Shaping Survivors' Testimonies: Exploring the Intersection between Trauma Assimilation and System Expectations in Transitional Justice

by

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Declaration of Committee

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Abstract

Transitional Justice Systems (TJSs) of various kinds have been commonly used since the end of the XXI century to promote reconciliation in the aftermath of conflict, and yet, the aspiration to heal victims' psychological wounds remains elusive. Drawing on Lyotard's philosophy of language and his pragmatics of knowledge, this thesis provides a conceptual and theoretical framework to understand how participation in TJSs enhances posttraumatic distress among some trauma survivors. In this analysis, I show that victim-witnesses appearing before TJSs' legal proceedings produce two basic types of rhetorical structures which are a product of their assimilation of the traumatic experience. In one of these structures, victims' utterances seem to successfully fulfill the roles of witness and victim. In the second form, the storytelling style and language deviate from the norms and expectations of the trial, placing victims at risk of re-traumatization as their narrative style collides with the genre of discourse of the tribunal.

Keywords: Transitional Justice; Truth; Trial; Trauma; Victims; Testimonies

To the millions of Colombians who suffered and continue

to suffer the effects of the civil war

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To Safú!

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List of Acronyms

CEV	Colombia's Truth, Coexistence and Non-Repetition Commission (Comisión para el Esclarecimiento de la Verdad, la Convivencia y la No Repetición)
CTI	Technical Investigation Team at the Office of the Attorney General (Cuerpo Técnico de Investigación)
ELN	National Liberation Army (Ejercito de Liberación Nacional)
FARC -EP	Revolutionary Armed Forces of Colombia (Fuerzas Armadas Revolucionarias de Colombia)
GAULA	Unified Action Groups for Personal Liberty (Grupos de Acción Unificada por la Libertad Personal)
IDMC	Internal Displacement Monitoring Centre
JEP	Colombia's Special Jurisdiction for Peace (Jurisdiccion Especial para la Paz)
OHCHR	Office of the UN High Commissioner for Human Rights
OMC	Colombia's Memory and Conflict Observatory (Observatorio de Memoria y Conflicto)
PTSD	Post Traumatic Stress Disorder
TJSs	Transitional Justice Systems
UBDP	Colombia's Unit for the Search for Persons Presumed Disappeared in the context and by reason of the armed conflict (Unidad de Busqueda de Personas Desaparecidas)

Chapter 1.

Introduction

Colombia's civil conflict lasted more than 5 decades and left more than 8,7 million victims (Fergusson et al. 2018; Arias et al. 2014). Massacres, selective killings, harassment and internal displacement became part of the daily life of millions of Colombians in the second half of the XX century and the beginning of the XXI. An entire generation of the country grew up amidst news of bombings, kidnappings and death.

Those in rural areas were the most affected by the conflict. The fight for territorial control between the military, guerrillas and paramilitaries left civilians at the heart of the crossfire. Farmers, who were only trying to survive with their families, were forced to endure the consequences of armed groups fighting over the control of the lands they once called home. People were in a perpetual state of fear, enduring disappearances, killings and abduction of loved ones (Medicins Sans Frontieres 2006). The mental health consequences are pervasive, many Colombians who directly experienced the conflict suffer from fear and anxiety, depression, somatic disturbances, and problems in their intimate relationships (Medicins Sans Frontieres 2006; Medicos sin Fronteras 2010). The country's social cohesion was ruptured to the extent that individuals who directly experienced human rights violations during the conflict have a lower disposition to reconciliation (Fergusson et al. 2018).

To restore the social fabric in the country, Colombia looked to the experiences of other countries that had also faced widespread human rights violations and developed an institutional and legal model known as Transitional Justice. In 2017, the country established a Transitional Justice System (TJS) consisting of a truth commission and a prosecution trial. The country's TJS is based in a sociolegal approach that emphasizes non-criminal methods for conflict resolution (Silva Sánchez 2020). It is rooted in the principles of restorative justice, which prioritize meeting the needs of the victims and holding offenders accountable for the harms caused (Zehr 2014). This approach draws on experiences from around the world that have shown that TJSs have the potential to rebuild

a country's fractured social fabric and repair its broken human relations (David and Choi 2006; Cilliers, Dube, and Siddiqi 2016; Lykes, Beristain, and Pérez-Armiñan 2007; Kanyangara et al. 2007).

The potential positive impact on society resulting from the implementation of TJSs is eclipsed by the increased emotional distress experienced by victims who participate in truth commissions and prosecution trials. Evidence from South Africa, Sierra Leone and Rwanda reveal that TJSs may intensify feelings of anger, raise levels of PTSD and deepened a negative emotional climate (Stein et al. 2008; Kaminer et al. 2001; Cilliers, Dube, and Siddiqi 2016; Kanyangara et al. 2007). This brings us to the question of why TJSs are falling short in adequately supporting victim' healing.

The work of socio-legal scholars provides potential insights into this question by examining the interaction between victim-witnesses and various legal proceedings used to confront past atrocities—such as truth commissions, and criminal and non-criminal prosecution trials. Researchers have found that in these proceedings the goal of societal reconciliation often prevails over individual needs, instrumentalizing victims' stories to achieve broader societal gains (Savelsberg and King 2007; McEvoy and McConnachie 2013; Dembour and Haslam 2004). Studying legal proceedings under the lens of Lyotard, scholars have also seen that victims can be silenced—or wronged, when stories that don't conform to the protocols are ignored, the credibility of victims is challenged, and their voices are overshadowed by others who claim to speak on their behalf (Carroll 2004; Bunch 2014; Lee and Crowe 2015; Dembour and Haslam 2004; Ailwood et al. 2022). Additionally, it has been a longstanding question in sociology of law the extent to which witnesses conform to certain behaviors in legal proceedings to increase their perceived credibility and influence decision makers (Konradi 1997; Conley, O'Barr, and Lind 1979; Erickson et al. 1978; Melinder et al. 2016).

Building on the work from socio-legal scholars, I study testimonies of Colombia's civil war victims before the country's Transitional Justice trial to assess whether the silencing of victim-witnesses in the proceedings can be attributed to specific behaviors adopted by survivors when giving testimony. Specifically, I examine the aspects that

influence victims' speech patterns in TJSs, and how the rhetorical structures brought forward by victims mediate their opportunities of being heard rather than silenced.

Drawing on evidence from trauma and witnessing studies and on Jean François Lyotard's philosophy of language ([1979] 1984; [1983] 1988), I propose a novel model to account for the malleability of victims' testimonies (Krystal 1995, 95; Young 2003; Douglass and Vogler 2003; DeGloma 2007; Blank 2009). Current studies on the limitations of TJSs have overlooked how contextual factors and social interactions influence testimonies, which I address in the framework presented in this thesis. In doing so, I show that victim-witnesses appearing before TJSs' proceedings produce two basic types of rhetorical structures which are a product of their assimilation of the traumatic experience: one spasmodic, and one more intentional. While in the latter style victims' utterances seem to successfully fulfill the roles of witness and victim, in the former the style and language deviate from the norms and expectations of the TJS trial, placing victims at risk of retraumatization. Victims producing the spasmodic rhetorical style attempt to express themselves genuinely without conforming to the role of witness, which often collides with the expectations of the genre of discourse of the tribunal. As a result, this group of victims is likely to be silenced despite their interventions as witness, increasing their levels of emotional distress.

This research attempts to contribute to a deeper understanding of why transitional justice systems seem to have limited effects on victims' emotional wellbeing. Victims' psychological healing is a fundamental component of breaking the conflict trap and consolidate long-lasting peace. Achieving reconciliation after widespread human right abuses can only happen if, in addition to reconstructing the social ties, TJSs also help victims overcome revenge and negative emotions (Cárdenas et al. 2015). Through the study of the factors shaping victims' interaction with TJSs, this thesis seeks to offer additional insights to scholars and practitioners of transitional justice, to effectively consolidate peace and reconciliation in countries that have experienced civil war.

In what follows, I will provide a synopsis of the emergence of TJSs around the world, and a brief overview of the current evidence surrounding the limited effectiveness

of TJSs in promoting psychological healing among victims. In Chapter 4, I detail the methodology of the study. Subsequently, drawing on Lyotard's philosophy of language ([1979] 1984; [1983] 1988), I will examine the expected discursive structure of victims in transitional justice settings and propose a conceptual framework for analyzing the various forms of rhetorical structures that emerge in TJS contexts. I compare the proposed framework with the structure presented by survivors themselves in Chapter 6, using the testimonies of civil war victims before Colombia's transitional justice trial. I then explore how the different forms of speech-acts mediate victims' opportunities for healing within TJSs and analyse the notions of truth present in Colombia's transitional justice tribunal in Chapter 7. Finally, I conclude highlighting the practical implications of this seemingly theoretical analysis for the functioning of TJSs and the provision of emotional healing as a means towards reconciliation.

Chapter 2.

Civil Wars and the Consolidation of Transitional Justice Systems

The negative consequences of internal conflict are well documented, including impacts at the "macro" level in the economic and political spheres, the "meso" level on social interactions, as well as at the "micro" level on individual well-being; a complex of results that Bauer et al. (2016, 249) summarize as "development in reverse." At the macro-economic level, studies on the consequences of internal conflicts estimate that civil wars have a negative effect on measures such as economic growth, GDP per capita, capital stock, productivity, and overall levels of investment (Collier 1999; Blattman and Miguel 2010; World Bank 2011). Warfare also destroys human skills and knowledge by increasing malnutrition and stunting of children (Alderman, Hoddinott, and Kinsey 2006; Akresh, Verwimp, and Bundervoet 2011; Akresh, Lucchetti, and Thirumurthy 2012), as well as negatively impacting schooling outcomes (Akresh and de Walque 2008; Chamarbagwala and Morán 2011; Buvinić, Gupta, and Shemyakina 2014). In addition, civil conflicts seem to create the political conditions for further conflict by decreasing political tolerance (Hutchison 2014), reducing support for democracy, and lowering voter turnout (Davenport et al. 2019).

In addition to the impacts at the "macro" level, civil conflict also has negative impacts on interpersonal relationships. In addition to the macro-political effects on participation in political processes, civil wars also decrease social cohesion within countries. For example, warfare decreases social trust (Price and Yaylacı 2021), increases ingroup bias (Bauer et al. 2016), and hinders community acceptance of ex-combatants (Blattman and Miguel 2010). Exposure to conflict-related violence is so intrusive in everyday life, that even family connectedness may weaken in these contexts (Annan et al. 2011).

Lastly, conflict also causes damages at the individual level. Conflict situations can increase the prevalence of signs of emotional distress to around 25 percent of the

population (Johnson and Thompson 2008),[1] while under normal circumstances, only between 1 and 3 percent of a country's population is expected to have some form of mental health disorder (Baingana, Bannon, and Thomas 2005). In addition to causing an increase in Post Traumatic Stress Disorders (PTSD) (Newnham et al. 2015), conflicts also impact other measures of psychological well-being such as increased levels of depression (Okello et al. 2013), as well as fear and anxiety (Cardozo et al. 2004; Lykes, Beristain, and Pérez-Armiñan 2007). Additionally, exposure to war trauma increases aggressiveness (Annan et al. 2011), raises the prevalence of feelings of hatred (Cardozo et al. 2004), and is associated with a greater individual risk of substance abuse (Okello et al. 2013). Although the effects of war on an individual's mental health can vary, research shows a consistent dose-effect response to trauma, such that the more trauma a person experiences, the stronger the negative mental health response is likely to be (Mollica et al. 1998; Johnson and Thompson 2008).

One of the biggest challenges to addressing the consequences of war is that conflicts exacerbate the political and economic conditions that led to wars in the first place (Walter 2015). Countries with legacies of violence and trauma, low levels of income and slow growth, high rates of unemployment, and large perceived inequality and injustices are more likely to experience war, which further exacerbates social and institutional instability (Blattman and Miguel 2010; World Bank 2011). Not surprisingly, the outbreak of a civil war significantly heightens a country's risk of relapsing into violence (Collier et al. 2003; World Bank 2011). In the first decade of the 21st century, approximately 90 percent of civil wars occurred in countries that had already experienced a civil war in the previous 30 years (World Bank 2011).

