

WHO DOES THE RULE OF LAW RULE OUT?
EXAMINING THE ACCESS TO JUSTICE FOR VICTIMS IN POST-CONFLICT COLOMBIA

BY
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ABSTRACT

This undergraduate thesis investigates access to justice for victims in post-conflict societies. Using the context of post-conflict Colombia, this study analyzes how the social identity of a victim of a crime related to civil conflict affects his or her access to legal accountability. This research ultimately examines the effect of gender and racial identity on whether a victim of the Colombian armed conflict receives justice while controlling for factors such as age, ability status, crime type, department, and year of the conflict-related crime. Through a series of logistic regressions and geographic analyses, this study finds that female victims were not significantly more or less likely than male victims to receive sentences for their perpetrators. This study also found that some ethnic minorities were more or less likely to receive justice relative to the no salient identity group enumerated in the dataset.

Keywords: [Transitional justice, Conflict, Colombia, Social Identity]

DEDICATION

I dedicate my senior thesis to the memory of my grandfather, Carlos Montaña, whose teachings of hard work and dedication to serving others will always ring on in my ears.

ACKNOWLEDGEMENTS

I wish to thank my incredible thesis advisor, Dr. Alyssa Prorok, who supported my work throughout this entire process. I sincerely appreciate how generous she was with her time and her willingness to help me turn my research idea into a reality. I would also like to thank Dr. Matthew Winters who played a key role in building the foundation of this research project. Finally, I would like to give a special thanks to Dr. Avital Livny who gave me my first opportunity to conduct real research and has always supported my academic endeavors.

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Introduction

Since the mid-twentieth century, the number of war deaths has declined, while the number of conflicts has been on the rise. Most notably, 2016 marked a turning point in which more countries were experiencing violent conflict than at any point in almost 30 years (The World Bank, 2018, p. 3). This prevalence of violent conflict has posed an imminent threat to the sanctity of human rights and the rule of law. Whether a conflict is regional or widespread, pre-existing hierarchies of socioeconomic inequalities may shape the manner and degree to which individuals with certain social identities experience conflict. The Under-Secretary-General for Peacekeeping Operations (2003), established that women and girls, in particular, have suffered disproportionately during and after war, as existing patterns of discrimination have heightened the risks of violations of their human rights.

Societies emerging from conflict have recognized these disparities in the impacts of violence across genders and have sought to address such legacies of human rights violations in the form of transitional justice. Various academics in the 1990s coined the term transitional justice to describe the various ways in which countries had approached the problems of new regimes coming to power faced with massive violations of human rights by their predecessors (The International Center for Transitional Justice, 2020). More specifically, transitional justice employs measures designed to restore peace, rectify past injustices, and transform the root causes of armed conflict (Meertens & Zambrano, 2010). Given that women have often been the worst affected by conflict, contemporary transitional justice seeks to ensure that justice is a reality for women and other marginalized groups so that these individuals may, in turn, be able to play an effective role in peace processes and post-conflict reconstruction.

In many cases, transitional justice measures--courts, truth commissions, and reparation programs--have intended to place the needs of women at the forefront (Bachelet, 2013). Since

women have been disproportionately affected by conflict and transitional justice initiatives have been implemented to address such harm, it is critical to investigate whether these transitional reforms have actually served their purpose in delivering justice to women. It is imperative to note that disparities in access to justice are not confounded to gender identity--the intersectionality of other marginalized identities like race and social class of the victim may affect their access to justice as well. Taking this into account, I ask how does the social identity of a victim of a crime related to civil conflict affect their access to legal accountability in post-conflict societies?

To address this question, this senior thesis focuses on the state of Colombia. This South American nation serves as a suitable case study for two main reasons: it is a nation emerging from decades of armed conflict and it has undergone a lengthy transitional justice process. More specifically, I focus on transitional justice Law 1448, Victims and Land Restitution Law, which was enacted in 2011 by the Colombian Congress. This law built upon previous frameworks that granted the authority to the higher tribunals of Colombia to prosecute leaders of armed groups who may be guilty of crimes against humanity. I use the public database provided by the Colombian government's Red Nacional de Información, titled the Single Registry of Victims (RUV). I ultimately analyze the sentencing outcomes of individual cases ruled before the higher tribunals of Colombia.

Literature Review

The Role of Gender in Conflict

Previous academic work on this topic has been centered around the differentiation between the types of war crimes that males and females generally experience. Brunet and Rousseau (1996) argue that "when war crimes are committed against women and children in

similar ways as they are to men, they are universally recognized as atrocities and have been punished as such.” These scholars suggest that when a war crime involves either a male or female victim, there will be less of a focus on the victim’s gender identity because the violence experienced by both identities is considered a universal atrocity. Brunet and Rousseau proceed to recognize, however, that war crimes and atrocities are not actually experienced in the same manner because they are committed against women and girls in gender-specific ways.

Majoo and McRaith (2011) further recognize that approaching human rights violations without a gendered lens is fundamentally flawed because the inherent nature of war is meant to perpetuate patriarchal norms and subjugate women. They argue that “war is an inherently patriarchal activity, and rape is one of the most extreme expressions of the patriarchal drive toward masculine domination over the woman” (Majoo and McRaith, 2011, p. 11). The aggressive essence of war itself is to dominate other people and by this token, women experience war and conflict in a different manner than men. Women in conflict zones are subject to rape, sexual abuse, and other violating acts which are often part of an intentional strategy of war used to destabilize the civilian population and violate the honor of the opposing force (Majoo and McRaith, 2011, p. 11). These scholars acknowledge that women do not just experience violence at the hands of rebel forces and non-state actors, but also at those of government actors, community members, and peacekeeping forces.

Although there have been greater efforts to address the relationship between gender-based violence (GBV) and armed conflict, there are issues related to accountability and impunity that inhibit the process by which justice mechanisms may be effectively implemented. The Special Rapporteur on Violence Against Women from the United Nations (2001) found that women continue to remain vulnerable to violence following armed conflict and that they

experience a strong rise in domestic violence, sex trafficking, and forced prostitution in post-conflict zones. The needs of these victims are being overlooked even in the presence of transitional justice mechanisms. Scholars have sought to explain why women continue to experience gender-targeted violence and are not able to receive the justice they were promised during the signing of peace agreements.

Explanations of the Inaccessibility of Post-Conflict Justice

The first way in which scholars have explained the inaccessibility of justice for women in post-conflict societies is by analyzing the role of community and cultural norms. Majoo and McRaith (2001) found that in some cases, GBV is viewed primarily as a violation of the male's property rights--whether that be the husband or father of the female victim. The crime is therefore not treated as a violation of a woman's human rights in some societies emerging from conflict. The role of the woman being constructed within the family unit may also explain why women lack access to monetary reparations. Although women in conflict areas contribute to their households, some women are not employed outside of the home. In some cases, the patriarchal norms that exist within post-conflict societies have facilitated the institutionalization of gender discrimination through the granting of economic benefits or the lack thereof. In the case of Northern Ireland, "reparations made by the government for the military-caused conflict death of a mother of six children totaled £84, whereas the compensation given to a family for the death of a working father sometimes totaled up to £100,000" (Majoo and McRaith, 2001, p. 18). Even within a society, like Northern Ireland, that underwent transitional justice mechanisms focused on gender, preexisting gender norms can explain why women have received inadequate compensation for their loss.

