include an order regarding the seizure of the perpetrator's property for the purpose of providing compensation to the victims. Prior to June 2011, the MAPP monitored six comprehensive reparations hearings to ensure that the methodology and the rights of victims were observed (MAPP 2011: 70–71; Fifteenth Report 2011: 13). The mission helped prepare victims for these hearings through initiatives to strengthen victims' associations and networks (Fourteenth Report 2010: 20) and inter-institutional events to provide information and support for victims (Fourteenth Report 2010: 9).

In the third and current phase of its mandate, the MAPP continues to support reparations for victims of the armed conflict by developing a model for monitoring security and potential risks related to restitution processes (Seventeenth Report 2013: 8), as well as through its technical support to several comprehensive reparations processes jointly with the CNRR and the Office of the Ombudsman (Sixteenth Report 2012: 7), and the monitoring of the establishment of the new institutional structures required under the Victims and Land Restitution Law (Eighteenth Report 2013: 5–8).

Victim-oriented, inclusive and differential approaches

Victim-oriented approach

Unlike the other assessment factors identified as international good practice, a victim-oriented approach is evident and explicit in MAPP reports, especially in the second and third stages of the mission's mandate.

At the beginning of the mission's work in Colombia, there were limited references to direct interaction with organized victims' groups or civil society organizations beyond declarations of support from civil society organizations. Reports of political support for the mission were presumably in response to the initial opposition to the peace process between the government and the AUC. However, the MAPP, in cooperation with the IACHR, did enter into discussions with indigenous leaders in order to establish monitoring commitments and provide humanitarian support to indigenous communities (Second Report 2004: 3).

In the second and third stages of the mission's mandate, as the MAPP's activities were adapted to respond to the new political and legal context, the reports consistently describe support to victims' associations, concern for the security of leaders of victims' groups participating in the transitional justice mechanisms and MAPP coordination with state institutions at events organized to assist victims' awareness and access to transitional justice processes.

Inclusive and group-specific or differential approaches

The mission's reports show that attention has been paid to particularly vulnerable groups of victims as a result of situations of inequality that represent multiple discrimination or multiple disadvantages. However, differential approaches are not clearly articulated in most of the reports submitted to the Permanent Council (Universalia 2013: finding 11). For example, some reports noted that the mission was taking a cross-cutting approach to 'matters relating to gender, children's rights, and the rights of indigenous peoples and communities of African descent' (Seventh Report 2006: 3; Eighth Report 2007: 2–3), and mission personnel were receiving training on differential approaches from the IACHR.

The mission reports do demonstrate that the mission took note of how the armed conflict impacted specific groups differently (e.g. Ninth Report 2007: 1; Fourteenth Report 2010: 2), and, on some occasions, specific responses to a group's situation through rights protection, rights promotion or humanitarian activities are described.

For example, the earliest report on group-specific MAPP activities was the Second Report (OAS 2004), which was related to humanitarian activities for indigenous communities in cooperation with the Inter-American Commission on Human Rights. Further, in the Third Report (OAS 2005: 4) there is an implied differential approach in reference to the establishment of monitoring commitments with indigenous leaders. While the mission supported indigenous peoples' access to state-sponsored transitional justice mechanisms (Fourteenth Report 2010: 9), in the Sixteenth Report the mission explicitly reported initiatives with victims that adopted differentiated approaches. For example, the mission supported indigenous peoples' collective right to administer their own legal norms and procedures in relation to justice and peace (OAS 2012).

The mission reported periodically on specific protection initiatives related to children. In the Twelfth Report, for example, the Secretary General called on the Colombian Prosecutor General to investigate violations of children's rights in the context of the armed conflict. In the Fourteenth and Fifteenth Reports, the mission notes its concerns regarding the recruitment of minors by non-state armed actors, especially among indigenous and Afro-Colombian communities.

As mentioned above, the Sixteenth Report (OAS 2012) describes initiatives that adopt a differential approach. In terms of Afro-Colombian communities, who enjoy collective rights prescribed by Law 70 of 1993, the MAPP strengthened community organizations of African descendants as they developed a proposal to apply differentiated criteria to measure collective harm in the collective reparations processes under the Justice and Peace Law. And, in Buenaventura, the mission supported a historical-memory project that permitted African-descendant communities to recuperate their cultural identity and design culturally relevant mechanisms for non-violent resistance against illegal armed groups.