Despite this bleak outlook on the cycle of internal conflicts, there are important examples of effectively breaking the "conflict trap" cycle and successfully reorganizing

[1] As Johnsonn and Thomson (2008) mention, due to high variability in results, comparisons between studies estimating the effects of war on measures of PTSD are difficult. While some studies find only a 4 percent prevalence of PTSD among war victims, others find prevalences up to 90 percent. The authors conclude that the most methodologically sound studies have found relatively low rates of PTSD among survivors of trauma and torture, and mention the 25 percent mark as an estimate of developing PTSD following exposure to general forms of trauma.

internally. In the XX century, Europe, the Republic of Korea, and Vietnam were able to achieve a positive recovery from war (Chen, Loayza, and Reynal-Querol 2008; Blattman and Miguel 2010). When successfully accomplished, the post-war period can increase social and political participation (Bauer et al. 2016; Davenport et al. 2019), boost social cohesion (Davenport et al. 2019; Centeno and Yang 2019), and revive the potential for economic growth (Bove, Elia, and Smith 2017). The resolution of a conflict—especially when achieved through negotiation—seems to force a restructuring of the previous social, economic and political arrangements that had caused the conflict in the first place. The effective resolution of wars can have positive impacts on some social and political indicators (Chen, Loayza, and Reynal-Querol 2008; Centeno and Yang 2019).

A key avenue out of this undesirable cycle appears to be the presence of strong state and non-state institutions. Evidence suggests that countries that have legitimate institutions with the ability to enforce contracts, advocate for cohesion and provide justice and security, manage to escape the cycle of repetitive violence and warfare even in the face of slow growth, high unemployment, and pressures from organized crime (Collier 1999; World Bank 2011; Centeno 1997). Although the lack of viable state and non-state institutions is not a main cause of conflict, it can undermine a country's ability to respond to additional stresses—such as a sudden increase in unemployment or hunger—that could provoke a new civil war (Blattman and Miguel 2010; World Bank 2011). As this evidence suggests, preventing new waves of violence, thus, relies on transforming weak institutions soon after a conflict ends.

The post-war period, thus, becomes a crucial time to consolidate peace by breaking the conflict trap and avoiding a deepening of the effects that caused the civil conflict, and Transitional justice systems (TJSs) have been the most common set of institutions used since the end of the XXI century to achieve these goals. Created in the 1980s,[2] these systems were originally aimed at supporting countries in their transition from dictatorial

[2] The starting point of how transitional justice is understood today dates back to the 1988 Aspen Institute Conference on state crimes in Wye, Maryland (Forcada Barona 2011). The conference was heavily influenced by Argentina's case, as the country was transitioning out of a dictatorship responsible for human rights violations, including tortures, homicides, and forced disappearances (Varsky and Balardini 2013).

regimes to democracies.[3] These systems were envisioned at a time when countries were confronted with the challenge of pursuing a balance between addressing the legitimate claims for justice by victims groups and the need to maintain stability and social peace when prosecuting military personnel who committed human rights violations in support of the previous regime (Arthur 2009).

At present, TJSs are consolidated worldwide as viable tools to establish peace, strengthen democracy and reduce human rights violations in the long term (Forcada Barona 2011; Olsen, Payne, and Reiter 2010). Current TJSs[4] aim at ensuring accountability, serving justice, and achieving reconciliation after large-scale past abuses (United Nations 2014, 5). Their goals are closely related to transforming state and nonstate institutions to build long-lasting peace. TJSs encourage peace by increasing institutional legitimacy and capacity (World Bank 2011) and strengthening democratization and the rule of law (Mendeloff 2009). As the literature indicates, these systems are designed with the aim of restoring confidence in institutions and society at large, and creating a sense of justice that would reduce the chances of relapsing into war by achieving a more just, democratic order.

Specifically, TJSs have two very ambitious goals to consolidate peace and promote reconciliation: (i) improve state and non-state institutions and increase their credibility; and (ii) provide an avenue to heal war's psychological and emotional effects to promote forgiveness. These macro and micro-level goals ultimately aim to promote reconciliation by reconstructing social cohesion in society. On the one hand, reliable institutions create a

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[3] Including Uganda, Argentina, South Korea, Chile, South Africa, Brazil, The Philippines, Uruguay, Guatemala, and Haiti (Arthur 2009)

[4] The five mechanisms most commonly recognized as transitional justice are prosecution initiatives (or trials), truth commissions, amnesties (when the accused or convicted are not prosecuted), reparations (grant of monetary payments, or property) and lustration (vetting individuals from positions) (Olsen, Payne, and Reiter 2010, 805). Truth commissions and prosecution initiatives are the two most common mechanisms in current TJSs. Truth commissions aim at clarifying past violations and providing some accounting of the past. These structures reach out to victims and survivors to investigate the extent and patterns of the violent events that occurred during the conflict and issue a public report revealing these facts (OHCHR 2006b; Olsen, Payne, and Reiter 2010). Trials, in contrast, are set so perpetrators can be held accountable for the acts committed. Prosecution initiatives use testimonies to investigate past atrocities, attribute responsibilities, prosecute perpetrators, and assign sanctions (OHCHR 2006a; Olsen, Payne, and Reiter 2010). This thesis focuses on prosecution initiatives and truth commissions, the two TJSs structures most commonly studied.

sense that justice will be served, reducing the desire for vengeance and promoting reconciliation (Mendeloff 2009; Cárdenas et al. 2015; David and Choi 2006). On the other, emotional healing reduces the chances of former victims becoming perpetrators as a trauma response, by reducing signs of emotional distress that perpetrate old hatreds (Doak 2011), and lead to violent reactions to new threats (Staub et al. 2005). Providing societal healing and psychological relief, TJSs are aiming for a successful post-conflict society, where previously antagonistic groups can coexist and rebuild social interactions (Cilliers, Dube, and Siddiqi 2016). By dealing with past abuses both at an institutional and personal level, TJSs actively promote reconciliation—understood as the "mutual acceptance by members of formerly hostile groups of each other" (Staub et al. 2005, 301). As these studies suggest, TJSs' goal is to promote strong institutions and emotional healing simultaneously to create a symbiotic relationship between the two and establish a cycle in which non-violent forms of dispute resolution find legitimation in peaceful times.

Chapter 3.

Transitional Justice Systems and Reconciliation: Successes and Shortcomings

As more countries transitioning out of conflict rely on TJSs to consolidate peace, research on these systems has increasingly focused on their effectiveness serving justice and achieving reconciliation. The effects of TJSs on the health of state and non-state institutions (macro-level) are relatively conclusive in the literature. Evidence from South Africa, Latin America and Sierra Leone shows that these systems increase levels of political trust and efficacy, improve human rights (Martín-Beristain et al. 2010), enhance support for collective mobilization (Lykes, Beristain, and Pérez-Armiñan 2007), and expand membership and meeting attendance in community groups (Cilliers, Dube, and Siddiqi 2016). Also, the trials in Rwanda had positive outcomes in terms of out-group stereotypes reinforcing social cohesion (Kanyangara et al. 2007), and the truth commission in Sierra Leone increased victims' levels of trust and willingness to forgive (Cilliers, Dube, and Siddiqi 2016). These findings suggest that TJS have a strong potential to improve citizens' confidence in their political efficacy and promote social cohesion.

Conversely, studies of the effects of TJSs on individuals psychological healing are less optimistic. While victims in Guatemala felt more empowered after participating in TJS trials and truth commissions (Lykes, Beristain, and Pérez-Armiñan 2007), findings on the impact of transitional justice institutions on emotional wellbeing in South Africa, Sierra Leone and Rwanda reveal that reducing emotional distress cannot always be achieved through TJSs. For example, the levels of distress and anger among South Africans increased as a result of participation in the country's truth commission (Stein et al. 2008) and victims saw no change in terms of depression, PTSD, or other anxiety disorders (Kaminer et al. 2001). In Sierra Leone, participation in the truth commission negatively impacted psychological well-being—including measures of PTSD—in villages where the programme took place (Cilliers, Dube, and Siddiqi 2016). In Rwanda, while victims felt that their dignity was restored after participating in trials (Martín-Beristain et al. 2010), the initiative created a negative overall emotional climate (Kanyangara et al. 2007). Evidence

worldwide suggests that TJSs effects on victims' emotional journey is uncertain, and adjustments are needed to continue to promote reconciliation by promoting a stable emotional environment for victims and society alike.

3.1. Barriers to Victims' Healing within Transitional Justice Systems

3.1.1. Varied needs setting a broad scope of action

Research on why TJSs are ineffective in promoting emotional healing has brought attention to the diverse needs of participants. Victims seem to agree to participate in TJSs for varied reasons, including: (i) to achieve therapeutic outcomes; (ii) because they understand their testimony as a means to prosecute those responsible; (iii) as they are concerned with finding the circumstances and motivations behind war acts; or (iv) to achieve a status as a victim to receive social and economic assistance as a way of restitution (Doak 2011). For the most part, victims participate in the hope of satisfying a desire for truth, justice, and/or reparations, and each victim has a unique preference set combining these three (Bakiner 2014). The varied list of needs of victims poses a challenge for TJSs, and scholars agree that it is unrealistic that one single institution or process can satisfy groups with such disparate needs (Doak 2011; Cárdenas et al. 2015). TJSs, in the words of McEvoy (2007) and McEvoy and McConnachie (2013), may require a certain degree of humility and measure when promising victims what can be achieved through these systems. As research suggests, a shortcoming of these systems may well be that they have been tasked with too many goals, setting impractical expectations for what they can achieve thus increasing the chances of dissatisfaction with the process among participants.

3.1.2. Re-exposing Victims to Traumatic Distress

The limitations of TJSs extend beyond disappointment due to high expectations and include the potential risk of reactivating emotional distress during the process of testifying. Even though the process of testifying is thought of as potentially healing, it carries many risks for victims. Evidence from India, Sri Lanka, and Chile suggest that testimony can effectively serve as an instrument to improve survivor wellbeing and mitigate trauma

impacts, such as anxiety or depression (Cienfuegos and Monelli 1983; Agger et al. 2009; Puvimanasinghe and Price 2016). While sharing one's traumatic story appears to be preferable to silence (Laub 1995; Karstedt 2010), giving testimony does not always lead to emotional healing. The sense of relief achieved from telling the traumatic story to society appears to be short-lived. For example, the sense of catharsis from telling among Yugoslavian victims dissipated soon after their participation in the TJS ended (Doak 2011, 271). Holocaust survivors, when given the opportunity to speak, chose to tell a "stereotyped story" and were unwilling to open up and detail their suffering (Krystal 1995, 92). It appears that victims of trauma go back and forth between needing to talk and avoiding doing so (Krystal 1995). This is because despite the benefits of giving testimony (Cienfuegos and Monelli 1983; Agger et al. 2009; Puvimanasinghe and Price 2016), the risks of telling are not trivial: Studies note that stories of upsetting moments may be re-lived more than simply being re-counted (Brewin 2014); The process of giving testimony drives victims through the experience of loss and separation again (van der Kolk and van der Hart 1991, 177; Laub 1995, 73); and telling brings back the survivor to an overwhelming moment fixed in time, a re-experience of the traumatic memory (van der Kolk and van der Hart 1991). The story itself produces pain, the traumatic distress is reactivated in the process of recall (Layne et al. 2006), limiting victims' opportunities of healing through speaking.

In addition to exposing victims to re-living their pain in the process of telling the story, TJSs laws of proceedings are exacerbating the already fragile psychological state of victims. The rules of the proceedings in TJSs appear to be an additional source of emotional destabilization for victims, as the process of participation involves conforming to certain rules and requirements. TJSs appear to upset survivors by: (i) giving priority to some testimonies over others (Douglass 2003; McEvoy and McConnachie 2013); (ii) imposing strict reporting rules (Kelsall and Stepakoff 2007; Blank 2009; Doak 2011); and (iii) placing the burden on victims to accept official truths and forgive perpetrators (Doak 2011; Cárdenas et al. 2015; Karstedt 2021). The account-making format currently taking place in TJSs appears to be creating frustration and distress among participants.