Another reason to explain a high level of impunity for crimes where women are victims can be attributed to the attitudes of individuals within the criminal justice system. Torres (2008), argues that the “Guatemalan government’s failure to effectively address the legacy of violence during Guatemala’s peace process is also thought to have contributed to the continuing levels of violence in the country.” Women, in particular, have suffered and continue to suffer from high levels of femicide and domestic violence. The formulations of apathetic attitudes among the police force have contributed to the lack of prosecutions for these cases (Majoo and McRaith, 2001, p. 28). Gender biases were also seen to affect the process of prosecuting sexual violence committed during the Yugoslav Wars. Ginn (2014) argues that gender bias prevented male investigators from adequately investigating sexually violent crimes and that they often downplayed the seriousness of sexual assault. Scholars exploring the nature of these attitudes further argue that such beliefs perpetuate the acceptance of gender inequities in broader society.

The final explanation for why women lack access to justice explores the role of institutional loopholes. In Colombia, there is a greater awareness of conflict-related gender inequities through the implementation of transitional justice programs, but these programs have not necessarily translated into legal accountability for female victims of conflict. In 2006, the Justice and Peace Law installed special courts to hear the confessions of paramilitary leaders (Meertens and Zambrano, 2010, p. 195). Although women comprised the majority of the 70,000 victims who had turned to the law for justice, several of the paramilitary leaders had been extradited to the US for drug trafficking which prevented their testifying before the special courts (Meertens and Zambrano, 2010, p. 195). Because of this, the rights of victims to participate in public hearings were undermined and the levels of truth-telling were low. Even when women

have claimed their rights in the transitional justice process, institutional factors contribute to inadequate access to justice for women.

What Is Missing

Although there is literature to support the notion that women face barriers to post-conflict justice, there is not a great understanding of how the intersectionality of other identities with gender identity affects access to justice. Meertens and Zambrano (2010) touch upon this concern by noting that it is not just being a woman that can affect a victim's access to justice, but a woman's geographical surroundings can affect such access as well. These scholars establish that in the case of women who were forcibly displaced by the armed conflict, institutional neglect dictated the lack of acknowledgment of the conflict's disproportionate impact on them (Meertens and Zambrano, 2010, p. 196). Although the geographical surroundings of a victim may allude to economic discrepancies between those living in a rural area versus an urban area, this observation does not go far enough.

It is necessary to also recognize the simultaneous presence of coexisting marginalized identities, whether that be race or class. Referencing the theoretical framework of intersectionality will provide a basis for understanding the role of other marginalized identities in access to justice. Intersectionality is predicated upon the notion that social identity categories such as race, gender, and class are interconnected and operate simultaneously to produce experiences of both privilege and marginalization (Smooth, 2013). This notion allows one to understand that women are not a homogenous group, their heterogeneity requires us to take into account the fact that women do not experience discrimination in the same way (Banda, 2008, p. 14). In Spain, for instance, certain groups of women are more vulnerable than others to forms of

discrimination. Novales (2007), found that the recognition of gender violence by institutions is twice as difficult for rural women, undocumented women, Gypsy women, and disabled women. Taking into account the role of intersectionality, as it pertains to the transitional justice process, allows for further exploration of the compounded injustices that may occur for victims who are women of different socioeconomic backgrounds.

Theory

Existing literature supports the notion that transitional justice mechanisms may fail to effectively address the multi-dimensional issue of gender justice. While the literature argues that gender affects the manner in which a victim may access post-conflict justice, there are uncertainties surrounding the influence that race, when paired with gender, has on a victim's access to legal accountability for conflict-related crimes. This study uses the context of the transitional justice efforts in Colombia to theorize two hypotheses that can be applied generally across the legal institutions of other post-conflict societies also undergoing transitional justice. I will explore the relationship between social identity and the ability to obtain legal accountability for victims of crime in the context of the Colombian armed conflict.

The civil conflict in Colombia lasted for over half of a century and has left as many as 220,000 dead, 25,000 disappeared, and 5.7 million displaced (Felter and Renwick, 2017). The negotiations of the peace process between the government and the Revolutionary Armed Forces of Colombia (FARC), the country's largest insurgent group, were heavily centered around the principles of transitional justice. In the case of Colombia, women were at the heart of the transitional justice peace process. The Georgetown Institute for Women, Peace and Security (2017) established that the Colombian governmental agencies working on transitional justice

institutionalized gender policies, and there are specific structures of gender analysis that were integrated into the peace accords. More specifically, women contributed to the Colombian peace process at all levels including “through official subcommissions--notably the first-ever Gender Subcommission--and through influential roles in the government’s Office of the High Commissioner for Peace (Bigio and Vogelstein, 2017).

This particular emphasis on the gendered experience of the Colombian civil conflict paired with the fact that the conflict was not ethnically based (i.e. Rwanda, South Sudan) indicates that Colombia would be considered a most likely case for individuals of marginalized identities to receive justice. Therefore, if Colombia has such a focus on bringing justice to women of this conflict through transitional justice, will we see such justice served in practice? To explore this question, I examine the proportion of registered victims that receive sentences for their perpetrators by the higher tribunals of Colombia under the transitional justice initiative, Law 1448. This law was passed in 2011 with the purpose of setting “individual and collective judicial, administrative, social and economic measures for the victims of armed conflict” (Law 1448, 2011). More specifically, it created special judicial proceedings to provide comprehensive reparations for survivors of human rights abuses while building upon Law 975 to prosecute paramilitary and guerilla groups before the special tribunals in Colombia.

Although contemporary transitional justice mechanisms seek to ensure that women and marginalized groups play an effective role in the pursuit of a just society (International Center for Transitional Justice, 2020), victim derogation may curtail the pursuit of gender justice in the legal process. Skarlicki and Turner (2014) establish that victim derogation involves unwarranted judgments that those who have suffered (must have) deserved their plight, even if there is no evidence to support that claim. Scholars have cited social biases as explanations for victim

derogation. Howard (1984) acknowledged that pity and concern are normal responses to victims in society, however, we may also derogate victims, holding them at least partly responsible for having been victimized. Howard conducted a study in which subjects watched two five-minute videotaped interviews between a police detective and an assault victim. She found that subjects attributed more global blame to female victims than male victims (Howard, 1984, p. 279). Most notably, victim foolishness and femininity (variables also manipulated in the study) were positively associated with global and characterological blame.

Even when cases of sexual violence were reported in Colombia (less than 18% between 2001 and 2009), only two in 100 were likely to result in a sentence--leaving an impunity rate of more than 98% (ICTJ, 2014). In the earlier stages of the peace process, demobilized paramilitary members appeared before the Colombian Constitutional Court and confessed to 39,546 crimes to obtain reduced sentences, but only 96 were related to sexual violence. This demonstrates that sexual violence is not seen as a serious crime by the perpetrators involved. Because of this, I believe that victim derogation paired with the existence of patriarchal norms and impunity for gender-based crime will contribute to cases of gender disparities for victims in the transitional justice legal system. I first hypothesize that male victims of conflict-related crimes will be more likely than female victims to see the perpetrators of violence against them held legally accountable.

Where previous literature seems to focus primarily on the disparities that exist in accessing post-conflict justice across gender lines, my study recognizes that access to justice is not just about gender--it is more complex than that. The discrepancies that may arise along gender lines can be compounded when the victim possesses another social identity that is also marginalized in society. Goldscheid (2020), holds that the most vulnerable groups of women,

particularly Afro-descendant and indigenous women, disproportionately suffer serious violations without State protection or access to justice. Deep-rooted stereotypes also pose an obstacle to equality for women with these identities. Afro-Colombian women are sometimes cast as “stupid,” as “witches” or as hypersexual, all of which contribute to their loss of autonomy and sense of security in the aftermath of sexual violence (Goldscheid, 2020). Such stereotypes of minority women may manifest themselves in the criminal justice system, specifically influencing the sentencing decisions of justices on the Colombian transitional justice court.