In addition to specific approaches to support groups of victims, the MAPP has taken steps to support the reintegration needs and due process rights of demobilized individuals. For example, the mission organized a type of early-warning system to monitor the safety conditions of imprisoned demobilized members of the AUC who have availed themselves of the judicial process under the Justice and Peace Law (Millares). This system allows the MAPP to obtain information on threats to the detainees' security and to report these incidents immediately to the institutional authorities responsible for the protection of demobilized individuals. Mission personnel visited demobilized paramilitary women who were defendants under the transitional justice mechanism of the Justice and Peace Law and found that the special conditions granted to male defendants in prison in were not applied to women (Fifteenth Report 2011: 15).

In 2009–10 the mission undertook a study of demobilized women in an effort to understand the experience of women within armed groups, to identify their specific needs once demobilized, to understand their view of victims of the armed conflict and to formulate recommendations for state institutions responsible for the reintegration of demobilized armed actors (MAPP 2012: 3). The study revealed important differences between men and women who had been demobilized and also differences between women demobilized from guerrilla organizations and paramilitary fronts. This study allowed the MAPP to prepare specific recommendations for the Colombian Agency for Reintegration, including specialized attention to issues such as sexual violence, child care and social and economic reintegration.

Promotion of women's rights and participation

The good practices identified among peacebuilding and transitional justice norms and policies single out women because of the impact that armed conflict has on them, and thus the MAPP's activities related to women will also be described separately. The peace and security resolutions of the UN Security Council require UN members to attend to the impact of armed conflict on women and girls and their specific rights, and encourage women's participation in peace processes and peace operations.

Although there are some examples of gender-based analysis, as the example of the study of demobilized women demonstrates, it is not possible to see, based on the available reports, that the mission has integrated gender as a mainstreaming strategy. Gender equality mainstreaming is understood as the process of: 'assessing the implications for women and men of any planned action, including legislation, policies or programmes, in any area and at all levels. It is a strategy for making the concerns and experiences of women as well as of men an integral part of the design, implementation, monitoring and

evaluation of policies and programmes in all political, economic and societal spheres, so that women and men benefit equally, and inequality is not perpetuated' (United Nations Economic and Social Council 1997). As mentioned previously, the IACHR conducted training to integrate matters of gender in a cross-cutting manner (Eighth Report 2007: 2–3).

While the cross-cutting approach to gender equality is not always visible in the periodic reports to the OAS Permanent Council, the reports do demonstrate that the MAPP implements activities focusing on women (Universalia 2013: finding 12). These activities promote the rights of women by highlighting women's experience in the armed conflict (including sexual violence against women), and the mission actively facilitates the participation of women in transitional justice activities.

In the second and third stages of the mission there is evidence of an evolution in the MAPP's work with women's organizations. For example, there is an increased commitment to give voice to women's organizations in transitional justice issues. This can be appreciated in documents that address two critical issues for women victims of the armed conflict: land restitution processes and protective measures for social leaders at risk. With regard to land restitution, the MAPP accompanied a number of women's civil society organizations in the preparation of recommendations for the government on the implementation of a gender-differentiated approach to the Victims and Land Restitution Law (Alianza Iniciativa de Mujeres Colombianas por la Paz, et al. n.d.) In relation to protective measures for female leaders at risk, the MAPP collaborated with civil society organizations to prepare recommendations for the Protection Unit of the Office of the Prosecutor-General for the development of a special protection protocol for women (Alianza Iniciativa de Mujeres Colombianas por la Paz et al 2012).

The mission has also monitored cases of sexual violence against women. In this regard, the mission developed a gender-sensitive strategy in which protocols and training for the MAPP personnel responsible for conducting the monitoring were modified to meet the special conditions and needs of women (Millares). The latter experience demonstrates the MAPP's capacity to transform and adapt its proceedings in order to meet the differential and specific needs of victims.

6. CONCLUSIONS

Common elements of international good practice

While the periodic reports and publications reviewed do not contain a complete description of MAPP's work, an analysis of its contributions to peacebuilding and state-building in Colombia or explicit strategies related to its transitional justice activities, there are many examples that implicitly demonstrate that the mission has adopted the common elements of international good practice in transitional justice that were identified in this paper's conceptual framework.