TJSs' Selection and Assessment of Victims and Their Stories

TJSs carefully define the time frames and types of violations that will be studied within the institutions. One of the first activities conducted by transitional justice institutions is setting the rules of defining who can be called a victim and who cannot. As TJSs define the period and the types of events covered (United Nations 2014), only people who suffered the harms under examination in the period of focus will be consider victims. People who endured violent events outside the scope of the TJS are excluded. Despite the pain they may have suffered, they are not called victims by the system, and they are not allowed to share their stories and have the harm done to them recognized. The circumstances of their trauma are deemed unsuitable for investigation, and these people are silenced from the start. Being officially informed that they are not victims while the traumatic event is still vivid in their minds denies victims of their legitimacy (Jacoby 2015), which socio-legal scholars have tied to worsen mental health (Murphy-Oikonen et al. 2022).

Even after being deemed eligible to participate in the system as a victim, survivors may also grow dissatisfied with the process as their stories may not be taken into consideration. Victims' voice is as important as their innocence. The victim must necessarily be innocent, blameless, and truthful (Douglass 2003; Walklate 2007 as cited by McEvoy and McConnachie 2013) to be worthy of being listened to. Blameless victims can be easily understood and shown empathy, and their perpetrators accused. "Undeserving" victims, on the contrary, are problematic for the system (McEvoy and McConnachie 2013) and may be considered less suitable to receive compassion and understanding. Any sign that they may be 'deviant' puts their story and victimization at risk of being ignored or silenced. Literature suggests that victims' legitimacy and worthiness to be listened to depend on their ability to demonstrate to trial judges and truth commissioners that they were and continue to be good citizens.

Not only are victims required to prove their innocence and merit as victims, their narrative must also be deemed compelling enough to be considered. Socio-legal scholars have found that some narratives are more appealing and convincing for decision makers in legal proceedings (Conley, O'Barr, and Lind 1979; Erickson et al. 1978; Melinder et al.

2016). In transitional justice institutions, accounts that emphasize forgiveness and conciliation tend to be publicly repeated and praised, and to stories of dissatisfaction and frustration are given less attention (McEvoy and McConnachie 2013). TJSs frequently capture and showcase those stories that align with the official understanding of the violence and suffering experienced during the conflict (McEvoy and McConnachie 2013), silencing other accounts of the events. Unsurprisingly, victims who feel ignored will not perceive the mechanism as a true representation of what happened during the war and lead to feelings of distress towards a system that was supposed to aid in their trauma processing (Kelsall and Stepakoff 2007).

The Format of Account-Making

TJS' proceedings also impose rules of who talks, where, and in what manner, hindering victims' ability to express themselves genuinely, creating additional discomfort, reducing the therapeutic effect of the testimony and even reactivating painful past feelings (Kanyangara et al. 2007). For instance, victims participating in Yugoslavia's TJS mentioned being discouraged from giving detailed accounts of background circumstances and events (Doak 2011). In Sierra Leone, victims were prohibited from describing acts of sexual violence, considered unrelated to the charges (Kelsall and Stepakoff 2007; Doak 2011). Socio-legal research on transitional justice and other criminal interactions suggest that courtroom-like situations induce victims to focus on the events' central details during their testimonies, leaving peripheral elements ignored (Blank 2009, 171; Dembour and Haslam 2004). As a result, the stories of trauma victims are being curtailed (Doak 2011). The formality of TJS proceedings is inducing victims to adjust their testimonies to specific rules, creating a sense of injustice in the aftermath of testifying (Doak 2011:271; McEvoy and McConnachie 2013). These findings suggest that the system protocols, to a certain extent, devoid victims of their agency by restraining their stories.

Collective Resolution vs. Individual Pain

In the aftermath of speaking, victims are also expected to accept and forgive, even if they are not emotionally ready to do so. It is standard procedure for truth commissions to acknowledge past wrongs formally and publicly in hearings; and for prosecution trials

to demand public apologies from perpetrators with the highest degree of responsibility. As much as these exercises to create collective memory appear to be effective and necessary (Savelsberg and King 2007), studies demonstrate that collective apologies are less effective in eliciting forgiveness compared to interpersonal apologies (Cárdenas et al. 2015; Karstedt 2021, 470). Victimization causes a myriad of emotions and psychological reactions that are experienced individually—and not collectively (Doak 2011). TJSs' emphasis on broad truths, crimes, and apologies, fails to fully capture the individual experiences of victims. These systems anticipate that victims will agree with the "official" version of the past presented in reports and expressed by verdicts (Doak 2011), ignoring that this expectation creates a pressure for victims to show sympathy and forgiveness for perpetrators (Doak 2011; McEvoy and McConnachie 2013). The collective memory of past events favors reconciliation (Cárdenas et al. 2015) putting the war-acts into perspective for society and investigators, while minimizing the burden lived and pain suffered by individual victims.

TJSs' and socio-legal scholars seem to agree that the system proceedings may negatively impact survivors' emotional wellbeing by silencing victims, curtailing stories and prioritizing collective goals. However, the fundamental idea behind contemporary research on why TJSs have limitations when providing emotional healing for victims, is that those who engage with transitional justice institutions are obliged to navigate a power dynamic in which the institutions and experts wield authority over them. Current accounts suggest that victims are: pressed into proving their innocence, blamelessness and truthfulness before the institutions if they wish to have a voice in transitional justice environments (Douglass 2003; McEvoy and McConnachie 2013); required to adhere to rules regarding who can speak, where they can speak, and in what manner (Kelsall and Stepakoff 2007; Blank 2009; Doak 2011); and forced into accepting the official narrative of the past as determined by officials (Doak 2011; McEvoy and McConnachie 2013). Current evidence perceives victims as fragile individuals who are susceptible to mistreatment from trial judges and truth commissioners. This mistreatment is thought to occur when these officials define the official truths of the conflict, often at the expense of reactivating victims' emotional distress as they share their testimonies. Under this

framework, TJS studies have focused on how the systems subdue victims. However, we know from trauma, memory, and witnessing studies that some victims of trauma can adapt their testimonies to fit the context in which they are speaking.

3.2. The Other Side of the Coin: Victims' Agency and Control of their Stories

The prevailing belief in TJSs research is that eyewitness accounts are assumed to be genuine and immune to conscious manipulation (Douglass 2003, 56). However, this notion fails to recognize that survivors can transform the trauma into a narrative memory that may be modified and aggrandised. Memory reporting is mediated by social institutions (Olick and Robbins 1998), and is malleable to contextual factors and social interactions (Krystal 1995, 95; Young 2003; Douglass and Vogler 2003; DeGloma 2007; Blank 2009). Testimony is an activity addressed to others (Felman 1995; Stern 2012), often producing a report that is modified to better suit a particular audience (Blank 2009, 170). Survivors appear to withhold, emphasize and even "embellish" details of the event so that their testimony fulfills a purpose (Douglass 2003, 75). As such, the re-telling of the event evolves from a narration into an act before an audience (Felman 1995; Douglass 2003). The level of interaction of the listener with victims' stories can increase the amount of attention and empathy the latter receive. As a result, survivors create customized reports to effectively captivate the audience (Blank 2009). These findings suggest that victims' voice, sense of agency, and experiences are not necessarily being wronged by TJSs. Survivors who participate in the system—as other trauma survivors—may be tailoring their reports to attract listeners' attention and ensure empathy.

Studies on the limitations of TJSs in terms of providing psychological healing seem to operate under the premise that all survivors have a similar experience when participating in TJSs. I argue that findings from trauma and witnessing studies invites us to consider that victims experience their involvement in truth-telling and truth-finding in different ways. There are distinct storytelling styles emerging from victims in TJSs, which position victims differently in their interactions with Truth Commissions and Prosecution Trials. Drawing

on Jean François Lyotard's philosophy of language ([1979] 1984; [1983] 1988), I propose a classification of the rhetorical structures brough forward by victims as participants of TJSs, and later compare the framework emerging from the theoretical analysis with the structures put forward by Colombian victims before the country's transitional justice trial.

Chapter 4.

Methodology of Study

My approach was developed from: a theoretical grounding from which the proposed conceptual framework emerged; a case study that allowed me to study the experiences of victims in TJSs; and an empirical strategy. This section describes each part in more detail.

4.1. Theoretical Background: Jean François Lyotard

Jean François Lyotard's philosophy of language, pragmatics of knowledge and his view on metanarratives strongly influenced this thesis (J. F. Lyotard [1979] 1984; [1983] 1988). The French philosopher and sociologist's study of how structures constraint interpersonal interactions was the entry point to grounding the analysis in his philosophy. However, I was convinced to study his philosophy in more detail when studying his vision of how actors in an interaction have the capacity to disorient larger structures.

In the early stages of this study, the main focus of my concern was how truth commissioners and trial judges influence victims' testimonies. My analysis of TJSs under this view was highly influenced by Michel Foucault's *The History of Sexuality* ([1976] 1978) and his view on the role of the "expert" in the production of knowledge. Following Foucault, I interpreted TJS officials as the ones with the knowledge-power as they are the only ones with the ability of generating knowledge out of the victims' testimonies. While Foucault's work seemed well suited to an analysis of the interaction between victims and TJSs' officials, I found that this approach did not enable me to fully analyze the way in which the "experts" themselves may be influenced by a larger structure, in this case the moral and political logic of TJSs. Additionally, the Foucauldian approach did not provide clear tools for analyzing testimonies that, I believed, revealed they way in which victims may also reorient themselves in the interaction to regain the power upheld by the "experts." Lyotard's analysis on the pragmatics of knowledge and its legitimation appeared to be suitable to analyse the first of these two questions, while his philosophy of language, and

the way in which listeners and senders of an interaction may disorient each other, proved useful for the second. Lyotard ([1983] 1988; [1979] 1984) studies in detail how the rules of the interaction affect—and potentially "wrong"—senders and listeners, and how each of them may in turn affect the rules of the interaction ("moves" and "countermoves").

Once I decided to continue analyzing TJSs under the lens of Lyotard's philosophy, his read on interpersonal interactions from a linguistic perspective as well as his definition of the different types of utterances that emerge in a conversation were fundamental grounding for the conceptual and theoretical framework proposed here. His philosophy of language invited me to study the relationship that emerges between a listener and the one with the information, while also giving prominent attention to the role of the referent in the interaction. I initially got interested in the relationship between the one who knows and the one who listens in Foucault's *Parresia* ([1982] 2015). However, it was Lyotard's analysis of the rules of interaction between the addressor, the addressee, and the referent, and the positioning of each within those rules, that allowed a more comprehensive analysis of the interaction between TJSs' officials, victims, and the war events. His proposition that the roles of addressor, addressee and referent do not necessarily imply a power relationship among them, and that any of them may propose new rules of interaction, seemed particularly suitable to study how victims may be wronged by TJSs but may also disorient the system (see Chapter 5).

Particularly relevant for the conceptualization presented in Chapter 5 and Chapter 7 was Lyotard's notion that any sender may disorient the rules of the interaction, as well as his read that the interaction between individuals is mediated by the rules of legitimation of knowledge. Lyotard's idea presented in his *Anamnesis* ([1997] 2004)—also developed in his *Postmodern Condition* ([1979] 1984)—that some people may be responding to their reflexes when producing art—or in the case of TJSs, testimonies—yet their creations may be disregarded if not conforming to the operation of the "system," was a turning point in this analysis. Chapter 5 is ultimately an analysis of testimonies either as a product of a spam or as a product of an adaptation to fit the rules of the system; Chapter 7 is a result of further analysis of how the rules of legitimation mediate victims' actions before TJS. Both chapters were developed from a thinking process clearly influenced by Lyotard.

Finally, Lyotard's study of the referent and his view on metanarratives were fundamental for the conceptualization of Section 7.2. The study of the understanding of "truth" in the context of TJSs follows Lyotard's detailed analysis on how the reality of the referent is never certain as there isn't a "rigid" name that can describe, signify and show all of the appropriate and possible senses attached to the referent (J. F. Lyotard [1983] 1988). The analysis presented in Section 7.2 also merges Nora's understanding of memory as a perpetually present phenomenon (Nora 1989) with Lyotard's recognition of the instabilities of the referent in terms of time (J. F. Lyotard [1979] 1984).