Similar to Colombia, African American women face marginalization in the United States. Williams and Holcomb (2004) found that homicides with black female victims in Ohio were significantly less likely to receive death sentences for their perpetrators than homicides involving white female victims (odds ratio .376). The interplay between gender and race is a relationship that warrants investigation because the most vulnerable groups of women, particularly Afro-descendant and indigenous women, experience serious violations during conflict. My second hypothesis is that white female victims of conflict-related crimes will be more likely than female victims of color to see the perpetrators of violence against them held legally accountable.

H1: Male victims of conflict-related crimes will be more likely than female victims to see the perpetrators of violence against them held legally accountable.

H2: White female victims of conflict-related crimes will be more likely than female victims of color to see the perpetrators of violence against them held legally accountable.

Research Design

Data

As previously established, this research focuses on transitional justice within the context of Colombia. Data was obtained by the government's national information network, Red Nacional de Información (RNI). The RNI provides rapid and effective national and regional information on human rights violations of the victim population in Colombia. The RNI has published a public database, the Single Registry of Victims (RUV) corresponding to Law 1448 of 2011 and Law 975 of 2005. The RUV contains information regarding victim case outcomes of conflict-related crimes occurring from 1984 to 2016. The records in the database correspond to the administrative and judicial proceedings that were carried out. The registry of victims includes not only forced displacement but also eleven additional conflict-related events. The RNI (2021), establishes that "of all the internal databases, the RUV is the only one that maintains a permanent entry of records, which depend on the result of the valuation process." All sources of information are migrated to the RUV with the purpose of obtaining a total consolidation of Colombia's victims.

How the Single Registry of Victims (RUV) Works

Law 1448 "defines victims broadly to include all of those who individually or collectively suffered harm as a result of infractions of international humanitarian law or gross and serious violations of international human rights law committed after January 1, 1985, whether committed by members of illegal armed groups or state agents" (Law 1448, 2011). Direct relatives of victims who have been killed or disappeared are also considered victims for the purposes of the law. Finally, "those who have suffered damage to their rights as a result of acts of common crime shall not be considered as victims" (Law 1448, 2011).

Victims register through the public ministry (local authority, mayor, public prosecutor office, etc.) in their local municipality and make a statement to a caseworker about the conflict-related victimization he or she has suffered. Victims have within four years from the implementation of Law 1448 of 2011 to submit a declaration for crimes that occurred before the law and two years from the occurrence of a victimizing event that happened after the law came into force.

The caseworker records the information provided by the victim and ensures that such information is held confidentially. The Single Registry for Victims (RUV) reviews the information contained in the application for registration, as well as “the information collected during the verification process, the Special Administrative Unit for Comprehensive Care and Reparation for Victims shall make a decision to grant or deny registration within a maximum period of sixty working days” (Law 1448, 2011). Once the victims have successfully been registered in the RUV, they are eligible to obtain reparations that are allocated before the Civil Judges of the Circuit Courts in Colombia.

In order to receive legal accountability for one’s perpetrators and participate in criminal proceedings, the public prosecutor’s office must ensure that there is a certain threshold of evidence mandated by Law 975 to move forward with the case. People accredited as victims by the prosecutor’s office were able to participate in the hearings, be named in the judicial decisions, and collect reparations from their perpetrators. They were also entitled to the offerings provided by Law 1448. If the perpetrators of victims were found guilty, they were to be convicted and sent to prison for five to eight years (Law 975, 2005).

Information Enumerated in the RUV Database

The official government database was last updated as of January 1st, 2020 and there are a total of 9,540,781 registered victims in the dataset. The RUV enumerated key factors of a victim's social identity such as gender, ethnic group, ability status, and age. It is imperative to note that a victim's social identity is self-identified meaning that the victim is the one who is identifying with the groups presented on the form rather than the caseworker establishing what social identity group the victim belongs to. The victim may choose to not identify within a certain social identity category and they may select the not defined box. The RNI (2021), establishes that after the victim submits the paperwork, the national information network's management uses administrative records from the database and other accredited sources to confirm the victim's social identity as much as possible.

Male, female, and LGBTI-identifying individuals are included under the gender category. The RUV enumerates six ethnic identity groups including no salient identity, black or Afro-Colombian, gypsy, indigenous, Palenquero, and Raizal of the Archipelago of San Andres and Providencia. The RNI (2021), reports that the majority of the people in the no salient identity group are white or mestizo-identifying Colombians. The term "mestizo means mixed in Spanish, and is generally used throughout Latin America to describe people of mixed ancestry with a white European and an indigenous background" (Gonzalez-Barrera, 2015).

Those who are in the black or Afro-Colombian ethnic group share "African roots and historical, ethnic and cultural descent born in Colombia, with their racial, linguistic and folkloric diversity" (RNI, 2021). Although those from the Palenquero and Raizal of the Archipelago of San Andres and Providencia are technically under the broader black community, the RNI chose to provide these options to victims because they believe "there must be differential attention and

assistance to these groups due to rural and urban contexts” (RNI, 2021). The Palenquero population is “made up of the descendants of the enslaved who, through acts of resistance and freedom, took refuge in the territories of the North Coast of Colombia since the 15th century” (RNI, 2021). Whereas the Raizal population are native to the islands of San Andrés, Providencia and Santa Catalina, and are distinguished by their culture, language (Creole), religious beliefs (Baptist church), and historical past similar to people from the Caribbean (RNI, 2021). The gypsy or Roma people are “characterized by being a patrilineal society, whose language is Romani and they have their own organizational form” (RNI, 2021).

With regards to social identity, the RUV also enumerates ability status and age. Individuals can identify themselves with a disability or no disability. While the exact age of the victim is not stated, information is provided that indicates the age range in which an individual belongs (i.e. 0-5 years, 6-11 years, 12-17 years, 18-28 years, 29-60 years, and 61-100 years).

Each individual case reports the type of crime that was experienced; there were a total of eleven crimes in the dataset which include dispossession of land, anti-personnel mines, child soldier recruitment, crimes against sexual integrity, displacement, enforced disappearance, homicide, kidnapping, loss of furniture or property, terrorist act, threat, and torture. The data also provides information about the location where the crime occurred (department and municipality) along with the year in which the crime took place. There are a total of thirty-three departments and seven-hundred-fifty municipalities in the dataset. The crimes reported in the dataset span over thirty years from 1984 to 2016.

Distribution of Variables

The following depicts the distribution of variables presented in the RUV dataset. I proceeded to omit observations where individuals chose not to report a part of their social

identity or the type of crime they experienced. For these reasons, the RUV dataset decreased from 9,540,781 observations to 8,639,430 observations. Of the 8,639,430 registered victims, a subset of these registered victims (340,120 victims) were recognized and received sentences for their perpetrators in the special tribunals of Colombia under Law 975. The top types of crimes that received sentences were displacement (83.0%), threat (9.60%), and homicide (2.96%).

The gender distribution figure demonstrates that 48.5% of the victims are male, 51.5% of the victims are female, and 0.03% are LGBTI-identifying victims in this dataset.

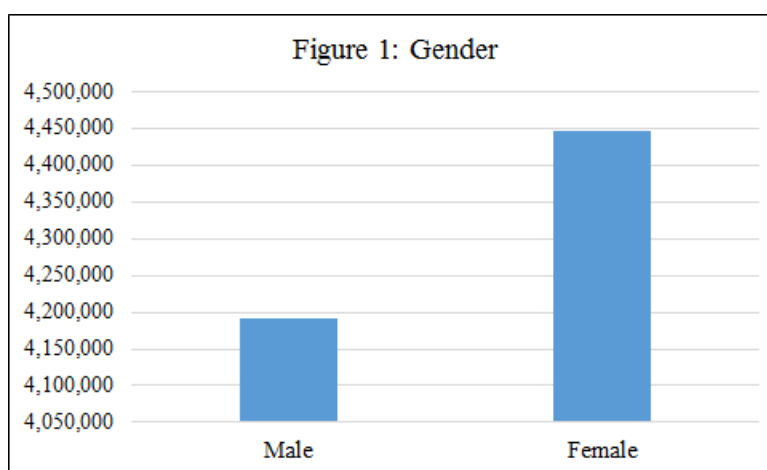


Table 1 provides information surrounding the distribution of ethnic groups across the dataset. The no salient identity group represents 86.6% of the victims in the dataset whereas the minority groups all together make up 13% of the victims in the dataset. Relative to all groups, the Palenquero people group has the least number of victims registered in the RUV.