1. *Context analysis frames transitional justice strategies.* Although the mission's reports to the OAS Permanent Council do not explicitly refer to the weaknesses of the Colombian state as dimensions of fragility, the periodic reports to the Permanent Council do analyse the gaps and make recommendations in relation to the three dimensions of fragility. For example, reports describe the lack of state authority throughout Colombia's national territory (the presence of illegal armed actors and the absence of state institutions in conflict zones); the reports also identify the specific capacity-building needs of Colombian institutions (to successfully implement transitional justice mechanisms, among other aspects of the peace process); and they make recommendations to strengthen state legitimacy through confidence-building and reengagement between state and civil society in conflict-affected zones.

2. *State-building is not one of the mission's explicit priorities, but its work has contributed to the three dimensions of state-building.* This paper contains examples of MAPP activities aimed at consolidating political settlements between the Colombian state and armed groups and to reinforcing confidence between the government and communities and social organizations. Also, due to the technical support and monitoring activities in its mandate, the MAPP has contributed to strengthened institutional capacities among institutions responsible for the implementation of the Justice and Peace Law and the Victims and Land Restitution Law.

3. *One of the most important roles assumed by the MAPP is that of a facilitator of dialogue to foster renewed relations between state and civil society.* The facilitation of state–civil society relations is undertaken through explicit confidence-building and engagement activities and implicitly through capacity-building activities with public institutions and with community-based organizations in conflict-affected zones.

4. *The rights of victims to truth, justice and reparations have been promoted through MAPP activities in transitional justice.* The mission has strengthened the state's capacity to protect victims' rights and respond to victims' expectations. Further, the mission has played a key role in inter-institutional coordination among state

agencies in their responses to victims' rights to truth, justice and reparations. For the part of civil society, the mission has supported the exercise of rights to truth, increased access to transitional justice mechanisms, and support aimed at preparing victims for participation in individual and collective reparations processes.

5. *The MAPP's transitional justice activities have been inclusive, have recognized multiple disadvantages and have begun to adopt differentiated approaches.* The mission has considered the needs and perspectives of especially vulnerable communities affected by the armed conflict. Indigenous peoples, African-descendant communities and women's organizations have received direct support. In more recent reports, there is explicit reference to differentiated strategies to respond to the specific rights, needs and cultural values of these groups.

6. *The MAPP's activities have promoted women's rights and participation in transitional justice processes.* The mission has fostered the participation of women in forums to debate public policies, has recommended that responsible government agencies take action to respond to the specific needs of women affected by armed violence, as well as to respond to the needs of women who have been demobilized from armed groups, and has accompanied women in developing policy proposals that allow them to exercise their rights. While gender mainstreaming is not evident in MAPP reports, there are examples of gender-sensitive and women-specific activities that respond to the needs of women in DDR and transitional justice initiatives.

7. *As the MAPP's mandate and the peace process have evolved, the mission's strategies have also evolved to an implicit human-rights-based approach.* The evolution of MAPP's strategies and actions in Colombia shows a remarkable change of focus between the first stage and the second and third stages. While the main focus in the first stage was on state responsibilities related to the DDR process for demobilized armed actors, in the second and third stages the mission's focus shifted to a human rights approach in its transitional justice activities through its commitment to rights holders. The mission has been able to promote victims' rights and support victims' organizations and communities while balancing its mandate to monitor the obligations of duty-bearing institutions. This evolution has enhanced the legitimacy of the mission and allowed it to respond to the elements of good international practice.

8. *The MAPP has contributed to peacebuilding and state-building in Colombia through its transitional justice activities.* During 10 years of providing support to Colombia's peace processes, the MAPP has made significant contributions to peacebuilding and state-building through the verification of disarmament and demobilization of armed groups, the reengagement of civil society and authorities, the reinforcement of state institutional capacity through joint work arrangements, the strengthening of individual and organizational capacities of communities affected by violence and the promotion of compliance between transitional justice responsibilities of the state and the exercise of victims' rights to truth, justice and reconciliation.

7. RECOMMENDATIONS

Based on the advances identified in the conclusions above, the authors recommend that the OAS consider taking the following steps:

1. *Systematize and analyse the MAPP's transitional justice activities based on the common elements of international good practice in order to further strengthen its work in this area*. This would allow the mission to collate and reflect on MAPP contributions to state-building as an approach to addressing the Colombian context and the dimensions of fragility, and to defining specific strategies to reinforce transitional justice mechanisms from an explicit human-rights-based approach. The authors perceive this as an important activity due to the current institutional and political context presented by the peace negotiations in Havana, Cuba, and the extension of the mission's mandate.