I compare the proposed framework with the structure presented by survivors themselves, using the testimonies of civil war victims before Colombia's transitional justice tribunal.

4.2. Case study: The Transitional Justice System in Colombia

Colombia's TJS, created in 2017, is the most recently established transitional justice system in the aftermath of a conflict. Colombia's TJS was created after the country's government and the Revolutionary Armed Forces of Colombia (FARC -EP) signed in 2016 a peace deal to end more than 50 years of armed conflict. After years of negotiations with international countries as guarantors, both the government and the rebels agreed on six deals to end the armed conflict and build stable and lasting peace.[5] The fifth agreement focuses entirely on compensating all those affected by the conflict by recognizing their status as victims, uncovering the truth, defining reparations and guaranteeing non-reoccurrence (CEV, JEP, and UBDP 2019). The country, as a result established a Transitional Justice System—officially called *Comprehensive System for Truth, Justice, Reparations and Non-Recurrence*; comprised of: (i) a truth commission—known in the country as the Truth, Coexistence and Non-Repetition Commission (CEV); (ii) a prosecution trial—called the Special Jurisdiction for Peace (JEP); and (iii) a search unit for disappeared people—named the Unit for the Search for Persons Presumed Disappeared in

[5] The six agreements between the government and the FARC-EP are on the following topics: (1) rural development; (2) political participation; (3) end of the conflict; (4) solutions to the problem of illicit drugs; (5) justice, reparations, truth and victims' rights; and (6) implementation, verification and endorsement of the final agreement.

the context and by reason of the armed conflict (Government and FARC-EP [2016] 2017; CEV, JEP, and UBDP 2019). The country's TJS was assigned the responsibility of investigating the more than 350,000 recorded events that took place between 1958 and 2016—including military actions, selective killings, terrorist attacks, and massacres, among other war acts (OMC 2020). The events investigated produced an average of 5,6 million people internally displaced per year between 2008 and 2022 in Colombia (IDMC 2022).

Colombia's TJS was designed "[i]n compliance with [the government and FARC's] commitment to place the victims at the core of the Agreement" (Government and FARC-EP [2016] 2017). This resulted in a pledge to incorporate the voices and perspectives of victims into all transitional justice mechanisms, including the Special Jurisdiction for Peace (JEP), the prosecution mechanism within Colombia's TJS (JEP 2019).[6] In consequence, as part of the country's trial proceedings, public hearings are being held to provide victims with an opportunity to offer additional information or comment on perpetrators' testimonies, either orally or in written form. This thesis studied victims' oral testimonies that have been recorded by the JEP and made public via YouTube with previous consent from the victims.[7]

To understand the context of the victims' testimonies analyzed in this thesis, it is important to clarify the investigative structure of Colombia's war tribunal. It is common for transitional justice trials to group cases into groups to investigate common patterns of behaviour and actions.[8] Since its inception in 2017 until mid-2022, the JEP grouped conflict related events in seven (7) macro-cases to highlight reiterated patterns of conduct during the conflict:

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[6] The JEP has a complex internal organigram with three judicial chambers and four sections of the Tribunal for Peace. The body in charge of receiving victims' reports and comparing facts presented by all parties is the Chamber for Acknowledgement of Truth, Responsibility and Determination of Facts and Conduct.

[7] The JEP has a public YouTube channel that can be accessed on: https://www.youtube.com/@JEPColombia

[8] To investigate the so called "system" crimes, defined as war acts and other human rights violations committed on a large scale, in which a degree of organization was present in the crime's planning, execution, and aftermath (OHCHR 2006a).

- Case 01 - Hostage-taking and serious deprivations of liberty committed by the FARC-EP;
- Case 02 - Territorial situation of the Tumaco, Ricaurte, and Barbacoas municipalities in Nariño;
- Case 03 - Unlawful killings presented as combat casualties by agents of the state;
- Case 04 - Territorial Situation in the Urabá Region;
- Case 05 - Territorial Situation of the Northern Cauca and Southern Cauca Valley Regions;
- Case 06 - Victimization of Patriotic Union (UP) Members by the Armed Forces; and
- Case 07 - Recruitment of Children in the Armed Conflict.

In September 2022, the JEP opened three (3) additional macro-cases following requests from victims:

- Case 08 - Crimes not eligible for amnesty committed by members of the state security forces and other state agents, in association with paramilitary groups and third party civilians;
- Case 09 - Crimes committed against ethnic groups and their territories during the armed conflict; and
- Case 10 - Crimes not eligible for amnesty committed by the extinct FARC-EP during the armed conflict.

For the first stage of the empirical analysis (see section 4.3), I listened to the testimonies of 76 victims with a combined duration of just under 1,300 minutes,[9] delivered in public hearings corresponding to Case 01 and Case 03.[10] The second and third stage of the empirical analysis, which corresponds to the coding of testimonies, focused on testimonies belonging to Case 03 only, investigating killings committed by agents of the state and unlawfully presented as combat casualties. The selection of Case 01 and Case 03

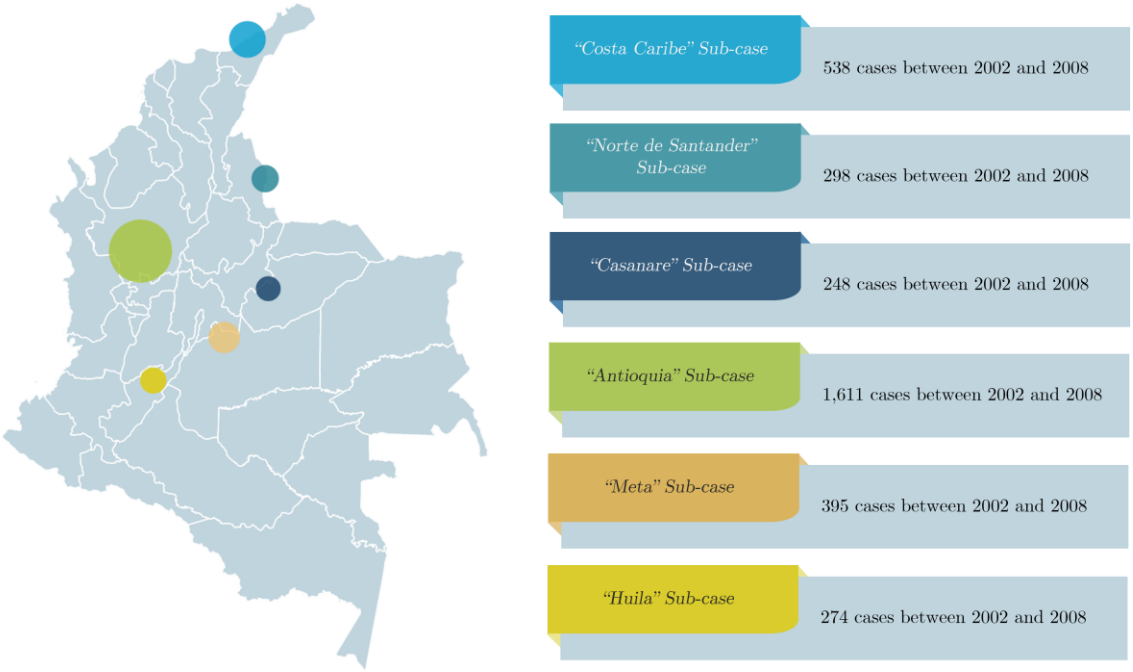
[9] The combined duration of 1,300 minutes corresponds to the total duration of victims' testimonies. The video recordings of the public hearings where these testimonies were delivered span approximately 52,4 hours or around 3,150 minutes.

[10] A total of 24 testimonies (367 minutes) corresponding to Case 01, and 52 testimonies (896 minutes) from Case 03.

for the first stage of the analysis was made in response to the regularity with which Colombia's transitional justice tribunal conducted public hearings and made the recordings publicly available. The selection of Case 03 was a response to the style of "questioning" done by the tribunal judges. While the judge in charge of public hearings belonging to Case 03 would usually wait until the end of a victim's intervention to ask for questions, the judge in Case 01 would constantly interrupt the victims to ask for clarifications relevant for the tribunal. Victims belonging to Case 03, therefore, have less influence of a third person as they produce their testimonies, allowing for a cleaner analysis of the rhetorical structures that emerge.

Victims' testimonies belonging to Case 03 were delivered in public hearings held at various geographical locations, corresponding to the military bases of the army members responsible for the unlawful killings (Figure 4-1). The war-acts grouped in Case 03 were classified into six (6) sub-groups based on the location where the killings took place. The purpose of this categorization was to create a structured approach for the tribunal's investigation and judgement (JEP 2021).

Figure 4-1. Colombia's war tribunal categorization of war-acts belonging to Case 03 "Unlawful killings presented as combat casualties by agents of the state"



Source: Map from (JEP n.d.), adapted as a figure with information from (JEP n.d.) and graphic design inspired by Slidesgo's infographics.

As of April 2023, a total of eight (8) public hearings had been publicly shared by the JEP, belonging to five (5) out of the six (6) sub-groups of Case 03 "Unlawful killings presented as combat casualties by agents of the state" (Figure 4-2).

Figure 4-2. Public hearings of Case 03 publicly shared as of April 2023

Source: Prepared by the author, graphic design inspired by Slidesgo's infographics.

This thesis focused in the four (4) public hearings that took place between 2019 and 2022. The recordings of these public hearings include the testimonies of 52 victims who lost their loved ones or were at risk of being killed. Out of a total of just under 896 minutes of testimony recordings available to the public from the four (4) public hearings under investigation, the testimonies of 13 victims (25.0%) with a duration of 226 minutes (25.2%) were transcribed and analyzed to prepare this thesis. I originally considered analyzing the testimonies delivered in only one public hearing to minimize any influence from contextual factors tied to geographical location, and 6 out of the 13 testimonies studied belong to the "Costa-Caribe" sub-case. To assess whether the framework proposed here (Chapter 5) held in other locations, I randomly selected two (2) or three (3) testimonies from each of the other sub-cases under analysis (i.e. "Norte de Santander" Sub-case, "Casanare" Sub-case, and "Huila" Sub-case) for a total of 13. For the most part, these testimonies are from victims that lost their loved ones at the hands of the Colombian military; very few of these testimonies belong to people who were at risk of being killed themselves.

This thesis employs grounded theory and content analysis research techniques to examine the patterns that emerge from the empirical material in light of Lyotard's philosophical propositions.

4.3. Empirical analysis

The empirical analysis followed here involved a three-stage process of data analysis. For the first stage, the grounded theory approach proved useful. This method follows an inductive process, in which the categories that will serve in formulating a theory emerge from an analysis of the data without relying on any prior assumptions (Hensel and Glinka 2018). This initial process—which relied on 76 testimonies with a duration of just under 1,300 minutes—was fundamental for the surfacing of the conceptual and theoretical frameworks proposed in this thesis, that will be detailed in Chapter 5 and further analyzed in Chapter 6.

The second stage of the empirical strategy was performed following a content analysis research technique. This approach focuses on language as a means of communication paying particular "attention to the content or contextual meaning of the text" (Hsieh and Shannon 2005, 1278). Initially, the data analysis followed a *conventional* content analysis, in which the data was studied as a whole to obtain a general sense of emerging patterns (Hsieh and Shannon 2005; Hensel and Glinka 2018). Later, victims' testimonies were studied through a *directed* content analysis technique (Hsieh and Shannon 2005); using the proposed theory (Chapter 5) and previous evidence (Chapter 3), I coded testimonies of 13 victims with a duration of just under 230 minutes. Testimonies that did not clearly belong to the classification proposed in Chapter 5 were analyzed in detail. The findings of this further analysis are presented in section 7.1.1 below.

Following the initial categorization of victim's testimonies, I identified criteria of analysis that emerged from the testimonies (i.e. grounded theory and conventional content analysis), and key concepts and categories of analysis from previous research studies (i.e. directed content analysis). Using NVIVO qualitative data management and analysis software, I identified a set of codes for examining victims' stories. Through sentence-level coding (Barberá et al. 2021), I assessed each testimony based on the criteria for analysis that emerged from study participants or were inspired by previous studies (Table 4-1).