The gender and race distributions found in the victim dataset overall reflect the general distribution of gender and race in Colombia. According to the nation's administrative department of statistics, males represent 48.9% of the population and females represent 51.1% of the population (DANE, 2018). Moreover, white and mestizo Colombians represent 86.69% of the population, while Black (includes Raizal and Palenquero) represent 9.37% of the population,

indigenous people represent 3.95% of the population, and gypsy people represent 0.006% of the population (DANE, 2018).

Table 1: Distribution of Victims Across Ethnic Groups

Ethnic Group	Number of Victims
No salient identity	7,479,195 (86.6%)
Black or Afro-Colombian	902,857 (10.5%)
Indigenous	209,311 (2.42%)
Gypsy	34,630 (0.40%)
Raizal of Archipelago of San Andreas	11,879 (0.14%)
Palenquero	1,558 (0.02%)

Figure 2 illustrates that the majority of the victims are below the age of twenty-eight, however, the single age group with the highest number of victims are those between the ages of 29 and 60. Those under the age of eighteen represent 31.12% of the total registered victims.

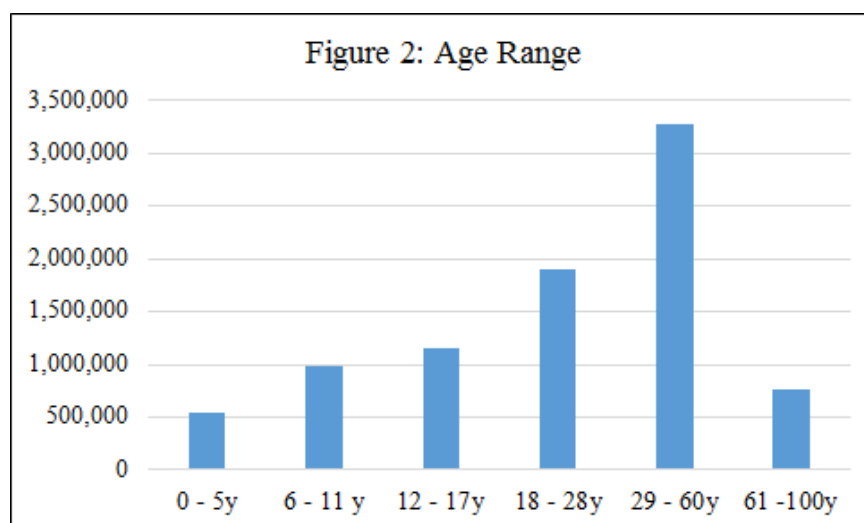
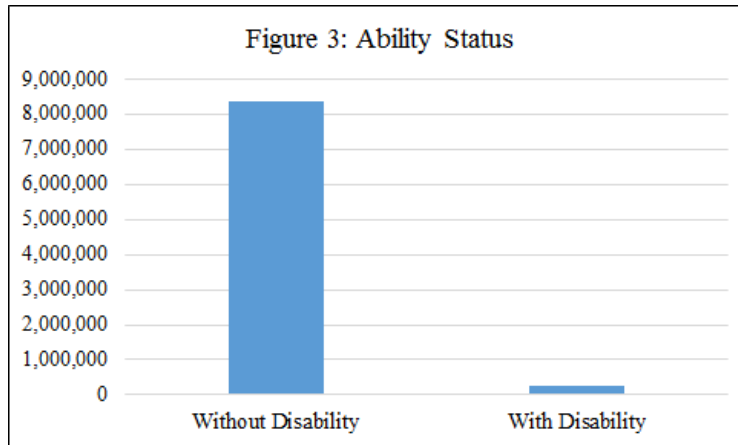


Figure 3 establishes that the majority of victims did not identify with a disability; only 3.22% of victims identified with a disability.



The final figure below provides a timeline of the year in which registered victims experienced conflict-related crimes. It should be noted that the figure below does not provide the complete timeline of the Colombian armed conflict since the conflict originally began in the mid-1960s.

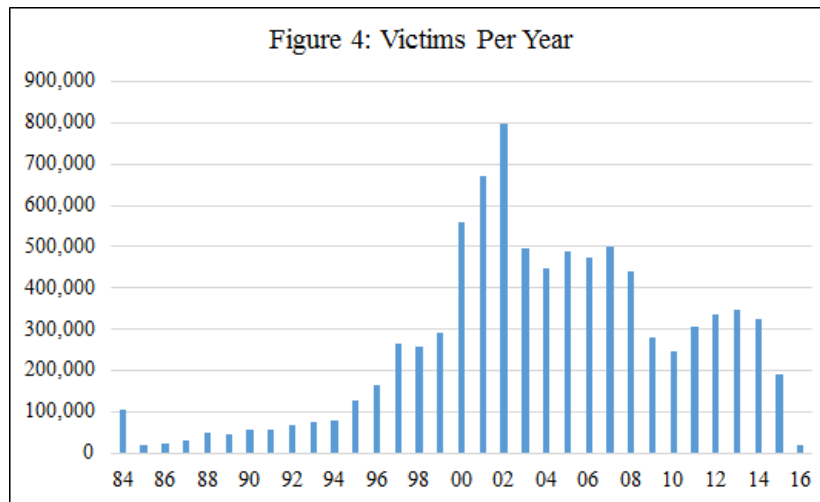


Table 2 provides a complete list of the types of crimes that were experienced by male, female, and LGBTI-identifying individuals. There appears to be an overwhelming amount of