2. *Design a context analysis framework to further the mission's 'do no harm' approach*. The MAPP may find that conducting a context analysis using the dimensions of fragility will provide insights into gaps in authority, legitimacy and capacity. An analysis of these gaps can then be used collaboratively to design strategies with the Colombian Government. This process will respond to the specific weaknesses of the state and contribute explicitly to state-building goals and respecting Colombian ownership of the peace process.

3. *Apply guidelines prepared by international organizations that describe practical methods to integrate gender equality and differentiated approaches for marginalized groups of rights holders into its activities*. For example, the MAPP could review and adapt guidelines and principles prepared by the OECD DAC on gender equality and women's empowerment (OECD 1999), guidelines by the UN Development Programme (UNDP) for mainstreaming gender in initiatives and projects (UNDP 2007) and the UNHCR's guidelines for developing diversity approaches based on gender, age and ethnicity (Executive Committee of the High Commissioner's Programme 2012). These guidelines could be helpful in the design of a mainstreaming strategy that allows the mission to take account of, and respond to, women's needs in every area of work, emphasizing transitional justice initiatives.

4. *Clarify transitional justice concepts and strategies by explicitly integrating norms and jurisprudence from the inter-American system*. The Inter-American Commission on Human Rights and the Inter-American Court of Human Rights have defined key rights concepts that could help the MAPP define a regional rights-based approach to transitional justice that emphasizes the rights of victims to truth, justice and reparations (IACHR 2007, 2011, 2013 and 2014).

5. *Develop a general conceptual or strategic framework for its activities in Colombia, taking into account the above recommendations.* A clear conceptual framework could provide the foundation for a multi-year strategic plan that contains tools and specific elements or indicators to report subsequently on the achievements of the mission to the Permanent Council and the Inter-American community more broadly.

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ABOUT INTERNATIONAL IDEA

The International Institute for Democracy and Electoral Assistance (International IDEA) is an intergovernmental organization that supports sustainable democracy worldwide. International IDEA's mission is to support sustainable democratic change by providing comparative knowledge, assisting in democratic reform, and influencing policies and politics.

What does International IDEA do?

In the fields of elections, constitution-building, political parties, gender in democracy and women's political empowerment, democracy self-assessments, and democracy and development, we undertake our work in three activity areas:

1. providing comparative knowledge derived from practical experience on democracy building processes from diverse contexts around the world;

2. assisting political actors in reforming democratic institutions and processes, and engaging in political processes when invited to do so; and

3. influencing democracy building policies through the provision of our comparative knowledge resources and assistance to political actors.

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International IDEA works worldwide. Based in Stockholm, it has offices in Africa, the Asia-Pacific, and Latin America and the Caribbean. International IDEA is a Permanent Observer to the United Nations.
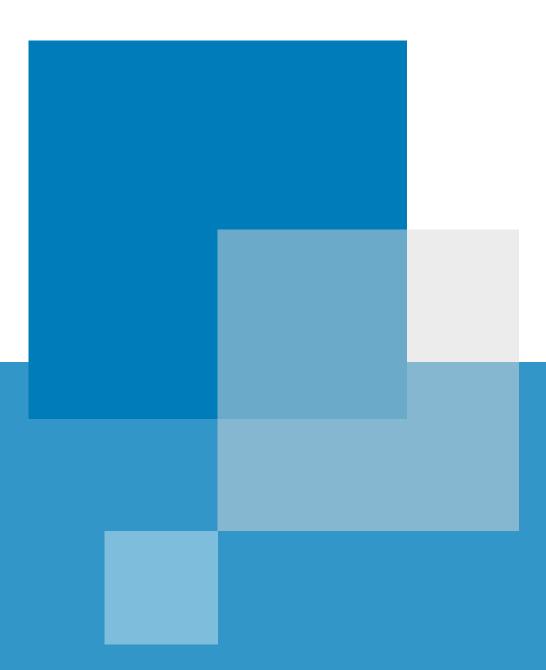<http://www.idea.int>

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The Inter-Regional Dialogue on Democracy (IRDD) is a platform for engagement among regional organizations on democracy, and is facilitated by International IDEA.

Regional organizations participating in the IRDD include the African Union, the Association of Southeast Asian Nations, the Council of Europe, the European Union, the League of Arab States, the Organization of American States, the Pacific Islands Forum and the South Asian Association for Regional Cooperation.

International IDEA acts as the IRDD Secretariat and also hosts the Inter-Regional Democracy Resource Centre, a virtual resource for democracy at the regional and inter-regional level.

<http://www.idea.int/democracydialog/>