Table 4-1. Categories of analysis

	Inspired by:	
Category of analysis	Study participants	Previous studies
Tone and style of demands made to the tribunal	x	
Tone and style of conversation with perpetrators' testimonies	x	
Requests for truth, justice, reparation and no repetition	x	
Mentions of pain suffered or support received from community	x	x
Level of fragmentation in the stories		x
Level, tone and style of traumatic event's details shared		x
Mentions to the consequences of the loss and the subsequent changes in life		x

In the first two stages of the empirical strategy, I attempted to balance between having a foundation for the analysis while also allowing space for the questioning of previous knowledge and assumptions. This was done by using an abductive method of analysis (Tavory and Timmermans 2019).

The final step of the empirical analysis involved a purely quantitative approach of content analysis (Hsieh and Shannon 2005; Neuendorf 2017). Using a computational text analysis tool, victims' transcripts were analyzed to extract quantitative insights regarding the words used by the different groups of victims studied here (Chapter 5). Using the text analysis program Linguistic Inquiry and Word Count (LIWC) to analyze victims' narratives, I attempt to determine if different types of victims have a different way of using words in their stories. The LIWC software is a computer program that scans words in a text to then compute the percentage of words present in certain linguistic categories of analysis (Tausczik and Pennebaker 2010). The software analyses intend an objective measure of an individual's cognitive and affective states (Marshall and Venta 2020, 439). Evidence suggests that this software is a valid method to assess emotional expression (Kahn et al. 2007). While the 2022 version of the software was used for analysis, this study relies on the program's 2007 Spanish translation (Pennebaker et al. 2007; Ramírez-Esparza et al. 2007). That is, victims' words were analyzed and grouped following the categories defined in the 2007 LIWC dictionary.

4.4. Strengths and Limitations of the Research Methodology

The proposed empirical strategy is limited by the self-selection of victims who participate in the tribunal, the limited number of testimonies analyzed, the use of the 2007 dictionary for the quantitative analysis, and the lack of information on victims' psychological wellbeing.

The testimonies here analyzed are those of victims who were willing to participate in Colombia's transitional justice tribunal. The victims who chose to take part in the trial process may have a particular set of characteristics that mediates the theoretical framework and data results presented here. For instance, it may be that the testimonies made public belong to victims who are more likely to believe in the importance of achieving reconciliation and who trust the institutions of transitional justice systems. While it is unclear how this self-selection affects the framework and findings in this thesis, it would be unreasonable to address this limitation by forcing victims to participate in the process. As a result, the theoretical and conceptual framework presented here, and the practical recommendations developed, should not be extrapolated to all victims of war-related acts and is only relevant for survivors who willingly participate in a transitional justice system process.

Secondly, the grounded theory approach relies heavily on a sampling strategy that prioritizes the inclusion of a wide range of research materials, in order to achieve maximum diversity (Hensel and Glinka 2018, 31). The testimonies studied and analyzed here belong to only two (2) groups of JEP cases.[11] In a future analysis, the fit of the framework presented here would benefit from a deeper analysis of Case 01 testimonies, and the study of victims' testimonies from the other eight (8) JEP cases. Additionally, a comparative analysis between testimonies presented to the tribunal and those presented to the truth commission could strengthen the conceptual and theoretical framework proposed in this study.

[11] Out of 10 cases defined. See section 4.2 for a complete list of all the cases defined by the JEP.

The use of the 2007 dictionary in the LIWC software could also be a limiting factor. The dictionary in its 2022 version reflects new directions in text analyses, and some categories have been substantially reworked (Boyd et al. 2022). The recategorization and expansion of the dictionary in its 2022 version responds to new findings of the psychology of verbal behavior (Boyd et al. 2022, 5) that could have benefited this analysis. However, the exercise here conducted is based on findings from studies that, for the most part, also utilized the 2007 dictionary, reducing the shortcomings of using the 2007 Spanish dictionary for this analysis. A large number of scholars who have found quantitative interrelationships between trauma narratives and PTSD symptoms, which supports the credibility of the analysis performed here, are also using the 2007 version of the LIWC dictionary.

Despite these limitations, the empirical strategy I used has as a strength that it combines theoretical and empirical analyses, an abductive method of analysis, and quantitative and qualitative techniques for data analysis. This thesis draws heavily on the philosophical propositions from Jean François Lyotard, while also incorporating patterns that emerge from the empirical material through the use of grounded theory and conventional content analysis research techniques. Additionally, the inductive method that takes place while using grounded theory and conventional content analysis research is counterbalanced with an abductive analysis and the use of the directed content analysis approach. By relying on previous literature, I attempt here to propose credible theoretical and conceptual frameworks and reliable data findings. Conversely, I intent to balance the theoretical and empirical biases that may be introduced through the directed content analysis with the use of the abductive methods described above. Finally, the use of a quantitative technique strengthens the qualitative process that took place in stages one and two of the empirical analysis (grounded theory and content analysis).

Chapter 5.

Victims' Rhetorical Structures in Transitional Justice Systems

The conceptual framework that I suggest here draws on findings from TJSs as well as evidence from trauma and witnessing studies. I propose that victims produce two basic types of rhetorical structures before transitional justice prosecution institutions. The proposed distinction suggests that the overall rhetorical structure of a testimony is a product of victims' assimilation of the traumatic experience. I developed two metaphors to explain the emerging storytelling styles: wind-chimes and sailboat skippers. While traumatic distress may be reactivated among certain survivors as they feel subdued by the rules of the systems, other victims have the ability to tailor and "embellish" their testimonies to fit the particularities of their audience. Table 5-1 summarizes each style with a brief description, characteristics, and examples.

Table 5-1. Conceptual framework for victims' rhetorical structures in Transitional Justice Systems

Metaphor	**Wind Chimes**	**Sailboat Skippers**
Storytelling type	Spasmodic	Enactable
Description	Automatic retrievals of an event. Automatic synthesis of information without much conscious attention	Sentences deliberately constructed to better suit an audience and effectively communicate in the context in which the testimony is given
Addressee	Circumstantial	Individual/group studied by the sender
Referent	The traumatic event	Subject to modification
Presence of trauma symptoms in language	Higher in comparison	Lower in comparison

Metaphor	**Wind Chimes**	**Sailboat Skippers**
Storytelling type	Spasmodic	Enactable
Examples	"What hurts us the most is knowing that the more days we see our brother sick, we have taken him to the doctor, and he is still in pain [sic]. He says: If I had my father what life would be like for us? We all imagine but we can't find the words, what life would be like for us if he were alive? Dreams were taken from us" *[12]	"The truth is outrageous for us as a family, as a community. To see the report from lieutenants about our victims, our relatives. I am telling you, there are many things that have not been said. Like what, in the case of my brother, my brother had a persecution, not mentioned by lieutenant Burgos. He does not mention the punishments that he subjected my brother to"

Each victim would usually produce sentences that belong to both storytelling styles, and the framework does not imply that victims are conscious of the different styles of statements within their testimonies. However, the categorization of full testimonies under one style or the other—and not individual sentences—allows for an assessment of the overall level of agency displayed by victims when giving testimony before transitional justice institutions.

5.1. Wind Chimes: Victim's Storytelling Style Beyond their Self-Control

Wind chimes are a collection of suspended tubes that gently move with the wind without any self-control. "Wind chime" storytelling style, in a similar fashion, is one in which victims' produce testimonies that are beyond their control. Statements under this style parallel what Lyotard ([1997] 2004) called a spasmodic reflex, where the utterances that emerge are mere gestures uncontrolled by reason that do not aim to reconstruct an anecdote. A victim who adheres to this tyle is at the mercy of the traumatic occurrence that commands to be spoken before being comprehensible. The traumatic event—similar to Lyotard's *Thing*—is present in this style of storytelling before there is any control of consciousness. As Shoshana Felman (1995) found in the context of traumatic testimony, it

*[12] This and all subsequent quotes from victims' testimonies have been translated directly from Spanish by the author.

is the accident that pursues the witness and not the other way round. Spasmodic stories are what trauma scholars have identified as an automatic synthesis of information without much conscious attention (van der Kolk and van der Hart 1991).

Traumatic events—the most common types of incidents discussed in Truth Commissions and Trials—are occurrences that can easily overwhelm those who experience them. It is not uncommon for trauma victims to be unable to assimilate the events into full cognition. Traumatic episodes are often uncontextualized and cannot fully be owned, being forgotten, or outside any previous frame of reference to make sense of the event (Caruth 1995b; Felman 1995; R.J. Lifton as cited by Caruth 1995a; Stern 2012). It is in these circumstances that the spasmodic storytelling style emerges: when victims use language as a mode of accessing an event that is unavailable to the speaker—a common situation among victims of trauma.[13] Integrating overwhelming experiences with existing mental schemes often requires a constant return to memory to complete what is still incomprehensible (van der Kolk and van der Hart 1991, 176). Testimonial depictions of traumatic events allow victims to know and integrate the experience and ultimately attain relief (Stern 2012; van der Kolk and van der Hart 1991). That is, the senders of spasmodic testimonies use speech to "come to know one's story" (Laub 1995, 63). Just like wind chimes move under the influence of the wind, traumatized subjects who produce spasmodic testimonies are under the control of the unassimilated experience.

The traumatic event (or the utterance's referent as Lyotard would call it) acts as a shadow to the sender, who feels both induced and forced to action to make sense of the experience. In spasm-like stories, the senders position themselves in a place of vulnerability as they communicate what is not yet fully owned. The referent—what the statement deals with[14]—is something that demands to be expressed: ideas and memories dwelling in the mind of the traumatized subject that haven't yet been grasped (J.-F. Lyotard [1997] 2004). A *Thing*, in Lyotard's terms, that is encrypted in the unconscious yet

[13] Shoshana Felman (1995) has a detailed analysis of how victims of trauma have an urge to unfold an event to better access it.

[14] In his *The Postmodern Condition*, Jean-Francois Lyotard ([1979] 1984) defines the sender of utterances as the person who utters the statement, the addressee as the one who receives it, and the referent as what the statement deals with.

commands an action. Statements are primarily uttered as an impulse to a question or trigger.[15] Victims who emit spasmodic testimonies are under control of a *Thing*, similar to a wind chime which is at the mercy of the wind.

The addressee of spasmodic stories, however, is circumstantial. The addressee takes a secondary place behind the *Thing*—the referent—which is at the base of the reflex. While recognized as a vital part of the process of assimilating traumatic events, the process of tracing memory may well occur in interaction with oneself, or with a third person or group. The process of witnessing and remembering—to come to know a traumatic experience as one's own—may either occur internally or with the help of external parties (Stern 2012). Addressees of stories under the spasmodic style are positioned as a listener who simply serves as a vehicle for healing.

5.2. Sailboat Skippers: Victims' Agency in their Storytelling

Sailboat skippers, or sailboat captains, adjust the sails depending on wind patterns. Skippers, unlike wind chimes, rely on projected wind speeds and trajectories to prepare themselves for what is to come and adjust their sails accordingly. Victims who have integrated the traumatic event into their existing reference frameworks are able to transform their story into a coherent verbal narrative (Caruth 1995b), similar to how a sailboat skipper adjusts their sails. Once the traumatic event can "move freely" between past, present and future, between existing mental schemes, and between places in one's autobiography, victims can look back at what happened and give the occurrence a new meaning; one that is adapted to circumstances (van der Kolk and van der Hart 1991; Stern 2012, 57). Unlike spasm-like testimonies—that are mainly comprised of descriptive statements guided by the traumatic experience—these stories go beyond the reconstruction of the events. Once the occurrence is integrated into one's own life, details of the anecdote can be modified to fit contextual particularities. When the traumatic event is understood, the memory recall is no longer fixed, and statements cease to be a mere reflex. Victims are, therefore, able to adjust their narrative to better suit an audience, communicate successfully

[15] See Blank (2009) for a detailed explanation of the process of memory retrieval that initiates as a response to memory cues.

in the context in which the testimony is given, and elicit higher credibility ratings (Felman 1995; Douglass 2003; Blank 2009; Jacoby 2015; Melinder et al. 2016).