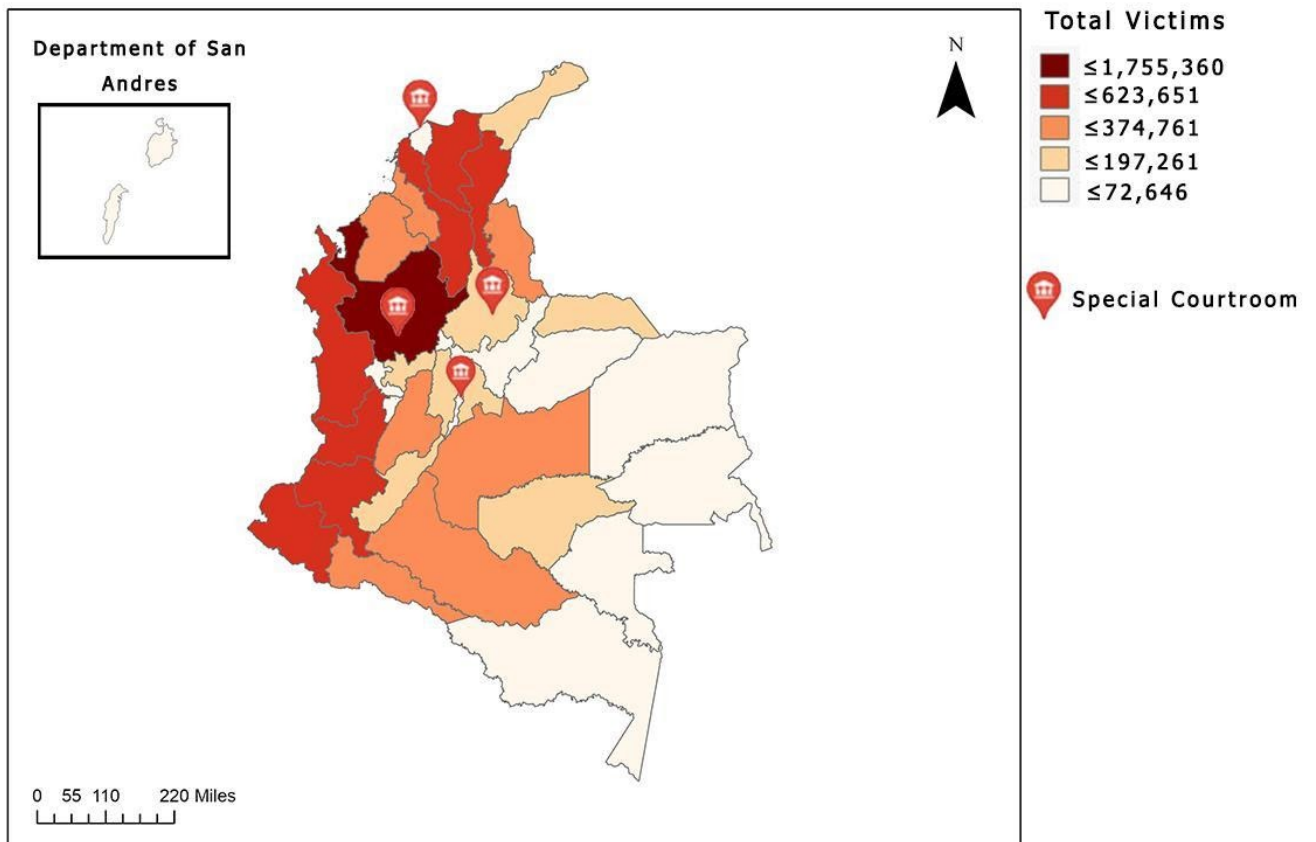
displacement crimes that have been reported in the RUV dataset. Displacement as a result of conflict accounts for 83.9% of the types of conflict-related crimes reported. For those crimes against sexual integrity, women accounted for the majority of the victims. More precisely, women accounted for 92.4% while men and LGBTI victims accounted for 7.03% and 0.55% of the total victims in that category respectively. Because women represented such an overwhelming amount of victims who experienced crimes against sexual integrity and this type of crime is generally conceptualized as gender-based violence, I decided to omit the crime type from the final dataset that I will use to test my hypotheses.

Table 2: Distribution of Conflict-related Crimes

Crime Type	Number of Victims
Displacement	7,251,507 (83.9%)
Homicide	699,796 (8.10%)
Threat	343,017 (3.97%)
Enforced Disappearance	121,351 (1.40%)
Loss of furniture or property	88,363 (1.02%)
Terrorism	67,805 (0.78%)
Kidnapping	26,222 (0.30%)
Crimes Against Sexual Integrity	15,114 (0.17%)
Anti Personnel Mines	8,257 (0.01%)
Torture	6,739 (0.078%)
Child Soldier Recruitment	6,504 (0.075%)
Dispossession of Lands	4,755 (0.055%)

The map below depicts the distribution of areas where these registered conflict-related crimes occurred. When analyzing the distribution of conflict-related crime by department, we are able to establish that these crimes generally occurred in the western part of the country. The department of Antioquia, which is in the northwestern region of Colombia, had the highest number of registered conflict-related crimes (1,755,360 reported crimes). Antioquia also has one of the nation’s four special tribunal courts in the department’s capital, Medellín. The courtroom to the east of Medellín is Bucaramanga while the northernmost special courtroom is located in Barranquilla. The nation’s capital, Bogotá, is the southernmost courtroom on the map.

Distribution of Registered Victims



Coding of Variables

The unit of analysis will be the individuals who were victims of crimes related to the Colombian armed conflict. I will ultimately examine the effect of gender and ethnic identity on whether the victim receives justice while controlling for factors such as age, ability status, crime type, department, and year of the crime. The main explanatory variable in this study is the gender of the victim of a conflict-related crime. I analyzed each individual case and coded the gender of the victim. A male victim received the number 0, a female victim received the number 1, and an LGBTI victim received the number 2. The gender of the victim was determined by the case facts reported by the RNI. Since this research investigates the interplay between race and gender, the second explanatory variable will be race as reported by the RNI. Race of the victim is coded in the following manner: no salient identity group = 0, Black or Afro-Colombian = 1, Gypsy = 2, Indigenous = 3, Palenquero = 4, Raizal of Archipelago of San Andreas = 5.

Finally, the dependent variable, legal accountability (sentencing outcome), will be measured by whether or not the victim received a sentence for their perpetrators in front of a special tribunal. Those that received a sentence received a 1 while those that did not receive a sentence were coded as a 0. In the dataset, only 329,575 out of 8,624,399 victims received sentences for their perpetrators. Justice may be operationalized by sentencing outcomes because trials and judicial accountability continue to be a key demand of victims and “when conducted in ways that reflect victims’ needs and expectations, they can play a vital role in restoring their dignity and delivering justice (ICTJ, 2020). Colombia’s judicial proceedings under Law 975 also help remedy the issue of impunity for conflict-related crimes--an issue that continuously threatens the legitimacy of peace in post-conflict societies.

Limitations of the RUV Dataset

It is essential to acknowledge the limitations that exist within the RUV dataset. The dataset only allows us to determine whether or not there was a sentence allocated to a victim's perpetrator but it does not let us determine the severity of that sentence and/or if there was some kind of reparation allocated to the victim outside of criminal proceedings under Law 1448. In other words, there is no possibility of determining the weight of legal accountability using a scale of sentence severity. Moreover, while the majority of individuals in the no salient identity group are either white-identifying or mestizo-identifying Colombians, there is the possibility of ethnic minorities choosing to self-identify with the no salient identity group.

Another limitation of the RUV dataset is that there is no way to establish how comprehensive or incorrect the data may be. There is the potential that victims are being underreported, particularly those living in remote areas. Law 1448 outlined specific provisions that emphasized the importance of publicizing the right to register as a victim and be granted reparations and legal accountability. There is the possibility that the law was not advertised enough to certain victims and they may not know they even have such a right to register as a victim.

Moreover, it may be that some victims know that they have such a right but they are physically not able to register. This could be due to a lack of infrastructure in rural areas preventing them from traveling to a registry office or the resurgence of conflict-related crime that threatens their safety. Individuals who live far away from one of the four main tribunals may also not wish to go forward with a trial because they may feel that the tribunal is so far detached from where the human rights violations occurred. On the other hand, the data may also have over-reporting if an individual approaches the registry unit and claims victim status, despite not

actually having been victimized, because they are seeking to obtain reparations. While these are serious limitations that need to be acknowledged, the RUV dataset is still appropriate to use because it is the only database in the nation that maintains a permanent entry of records that depends on a multifaceted valuation process to accredit victims.

Modeling

To test my two hypotheses, I run two logistic regressions that treat both year and department as factor variables. This effectively creates two-way fixed effects, which allows for the controlling for heterogeneity across units in the dataset. My first model will examine the relationship between gender and sentencing outcome. My second model will analyze the interplay between gender and race and sentencing outcome. To efficiently conduct this second analysis, I created two subsets (one for males and one for females) and examined the relationship between race and sentencing outcomes within the separate gender groups.

Results

After running the first logistic regression, it became clear that relative to males, the female gender identity is not significant when it comes to sentencing outcomes. As seen in Table 3, there initially appears to be a positive relationship between females and sentencing outcomes. However, when analyzing the relationship's p-value which is greater than 0.05, there are substantial grounds to indicate that such a relationship is not statistically significant and there is strong evidence for the null hypothesis. This means that we cannot reject the null hypothesis and females are not statistically significantly different from males in terms of receiving justice.