Enactment storytelling style is thus, to a certain degree, an act in which the precision of the recall is of second order to effective communication with the addressee. Similar to "wind chime" testimonies, the sender of stories that adhere to the enactable style is the one with the knowledge about the traumatic occurrence. Unlike spasmodic statements, however, the addressee is no longer circumstantial. The addressee is a specific individual or group whom the speaker has thoroughly analyzed to the extent of being highly attuned to their expectations, in an attempt to enhance their support and approval of the speakers' story and requests (Douglass 2003; Jacoby 2015). The referent—or in the context of TJSs the war-crime event—rather than being described or represented, is subject to modification by the sender. Once victims have the space to study their audiences after having understood the traumatic event, they can strategically define the content of their testimonies like sailboat skippers responding to changes in the wind. Trauma theorists have recognized that victims may want to create a direct rapport with recipients to transmit the experience in a way in which the audience will be able to fit these ideas within their belief systems (Caruth 1995b; Douglass and Vogler 2003), making more likely a buy-in of the victims' requests for action (Douglass 2003; Jacoby 2015). The sender adapts the referent to meet addressees' expectations, making stories following the enactment style an act in which the facts regarding the event are dependent for both meaning and factuality on its context (Nora 1989, 279).

Chapter 6.

Victims' Rhetorical Structures in Colombia's TJS Tribunal

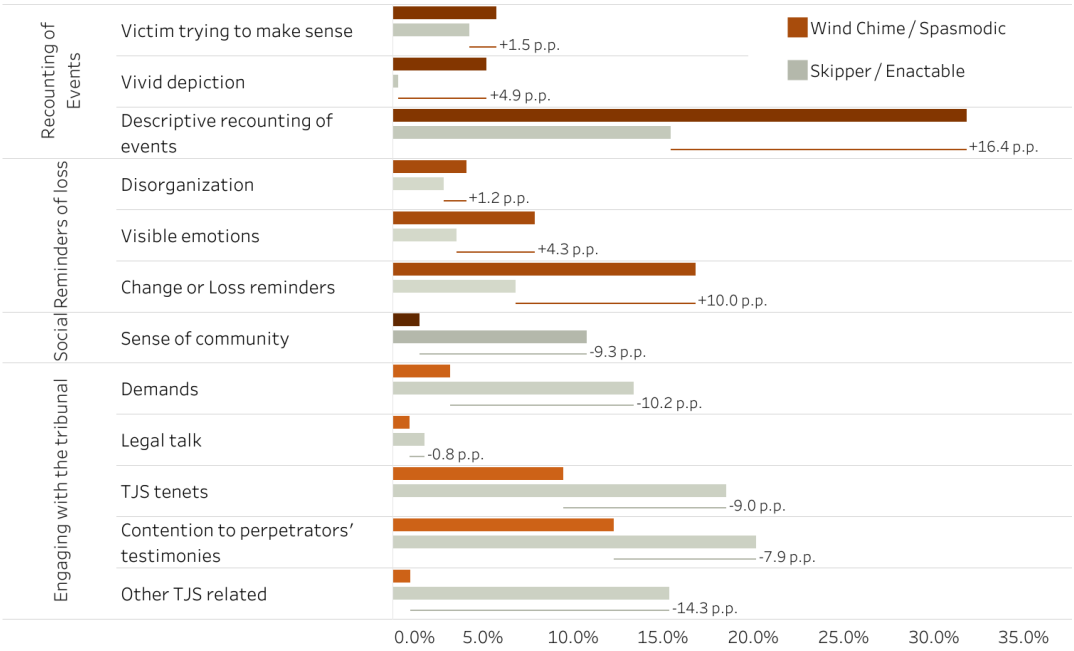
To contrast the framework proposed with structures offered by victims in a war tribunal setting, I study victims' testimonies before Colombia's prosecution trial. While the proposed conceptual framework applies to transitional justice institutions like truth commissions and prosecution trials, the storytelling styles suggested may be better traceable in war trials where the discourse structure is typically focused on presenting evidence and contrasting different perspectives. Truth commissions, in comparison, generally encourage the production of descriptive statements, which are more difficult to differentiate within the proposed structure.[16]

Here I analyse just under 230 minutes of victims' testimonies (corresponding to 13 victims) of Colombia's war tribunal (see Section 4.2). Before finalizing the process of transcription I classified each testimony into one of the two storytelling styles (Chapter 5). I undertook this step prior to the process of content coding to prevent classifying testimonies into a specific group based on my own predetermined expectations on content. A testimony was considered as adhering to the "wind chime" storytelling style if the victim: (i) was accompanied by a friend or family member known individual while giving testimony; (ii) appears to emphasize the emotional pain that emerged from the traumatic event; and/or (iii) focuses on re-telling how the events unfolded rather than giving commentary on perpetrators' testimonies. The testimony was categorized under the "sailboat skipper" storytelling style if the victim: (i) addresses directly the trial judges; and/or (ii) appear more concerned with requesting accountability from perpetrators than describing the traumatic event. This conceptual distinction emerged from labelling each victims' testimony as spasmodic or enactable style, instead of categorizing segments within the testimonies.

[16] It is common for truth commissions to design some general guiding questions to be used when receiving victims' testimonies. These prompts are meant to persuade victims to describe the events and/or the circumstances surrounding it.

Following the process of categorization, I analyzed each testimony's content through sentence coding in Nvivo. This allowed me to identify common themes in the victims' testimonies in terms of: their conversation with tribunal judges or perpetrators' testimonies, the levels of details shared, and the evidence of "loss" symptoms in their language (Section 4.3). The coding exercise evidenced that "wind-chime" and "skipper" storytellers expressed themselves differently while giving testimony (Figure 6-1).

Figure 6-1. Frequency of criteria recurrence in victims' testimonies, comparison by storytelling style



Note: Any sentence may be assigned to one or more of the codes defined. "Disorganization" refers to evidence of fragmentation in testimonies. "Visible emotions" correspond to moments in the story when victims' emotions were evident to the listener. "Change or loss reminders" are sentences in which the victims express the consequences of having lost their loved one or having experienced the event. "Victim trying to make sense" refers to moments in the testimony where victims attempt to understand the reasoning behind the war acts. "Vivid depiction" are vivid and extra detailed descriptions of the victims' whereabouts and actions as the events unfolded. "Descriptive recounting of events" corresponds to descriptive utterances recounting the event. "Sense of community" are moments in the testimony when the victim refers to the pain suffered of support received by victims of similar events. "Demands" refers to explicit requests from victims to the tribunal. "Legal talk" are sentences uttered by victims utilizing legal language. "TJS tenets" are present when victims make reference to one or several of TJSs' tenets (i.e. truth, justice, restitution and guarantees of no repetition). "Contention to perpetrators' testimonies" correspond to all the moments in the testimonies when victims refer specifically to perpetrators' testimonies and express their disagreement or disgust to what was said. "Other TJS related" refer to all other sentences that are clearly related to a TJS or tribunal setting, but do not correspond to any of the other codes defined.

Spasmodic storytellers allocate more time in their testimonies to describing the events ("descriptive recounting of events") and referencing the subsequent changes in their lives ("change or loss reminders"), while enactable storytellers mainly engaged with the tribunal ("other TJS related"), challenged perpetrators' testimonies ("contention to perpetrators' testimonies"), and requested truth, justice, reparations and/or guarantees of no repetition ("TJS tenets").

6.1. Recounting the Event

In courtroom settings, victims often engage by describing the events that brought them to the proceedings. Similarly, victims participating in Colombia's war tribunal are expected to provide a clear description of the events they experienced (JEP 2020). The ways victims do so, however, sheds light on the differences between the two styles of storytelling consider here.

"Skipper" Storytellers

Victims producing testimonies under the enactable style describe the events with remarkable relevance for a tribunal setting. For example, Catalina (all names are pseudonyms), intervening on behalf of her brother who was killed by the military, starts her intervention with a succinct recount of what happened to her brother and how she started to realize that this was probably an action of the military:

> "My brother was 42 years old, he disappeared in Bogotá on August 10, and is found dead on August 12 in Ocaña, Norte de Santander, and was labelled as a guerrilla member killed in combat. At the time I was looking for him, I saw the news about the cases that had happened in Soacha, but I never imagined that my brother was part of this"

Victims in this group, while describing the events, also raise evidence of how the actions done by the military were systematic in nature. Catalina, while describing the process of recovering her brother's body, also adds information on the number of people who might have also been illegally killed by the same military group:

> "I assumed that I was going to find him in a cemetery where the graves are marked with Jhon Doe, Jane Doe. It wasn't like that, it was arriving at a

> mountain, on a man's land, and at that moment I didn't have a clue of what a mass grave was. That's when I saw what a mass grave was, it's a hole in the ground, excuse the expression, but they were buried like dogs there, because they weren't even in a bag, they weren't marked, they didn't have any identification. In that grave there were 5 corpses"

Luna, also speaking before the JEP because her brother was killed, gives proof that the actions of the military were regular and methodical. She mentions the technique of using a "hooded man" to define who was going to be killed, and indicates how several people were being harassed by the military in a similar fashion. She gives the names of other people who went through similar situations before being killed. Also, displaying particular awareness of the tribunal setting and the purpose of a TJS trial, Luna also mentions other state institutions that were made aware of her brother's persecution by members of the military prior to his killing:

> "They had someone there hooded, they had a person whose face could not be seen. Then someone came out and tells me: It's not just him, it's your other brother too. I said okay, I sent for my brother, we introduced him [and said] that they were going to take them to Valledupar because they were going to put them in jail. Supposedly when my brother is handed over to the hooded man they ask the hooded man, the hooded man says "not him" to my other brother. That day [name 1] was present, a young man who was also presented and went through the same process as my brother, [name 1], [name 2], and [name 3] who later, after my brother's death, were accused of rebellion. The ombudsman's office knew about their problem, the ombudsman's office at that time was Dr. Eva del Castillo as the ombudsman of the town"

Victims producing "skipper" testimonies spend little time of their testimony describing the events (Figure 6-1), and when they do so, they appear to be acutely attuned to the expectations of the tribunal. Their descriptions are short and tend to highlight patterns of behavior followed by the military when engaging in these actions, facilitating the investigation of systematic crimes committed by agents of the state.

"Wind Chime" Storytellers

Unlike "skipper" storytellers, victims adhering to the "wind chime" style recount events in a more conversational way. These victims tend to share the story as they lived it, not considering what is the more relevant information for judges and the tribunal. Jorge,

for instance, starts his testimony by recounting in a very detailed manner the moment when he realized his son was being taken by an armed force—which he later discovered was the military:

> "At 2 in the morning, I got up and heard the noise, a large noise there with the containers that I had there to catch water, and I immediately left when I heard the noise. When I got there a person was already there taking the road and told me no, there was no entrance there. So I turned back, and went to my partner and told her that there was an armed group, and then she also went and they didn't let her pass either. Well, at that moment, well, after having had him there for a long time, I heard when someone told [my son], someone told [my son] 'put your shoes on,' and he told them, and he told them 'I'm going to put them on.' And they went out with him and the girl, [his] partner, and it was so terrible, that I don't want to remember, the way the partner begged"

These victims also describe the circumstances in a very vivid and precise way, focusing on details that may be considered irrelevant in a tribunal setting but appear to be fundamental in their memory of the events. The testimony of Andrea, talking about the last day of life of her husband, is a clear example of this very detailed recount of events as she mentions her husband's whereabouts, what he was carrying, and the clothes he was wearing:

> "That day he left at 5 in the morning for Virinticua. When he was coming down from Virinticua at 7 in the morning they stopped him at the place called la Pepa. He was holding a donkey with a third of firewood and a third of supplies, and was dressed in his clothes to work in the mountains, a [traditional carrier], his machete, and two tangerine lemons, that was the grenade that [my husband] was supposedly carrying"

Or Luna, who takes the time to mention the name of the owner of the store where she went, and describing the color of the teeth of the person she was speaking with:

> "They told us 'no, the lieutenant is busy, he's sleeping.' And then what did we do? We came. When we were arriving at [name]'s store, from the plaza upwards, they sent us a soldier, you could only see his black teeth, if they were white, they were black"

From the perspective of the tribunal, providing overly detailed descriptions of the traumatic event may risk overlooking important aspects for the investigation. Like in

Jorge's testimony, in which the fact that members of the military were likely dressed as civilians is mentioned only briefly mid story:

> "When I arrived, [my daughter and I] turned around, to a rock formation that is there, we turned around and we were arriving at a little stream, one person was coming, one person dressed as a civilian was coming, and he did like this with a telescope and I leaned against a pole, crying there, and then he asked me 'where you are going,' and I told him 'I am looking for my son who was taken from me at two in the morning.' Then he comes and tells me 'hold on there for a moment, I'm coming,' but he was dressed as a civilian. When he came back, a soldier took me there, tall, blonde, and asked me where I was [going], and I tell him that I'm looking for my son who was taken from me at two in the morning. 'I want to know,' I told him, 'I want to know if it was you, tell me for mom's sake for his dad's sake'"

When recounting the events, "wind chime" storytellers appear to focus on their own experiences, and the different moments that marked their memory, without careful consideration to the way the message is delivered.

Frequencies

A detailed comparison of the testimonies produced by "skipper" and "wind chime" storytellers display a stark contrast. Those producing stories under the enactable style are notably less inclined to devote time describing the sequence of events, as compared to victims who produce spasmodic stories (Figure 6-2). While 15.4% of the words uttered by "skipper" storytellers were referring to descriptive accounts of the traumatic event,[17] this percentage doubles among victims adhering to the spasmodic style of testimony (31.8%).

Similarly, enactable storytellers hardly provide any graphic representations of what happened (0.3%), compared to a 5.2% among spasmodic storytellers.[18] Not only the way in which victims retell how the events unfolded is different—with "skipper" storytellers being more attuned to the tribunal setting—the amount of time each group dedicates to describing events vastly differs.

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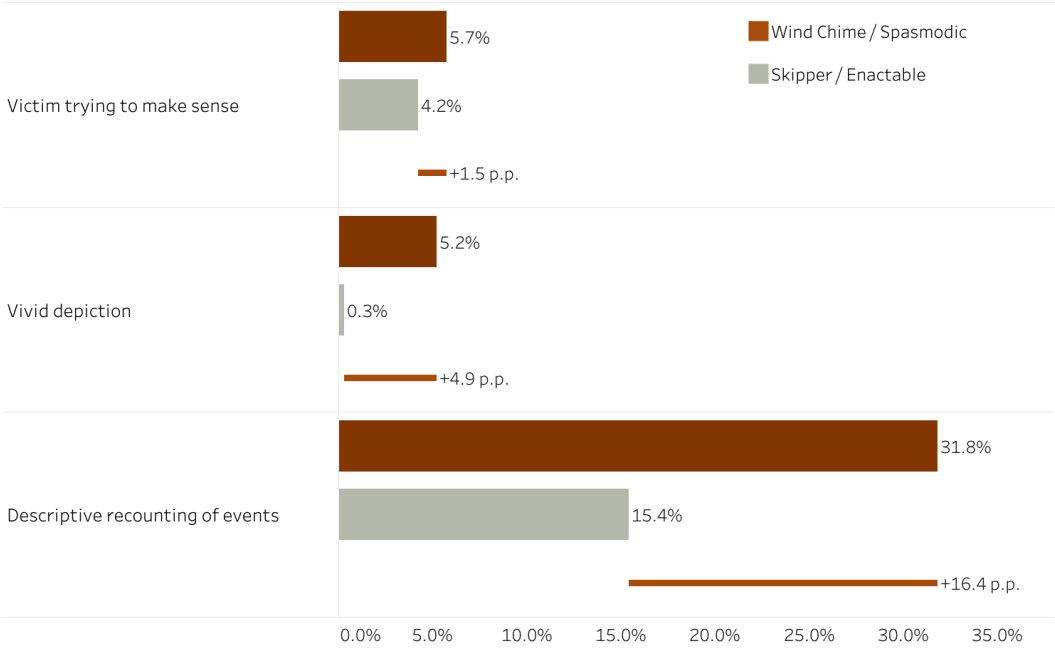
[17] Items coded under "Descriptive recounting of events" in Figure 6-1 and Figure 6-2

[18] "Vivid depiction" in Figure 6-1 and Figure 6-2

Figure 6-2. Frequency of descriptive accounts in victims' testimonies, comparison by storytelling style



Note: Any sentence may be assigned to one or more of the codes defined. Items coded to "Victim trying to make sense" refer to moments in the testimony where victims attempt to understand the reasoning behind the war acts. "Vivid depiction" are vivid and extra detailed descriptions of the victims' whereabouts and actions as the events unfolded. "Descriptive recounting of events" corresponds to descriptive utterances recounting the event.

6.2. Reminders of the loss and changes endured

It is common for victims to display emotions while recounting their stories before the jury. It is no surprise that the testimony may evoke reminders of trauma, expressed through emotional responses. Statements of pain due to the loss and change endured are manifold among victims in Colombia. Interestingly, however, the appearances of these expressions are similar among "wind chime" and "skipper victims" in terms of content.

Mentions of the physical ailments that appeared among family members as a consequence of the loss of a loved one are shared between all victims. Luna, a victim who adheres to the "skipper" style mentions the physical effects for her mother, who continues to be sick despite not having a medical diagnosis; and Andrea—who is a spasmodic storyteller—mentions her and her child's ailments:

> "It has been very hard, my mother has had consequences, illnesses, they can't find anything, but what could it be, the pain of losing her son, her youngest son, her right hand" —Luna

> "And because of that, I am also sick, because it was very hard for me, and my children. I have a son that needs another operation, because of that with his father, because they were all minors" —Andrea

Deisy and Nuria, two victims adhering to the spasmodic style who are participating after unlawfully losing their father to the military, also mention the physical illnesses and diseases that have resulted from having endured the traumatic event. Deisy does mention them while also commenting on the dreams that were lost, while Nuria does so while referring to forced family division:

> "Those dreams were taken from us, because we didn't have that opportunity. My brother dropped out of school, he said 'mommy I'm not going to study anymore, because you don't have money to give us those studies. My father gave you everything and you no longer have the strength to support five children, I'm not going to study anymore.' What hurts us the most is knowing that the more days we see our brother sick, we have taken him to the doctor, and he is still in pain. He says if I had my father what life would be like for us? We all imagine but we can't find the words, what life would be like for us if he were alive? Dreams were taken from us" —Deisy

> "It affected us a lot, they divided us, each one, since my mother did not have the livelihood to support us, they divided us: you to one aunt, you to another aunt, like that, and that's how it happened. They never let support ourselves as a family, at least emotionally or psychologically, and as a result, I have two brothers, my younger sister, she was greatly affected, this woman, she lives sick, and my brother too" —Nuria

Soledad, whose son was unlawfully killed by the military and adheres to the "skipper" storyteller style, mentions the profound emotional damage inflicted on her eldest son after he went to recover the body of his killed brother. The signs of distress and anger are clear in her testimony:

> "My eldest son was the one who went to bring his brother from Ocaña, and because of that, my broth, my son, from then, he has a very big psychological problem. For a while he was immersed in drinking, he became aggressive towards me, rude to me, he didn't want to know anything, he cried, he asked why the military had killed his brother, knowing that he had served the country. […] My son had to use his hands, to get him out where he was in the mass grave. My son lasted two years

> without eating meat, because he says that he saw the meat and would get sick and throw up because of how decomposed my son was"

Andrea, producing a "wind chime" testimony also emphasizes the consequences in educational attainment that resulted from the event. After losing the main breadwinner, the family children were forced to stop studying despite the efforts and wishes of her deceased husband:

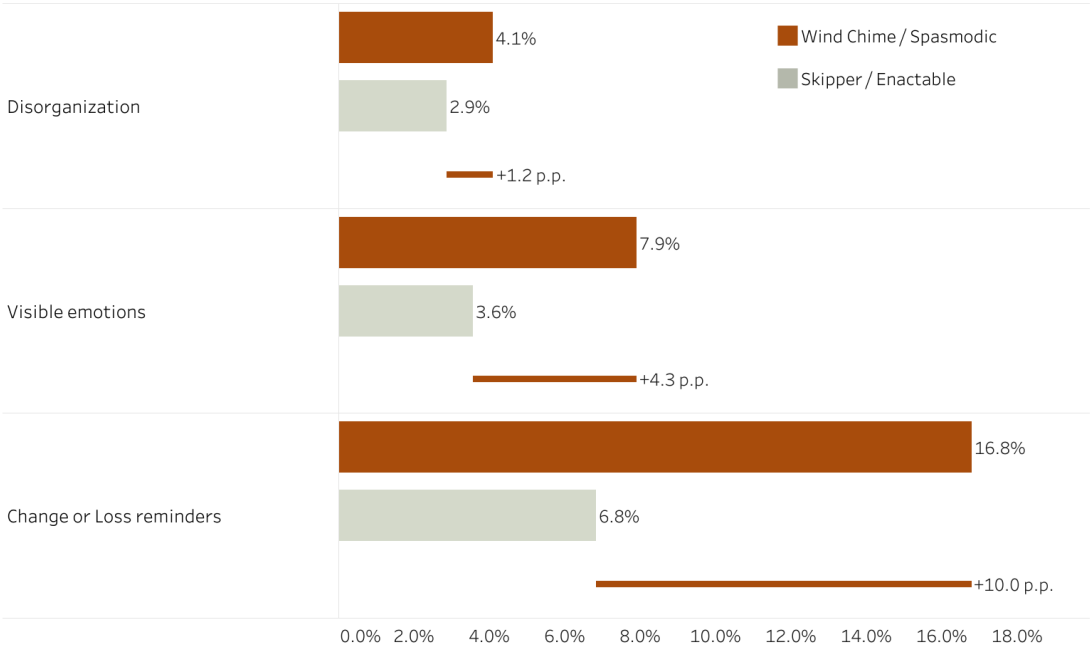
> "My children didn't continue studying, because I, the little I did was washing and ironing to raise my children, finish raising my children. And my children were left without studying, and what I wanted was, he wanted was for his children to progress. Hence, we, I had no way to bury [husband], if [father in law] had not been alive, how would I have done to bury him? If all I had were two hands, and five children that I had left"

The ways victims express the pain and suffering that the event produced is similar among the two different styles of storytelling under study. The main difference between "wind chime" and "skipper" storytellers is the length of the discussion of the subsequent changes resulting from the traumatic event in victims' testimonies.

Frequencies

The space dedicated by "skipper" storytellers to mentioning how having endured the event has affected them emotionally, physically or psychologically is almost half the space dedicated by "wind chime" storytellers (Figure 6-3). While in "skipper" stories only 6.8% of the words uttered belong to sentences in which the victims express the consequences of having lost their loved one or having experienced the event, this percentage almost doubles in "wind chime" stories, reaching 16.8%. Expressions of the emotional and economic consequences of the event are common among all victims of war acts, although those who produce stories under the spasmodic style tend to mention these effects repeatedly at various points during their testimony, devoting more space and attention to them, compared to other victims.

Figure 6-3. Frequency of loss and change reminders in victims' testimonies, comparison by storytelling style



Note: Any sentence may be assigned to one or more of the codes defined. Items coded to "Disorganization" refer to evidence of fragmentation in testimonies. "Visible emotions" correspond to moments in the story when victims' emotions were evident to the listener. "Change or loss reminders" are sentences in which the victims express the consequences of having lost their loved one or having experienced the event.

6.3. Recognition of Social Support

A sign of the level of contextualization of the traumatic experience is the extent to which victims consider that the pain and changes suffered are unique to their experience. Trauma is known to negatively affect social tissues by transforming the "other" into a distant and hard to relate person (Erikson 1991, 460). Nonetheless, as memory is experienced collectively to a greater extent, the burden on each individual victim to ensure remembrance becomes lighter (Nora 1989), thereby facilitating the assimilation of the event. Survivors who haven't integrated the trauma, therefore, continue to believe that the pain has been, and continues to be, bore alone—either individually or within the family unit—and that it is their duty to carry it in memory of the people lost. Victims who have been able to repossess the traumatic event, conversely, are cognizant that giving testimony has the capacity to transform the isolating nature of the traumatic event into an opportunity to speak for others and to others (Felman 1995). The listener of trauma testimonies "takes

on [a] responsibility for bearing witness that previously the narrator felt he bore alone" (Laub 1995, 69).