Table 3: Logistic Regression 1 (Effect of Victim Gender on Legal Accountability)

	Estimate	Standard Error	z-value	Pr(> z)
Females	0.001839	0.004039	0.455	0.648870
LGBTI	0.398269	0.071048	5.606	2.08e-08 ***
Black	0.004822	0.005722	0.843	0.399386
Gypsy	-0.156181	0.043825	-3.564	0.000366 ***
Indigenous	-0.869643	0.019680	-44.190	< 2e-16 ***
Palenquero	0.919543	0.084558	10.875	< 2e-16 ***
Raizal of Archipelago of San Andreas	-0.250477	0.062046	-4.037	5.41e-05 ***

Output from a multivariate regression, output for other variables (year, department, age, race, ability status), were suppressed due to space constraints

The LGBTI-identifying gender group was also considered in this logistic regression. I found that relative to males, LGBTI victims were more likely to receive sentences for their perpetrators. The coefficient's estimate indicates that relative to male victims, there exists a positive relationship between the LGBTI gender identity and sentencing outcome. In this case, the p-value is less than 0.05, so we can conclude that there is a statistically significant relationship between the LGBTI gender identity and sentencing outcome. The p-value indicates strong evidence against the null hypothesis as there is a low probability that the results were due to chance. Overall, I did not find strong support for my first hypothesis which stated that male victims of conflict-related crimes would be more likely than female victims to see the perpetrators of violence against them held legally accountable.

After testing my first hypothesis, I proceeded to run the second logistic regression in this study. Table 4 depicts the output for each of the female victim ethnicity groups contained in the second logistic regression. Firstly, relative to the baseline category (the no salient ethnic identity group), black women and Raizal of Archipelago of San Andreas women, were not significantly more or less likely to receive justice. With regards to the black female group, the p-value reported was approximately 0.268. Since this p-value is higher than 0.05, we must not reject the null hypothesis. While the p-value for the Raizal of Archipelago of San Andreas group is close to 0.05, we cannot confidently reject the null hypothesis and conclude that there is a statistically significant relationship between this particular ethnic group of women and sentencing outcome.

Table 4: Logistic Regression 2 (Female Gender & Race Effect on Legal Accountability)

	Estimate	Standard Error	z-value	Pr(> z)
Black	0.008680	0.007842	1.107	0.268349
Gypsy	-0.114337	0.057997	-1.971	0.048676 *
Indigenous	-0.810111	0.026969	-30.038	< 2e-16 ***
Palenquero	0.999733	0.120749	8.279	< 2e-16 ***
Raizal of Archipelago of San Andreas	-0.155474	0.081998	-1.896	0.057950

Output from a multivariate regression, output for other variables (year, department, age, ability status), were suppressed due to space constraints

The final group within the broader black community in Colombia, Palenqueros, actually exhibited a positive relationship with sentencing outcomes rather than the no statistically significant relationships found with the previous two ethnic groups. Relative to the baseline, Palenquera women are significantly more likely to receive a sentencing outcome. This is

depicted by the fact that the p-value is quite lower than 0.05 and the coefficient estimate is positive. The final two ethnic groups of women, indigenous and gypsy women, were significantly less likely to receive justice relative to the salient identity group of women. Based on the p-values, the indigenous groups of women had an especially negative coefficient estimate and statistically significant relationship with sentencing outcome.

A third model, similar to the previous logistic regression, was conducted for the purposes of determining the role of ethnicity on sentencing outcomes within the male subset only. Table 5 establishes similar results among ethnic groups and sentencing with the exception of the Raizal ethnic group. When the model was run with female victims only, the Raizal of Archipelago of San Andreas ethnic identity was not statistically significant, but when the model was run with male victims only, this particular ethnic identity is statistically significant. Relative to the no salient identity group, Raizal of Archipelago of San Andreas males are less likely to receive a sentence for their perpetrators.

Table 5: Logistic Regression 3 (Male Gender & Race Effect on Legal Accountability)

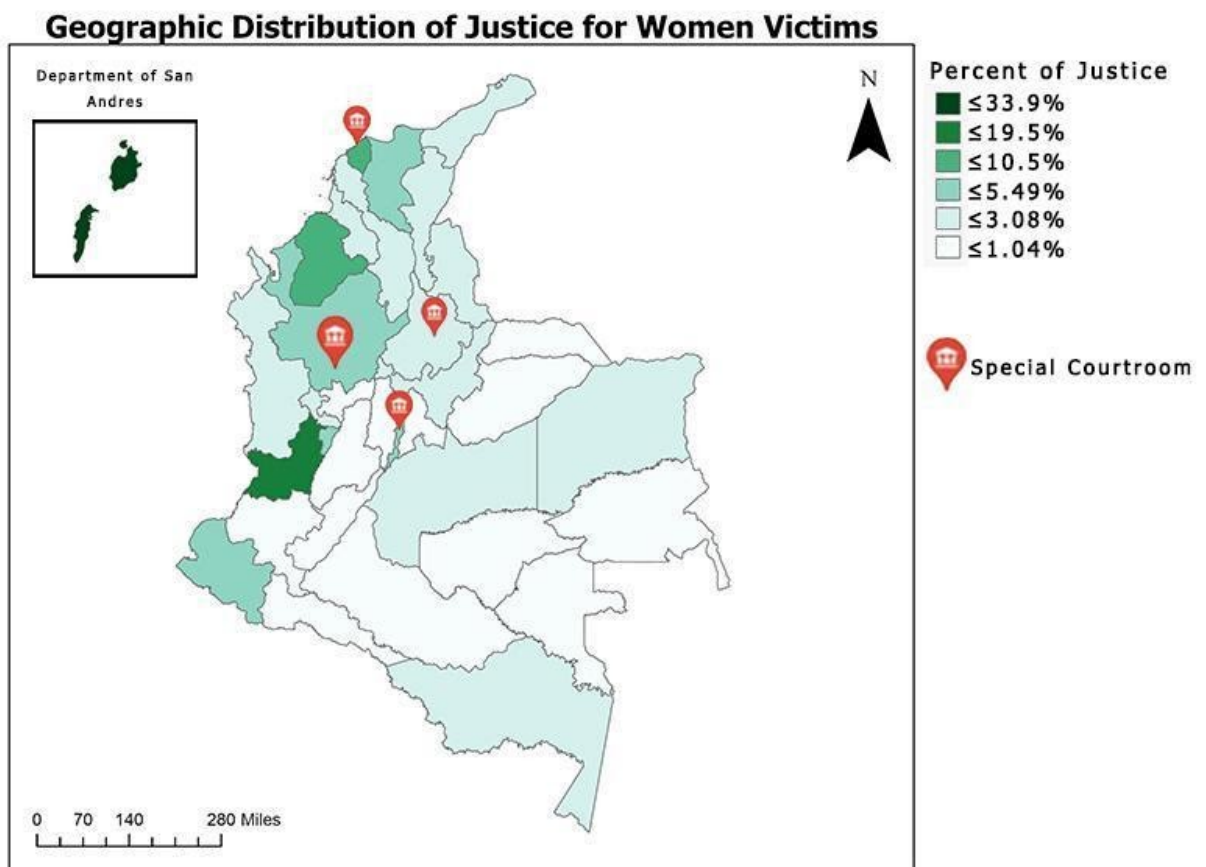
	Estimate	Standard Error	z-value	Pr(> z)
Black	0.001115	0.008362	0.133	0.893935
Gypsy	-0.206894	0.066083	-3.131	0.001743 **
Indigenous	-0.938281	0.028684	-32.711	< 2e-16 ***
Palenquero	0.844531	0.118081	7.152	8.54e-13 ***
Raizal of Archipelago of San Andreas	-0.344782	0.094067	-3.665	0.000247 ***

Output from a multivariate regression, output for other variables (year, department, age, ability status), were suppressed due to space constraints

Table 5 demonstrates that the rest of the outputs for the male-only regression model is similar to the outputs for the female-only regression model. Relative to the baseline, black men are not more or less likely to receive justice while Palenquero men are more likely to receive justice relative to the baseline. Finally, gypsy men and indigenous men were significantly less likely to receive justice than the no salient identity group of men.

Geographical Jurisprudence of Justice for Women

As noted previously, the Single Registry of Victims (RUV) dataset also separated individual cases based upon the geographical area in which the case occurred. The fact that the database enumerates the department of the crime allows us to contextualize the geographical region as a confounder for the rule of law in this post-conflict society. I joined the statistical variations in sentencing outcomes among the women subset with each department’s shapefile using ArcGIS to visualize the geographical variations to jurisprudence.



The map above illustrates that there are generally low levels of justice for women of all ethnic backgrounds across the departments, however, some departments grant more justice than others. The department with the highest level of justice (33.9%) is located northwest of the mainland in the Department of Archipelago of San Andrés, Providencia and Santa Catalina. Departments that are located southeast from the main special courtrooms generally do not exhibit relatively high levels of justice whereas departments in the northwest have higher levels of justice. While the two easternmost tribunals do not exhibit departments with high levels of justice, the two westernmost tribunals do exhibit higher levels of justice. The Department of Atlántico, in particular, has a relatively high level of justice (7.69%) while also having one of the four special courtrooms in the department's capital of Barranquilla. Although Atlántico is a relatively high justice department for women, is justice being allocated equally among all ethnic groups?

To answer this question, I generated predicted probabilities of legal accountability for victims, based upon the regression in Table 4. I focused on a victim identity with the following characteristics: a female victim of displacement in Atlántico in 2004 who was also between the age of 29 and 60 and who does not identify with a disability. I chose these characteristics because they were the averages of each of the categories.

After generating predicted probabilities based upon the regression in Table 4, we can establish that justice overall is a rare event, thus there are low probabilities across all ethnic groups among women. As noted in table 6, the probability of justice for the no salient identity group of females was 0.821%. There is a noteworthy 168.0% increase of justice when moving from the no salient identity group to the Palenquero group of female victims. Although gypsy and Raizal of Archipelago of San Andreas ethnic groups of females have a lower probability of

justice compared to the no salient identity group of women, the difference is not as substantial as that of the indigenous female group. There is a 55.3% reduction in the probability of justice when moving from the no salient female group to the indigenous female group.

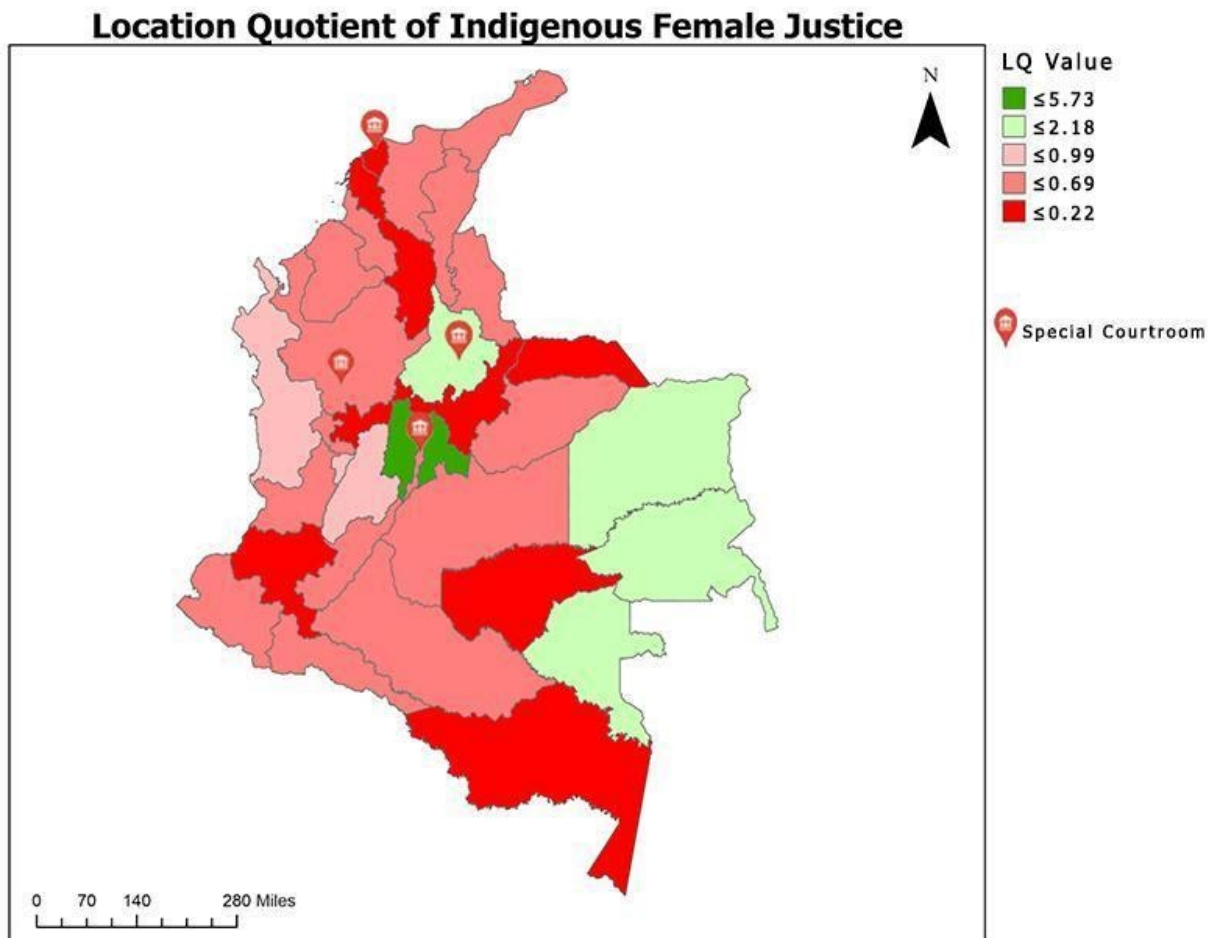
Table 6: Predictive Probability of Legal Accountability for Female Victims by Race in a Relatively High Justice Department

	Probability	95% Confidence Intervals
No salient identity	0.821%	[0.740,0.911]
Black	0.828%	[0.745,0.910]
Gypsy	0.733%	[0.629,0.854]
Indigenous	0.367%	[0.326,0.412]
Palenquero	2.20%	[1.71,2.83]
Raizal of Archipelago of San Andreas	0.704%	[0.581,0.851]

Location Quotient of Indigenous Female Justice

Given that the probability of justice for indigenous females was considerably low, I found it imperative to look beyond the Department of Atlántico and measure the relative impact of being an indigenous female across all departments and years. To do this, I calculated the location quotient for each department from 1984 to 2016. The within-region location quotient will give us a metric to understand the concentration of indigenous justice within a specific region. I calculated the location quotient by taking a department's percentage of indigenous justice and dividing it by the overall percentage of justice for all women ethnic groups. If the location quotient is greater than one, then indigenous females within the department are more likely to receive justice than the overall percentage of women receiving justice in that particular department. If the location quotient is less than one, then there may be evidence of bias because

indigenous females are less likely to receive justice than the overall female victim population in that department. The Department of San Andrés and Providencia was excluded from the map because there were no indigenous female cases reported in the department.



Based on the map above, there is evidence to support that indigenous females receive less justice than the overall population of female victims. To be exact, indigenous female victims receive less justice across twenty-seven departments and more justice in five departments, most of which are concentrated in the easternmost region of the nation. Indigenous females receive less justice in three of the four departments that contain a special courtroom under Law 975. It is

necessary to also note that there is higher justice for indigenous people on the periphery of the capital city and special tribunal located in Bogotá.

Discussion

Analysis

This study sought to analyze the role of victims' social identity on sentencing outcomes in a post-conflict nation like Colombia. I was driven to establish whether or not male victims receive more legal accountability than women victims for their perpetrators. I did not find strong evidence to support the notion that male victims receive more legal accountability for their perpetrators than female victims. LGBTI-identifying victims were actually more likely to receive justice compared to male victims. Even though women were more represented in the RUV dataset, they were not significantly more or less likely to receive justice before the special tribunals in Colombia. This relative equality in sentencing outcomes across males and females could be due to the nation's transitional justice process that placed a particular emphasis on supporting the needs of women. The specific law of this study, Law 1448, had clear provisions that acknowledged that certain groups of people, such as women should be offered special guarantees and protection since they experience a heightened risk of human rights violations (Law 1448, 2011).

While women may be receiving legal accountability at the same likelihood as men, this does not mean that the overall "access to justice" is equal across the two genders. Access to justice is a broad concept and legal accountability for conflict-related crimes is only one facet of the many layers to the process of transitional justice. This study cannot speak on the access to justice for women in other dimensions such as their access to assistance and reparations and the external socio-economic barriers they may face.

Although there was no evidence to support my first hypothesis, the results from testing my second hypothesis are a much more complicated story. My second hypothesis stated that white females receive more legal accountability than female victims of color for conflict-related crimes. The results established variation in the likelihood of sentencing outcomes for the minority groups (black, indigenous, gypsy, Palenquero, Raizal of the Archipelago of San Andres and Providencia) compared to the no salient identity group.

Most notably, there were even differences in the likelihood of legal accountability within the broader black community in Colombia. Being a black or Raizal female victim does not constitute an increase or decrease in the likelihood of justice, but being a Palenquera female victim does increase the likelihood of justice relative to the baseline. Since Palenquera women generally live in the northwest region of the nation, and most Palenquera cases that receive justice are in that region, it could be that Palenquera women are receiving more legal accountability because the judges from the region may be more sensitive to the group's history of discrimination and oppression.

For the two remaining ethnic groups, gypsy female victims and indigenous female victims were significantly less likely to receive legal accountability than the no salient identity group of women. Even in a department like Atlántico, which grants relatively higher levels of justice for women, gypsy women and indigenous women are still less likely to receive justice compared to the no salient identity group. In the case of indigenous women, there is a 55.3% reduction in the likelihood of justice when moving from the no salient female group to the indigenous female group. The location quotients calculated in this study also provide evidence that suggested that indigenous females receive less justice in three of the four departments that contain a special courtroom under Law 975.

The significant discrepancy between the rates of justice for indigenous women and the no salient identity women could potentially be due to their treatment as invisible victims in the court of law. For instance, “the fragility of the indigenous justice system and the failure of the regular courts, which have multiple barriers to access, often lead to the re-victimization of indigenous women victims” (CEDAW, 2013, p. 7). Moreover, there are sometimes no translators for indigenous women or protocols for their specific treatment in court proceedings. These factors have the potential to influence the manner in which their cases are presented and their ability to truly have their voices heard.

Finally, an additional logistic regression analysis was run to investigate whether race had a similar effect on male sentencing outcomes as it did for female sentencing outcomes. Overall, the male victim regression indicated similar results to the female victim regression with the exception of the Raizal ethnicity group. For male Raizal victims, the likelihood of justice decreases relative to no salient identity group whereas, for female Raizal victims, there was no significant relationship. Perhaps the difference in the effects of the Raizal ethnic identity on sentencing outcomes could be attributed to Law 1448’s particular emphasis on the experiences of female victims rather than focusing as much emphasis on the experiences of male victims.

Limitations & Future Research

There are a series of limitations to this study that must be discussed. First and foremost, the ratio between victims and perpetrators is generally not one-to-one. For instance, one of the perpetrators that were sentenced under Law 975, Juan Francisco Prada Márquez (former commander of a paramilitary group) was convicted for multiple offenses including murder, enforced disappearance, and displacement against 3,385 victims (Fiscalía General de la Nación, 2020). Because each perpetrator has a large number of victims whom he or she has violated, the

public prosecutor must treat each case as a macro-case. This means that the public prosecutor will sometimes pick one or two victims to tell the court the collective suffering that potentially hundreds of victims experienced. Because of this, my study cannot establish two key things. Firstly, it does not have an account of the diversity of victims for a single case and it does not have information on who the public prosecutor chose to be “the face of the case”. For those victims that chose to be named in the official sentencing report, future research could obtain such information to determine the demographics of the macro-case and what kind of victims the prosecutor chose to tell the story of the overall macro-case.

Given that the RUV dataset could have experienced a potential underreporting of victims, particularly from those living in remote areas, future research could investigate the utility of mobile courts. The “main function of mobile courts is exercising criminal justice in remote areas and in some scenarios, the focus is directed towards crimes committed in armed conflict such as in the Democratic Republic of Congo” (Röder, 2018, p. 3). In the case of Sierra Leone, the main reason for the failure in trials was “the absence of witnesses at the trial, a judge drove to villages and held hearings where it was closest to those people who were involved in the case (Röder, 2018, p. 4). The Constitutional Court of Colombia could expand the jurisdiction of the special courtrooms under Law 975 to a number of mobile courts that can be deployed to prosecute conflict-related crimes in more remote locations.

Another limitation of this study is the fact that it did not take into account the social identity of the judge. Future research could explore the role of gender not just in the case of the victim, but also the gender of the judge presiding over the case. In Rwanda’s community-based Gacaca courts, Human Rights Watch (HRW) applauded the number of women instated as judges. The inclusion of female judges in post-conflict courts is an important step in ensuring a

gender-sensitive approach to transitional justice (Democratic Progress Institute, 2015 p. 41).

Female judges are able to offer knowledge of the complex violations that women face as victims of crimes. When a female judge presides, courts are more gender-sensitive, and witnesses speak more freely to female judges (Page, Garlo, and Speare, 2010, p.1).

In the case of Colombia's new transitional justice court created in 2017, the Special Jurisdiction of Peace (JEP), there are 38 judges sitting on JEP benches, of whom 20 are women, four come from indigenous communities, and another four are Afro-Colombian (Harper and Sonneland, 2018). There may be the possibility that when women possess leadership roles within the justice system, they will actively pursue justice in a manner that recognizes the needs of female victims and ensures that their voices are heard within the court.

Conclusion

The conflict in Colombia was allegedly brought to an end with the signing of a historic peace agreement between the government and the Revolutionary Armed Forces of Colombia in 2016. Legal accountability and prosecutions are only one part of the equation to Colombia's transitional justice process. While this study may have found evidence to support relatively equal sentencing outcomes across males and females, there are still differences in the access to such justice across ethnic lines. Peace and justice are parts of a continuous process that can only be achieved if all citizens are able to effectively contribute to the rebuilding of their nations and participate in real healing in the face of historical wrongdoings. Disparities in the access to judicial accountability for people with marginalized identities and patterns of impunity could delegitimize the rule of law and ultimately leave these societies susceptible to the resurgence of conflict. The Colombian armed conflict supposedly ended in 2016, but it is important to remember the words of Senator George J. Mitchell when he said that "no society is static."

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