The ways in which "skipper" and "wind chime" storytellers refer (or not) to the communities surrounding them is closely related to what is expected from the literature. Victims adhering to the "wind chime" storytelling style make frequent statements regarding lost economic opportunities and dreams and sickness and illness (as discussed in section 6.2), but make no mention of how their communities were affected by similar happenings, or whether belonging to a group has helped to make sense of the trauma.

While none of the victims uttering a "wind chime" style testimony refers to other families going through similar hardship, the "sailboat skipper" testimonies have common mentions to memory being experienced collectively. Victims emitting enactable testimonies often refer to the impact of the unlawful killings on neighbourhoods and communities, and how the resulting pain was shared. For instance, Isabel, who lost her brother, remarks how the harm was suffered by the entire community:

> "I do ask that they listen to us, just as they are listening to them, to listen to the people, to listen to the, to the people who were relatives of the people who were killed, we know that we were all affected, not only the ones that were directly affected, I don't think there was a single person here that was not affected, because the mere fact of thinking, of feeling that fear, of not sleeping peacefully, affected all of us as a people"

"Skipper" storytellers also tend to speak in the name of other victims of the military. For instance, Gladys, a woman whose brother was illegally killed in the conflict, speaks on behalf of other victims:

> "As a victim in the case of my brothers [names redacted]–and on behalf of the 206 victims in the department of Casanare, according to the statistics issued by the special jurisdiction for peace, who have had no voice in this type of scenario–I demand the full truth in these macabre crimes against humanity that should have never happened. […] For me, the first thing, and of course for the entire community that has suffered the burden of being victims of the armed conflict, it is important that each one of those who participated and is responsible for these cruel murders speak with honesty about what happened, without omitting details"

Testimonies in this category also demonstrate a greater awareness of the impact of the traumatic events on community ties, including the formation of new bonds. Remarks concerning the support received from newly formed victim groups are also common by "skipper" storytellers. Catalina, for instance, makes reference to how those affected are a large group of people who have created community in the hardship:

> "After we did the whole process of burying him, filing the complaint, I felt the importance of looking for the mothers of Soacha. We went with my brother [name] to look for these mothers because the pain I felt when I saw these mothers on the news, having seen my mother reflected there, thank God she rests in peace, she did not have to face this situation, but in each of them I have seen my mother reflected. […] We are talking about more than 10,000 cases of extrajudicial executions. And it is our task, from now on, not to work only on the cases of Soacha and Bogotá, we are going to start holding regional meetings because we want our group to grow"

Not only these victims are aware of communal pain and the creation of new ties as a result of their trauma, some may even be ready to pass on to others part of the responsibility they are carrying on their own. Soledad, one of Colombia's victims adhering to the enactable style, often emphasized the importance of passing the baton of fighting for justice to the tribunal:

> "Good afternoon to all, especially the Magistrates. The truth is that I feel very grateful to the JEP for today, at this time you are the people that we can say we are in your hands. We know it very well, that the [criminal] trial is over, nothing came out of it. So right now, we are only sheltered by you, we are practically in your hands. [...] Well, there are many times that I have not been able to come here, because I have health problems, but the truth is that, at this moment, I do not feel supported except by you, otherwise I feel helpless"

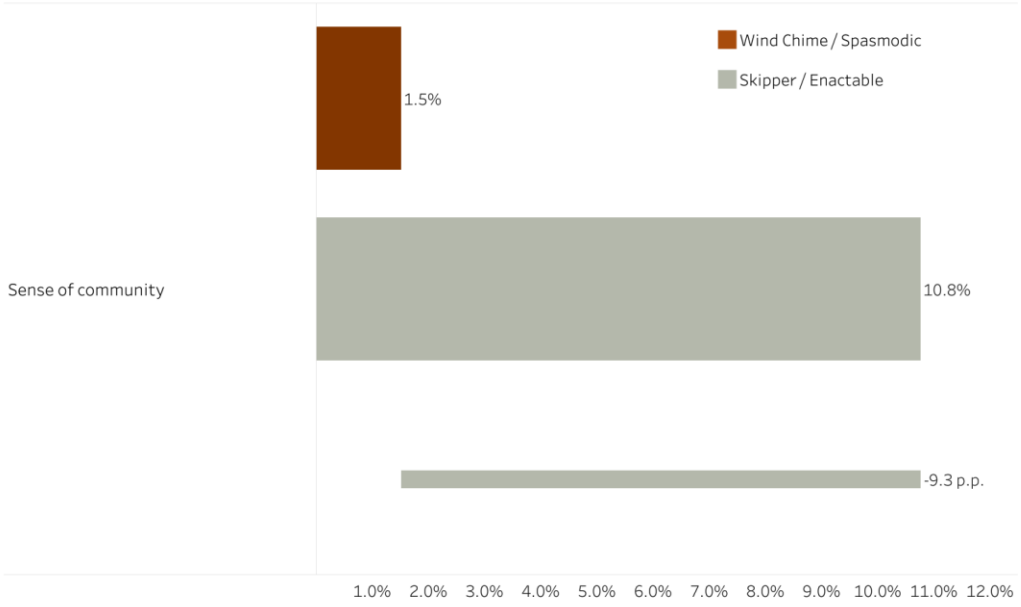
Senders of enactable stories are more open about the responsibility born by the listener, and are more likely to refer to friends, the community and formed support groups. These victims have been able to integrate the traumatic event into their referential framework, to the extent that they can entrust in the tribunal the responsibility of representing the victims and relate to similar pain felt by others. Conversely, "wind chime" storytellers continue to perceive the event as a unique experience that caused an inexplicable pain that cannot be comprehended by others. Although many of these killings

occurred in small rural communities where multiple families were affected, victims producing spasmodic testimonies mainly reference their own pain and harms while talking before the tribunal.

Frequencies

Evidence suggests that the process of giving testimony helps trauma survivors in realizing that they do not have to process the pain alone (Laub 1995). As we see through the testimonies analyzed above, it appears as if "wind chime" storytellers are not yet at this stage in their process of assimilation and continue to perceive their experience as isolating. Producers of spasmodic testimonies effectively ignore surrounding tissues of community and only 1.5% of their testimony time is devoted to expressions of collective pain, compared to enactable storytellers who dedicated 10.8% of the words uttered to the same theme (Figure 6-4). While victims adhering to the "wind chime" testimony style don't recognize opportunities for bonding and the ways others interact with similar traumatic experiences, survivors producing "skipper" testimonies are highly attuned to collective pain.

Figure 6-4. Frequency of community pain and social ties formation in victims' testimonies, comparison by storytelling style



Note: Any sentence may be assigned to one or more of the codes defined. Items coded to "Sense of community" are moments in the testimony when the victim refers to the pain suffered or support received by victims of similar events.

6.4. Engaging with the Tribunal

An enhanced awareness of the tribunal's expectations demonstrates a higher level of assimilation of the traumatic event. Victims who have been able to possess the traumatic event express their intention to regain the lost agency. They are doing so by clearly formulating their struggles and satisfying the expectations on how to air their problems and demands (Jacoby 2015, 517). Among Colombian victims, this level of assimilation and expression is evident among "skipper" storytellers but not "wind chimes".

"Skipper" Storytellers

The victims' understanding of the context in which they deliver their testimony is evident among Colombian survivors who adhere to the "skipper" style in the country's TJS trial. These victims devote large stretches of their time showing disagreement with perpetrators' testimonies in very specific ways. They usually identify the particular testimonies that they want to contest, and offer a detailed explanation for why the information shared is inaccurate. For instance, very early in her testimony Gladys lists the names of all the military members involved in the killing of two of her brothers, and goes one by one to express her disagreements with what has been said. A short extract of her testimony below is evidence of how thoroughly she shared information with the tribunal on inaccuracies and inconsistencies in each of the perpetrators' testimonies:

> "[Soldier's] version that we heard and to which we have some reservations because he insists that our relatives were extortionists and that for this reason he murdered them. This person has not fully recognized the facts and throughout his account he insists on justifying them in a degrading way for us and for the memory of our relatives. He also refuses to provide the truth about his relationship with the informant [name] and omits information about such important role in recruiting innocent young people to be murdered, justifying it by saying that the information on the case of my brother [name] was dealt with by Mr. [name X], which contradicts the other versions, including that of [informant], who mentions that the person reporting the information directly to [soldier] is [name Y]. […]
>
> [Informant] provides very vague information about the recruitment, as well as an intention to divert responsibility from the military and save their conduct with alleged threats from some of the members of [lastname]

> family. However, he presents several contradictions regarding the payment received and the friendship bond that he had with the victims"

Some victims also bring additional information to substantiate their discrepancies with the testimonies of offenders and raise their incongruences. Speaking of her brother, Isabel shares with the tribunal inconsistencies between testimonies of two different perpetrators, and Catalina provides further evidence of information discrepancy in her brother's case:

> "Soldier [name 1] says that other soldiers were there. The soldier [name 2] says that he was the one who assassinated my brother, that it was only [name 1] and him, and then he said, when they fired a few shots, pretending that they had already, that is, they had already staged everything, staged the theater, only then the rest of the troop arrived, so it is a version that is not complete, and I think that if they are going to tell the truth, then they should tell even if just to obtain the benefits, but let it be the truth." —Isabel

> "I would like them to explain why, if Jaime is killed on August 12, the photos of the body removal are dated August 14. […] I work in health, I can say some of these things with certainty, it is not consistent that, if his body was removed two days later, this doctor says that he received a relaxed body, with flaccidity, when a body after 24 hours is totally stiff"—Catalina

Enactment storytellers are also highly attuned to TJSs' goals of providing accountability, truth, reparation and guarantees of no repetition. The testimonies of Gladys and Catalina are expressions of calls for justice made by "skipper" storytellers at the JEP. Gladys mentions her disagreement for the lack of punishment of a specific perpetrator, while Catalina offers her reasoning for calling other agents of the state to the stand:

> "I do not agree, and I will never fathom, that these people, involved in so many crimes, already enjoy probation, I do not agree. As you have been able to see, in relation to these soldiers, it is practically the same group in both [my brothers'] cases. How is it that Mr. [name] the recruiter, we know from this tribunal of at least 5 people recruited by him in the department of Casanare, and he is enjoying freedom. With five crimes under his responsibility, I do not agree with that, and I ask the magistrate to please review these cases in depth" —Gladys

> "I had the opportunity to read the initial versions, not these that were given to the JEP, from the military, and they obviously appeared before a military judge. When I read them, the 5 there who participated in [brother's] death, there is no coherence between their versions. With all due respect, I know

> that to get to a position like yours you have to have studied a lot, a lot of intelligence, you have to work hard to become a judge. And a military criminal judge could have had all that intelligence to realize that something was happening. So with all due respect, I tell you, for me, these military criminal judges are either accomplices, excuse the expression, or they are idiots. But yes, they must have realized something was up. Just like the CTI[19] should have done. It is not possible that the CTI, who also need to have studied a lot to reach this position, recover the bodies, boys with new boots, backwards. Boys in camouflaged uniforms, without holes, because the holes were inside the clothes they were wearing. Why didn't they report this? It is very easy to realize that something was happening. That is why I think it is also important to listen to the testimonies of the CTI" —Catalina

In "skipper" testimonies, victims often want to receive clarifications on the actions of the military, including detailed explanations of the rewards received and want to know what happened to the documents and clothing of their loved ones. Victims ask questions that can be directly addressed by the offenders, in search for truths. Below, Gladys and Luna ask about the rewards system, and about the identification documents of their loved ones:

> "Contrasting the truths with some of those responsible, we found inconsistencies regarding the issue of the rewards. He *needs* to explain to us what was happening, who profited from the rewards, because in [recuiter's] versions he says that he did not receive more than $900,000. I mean the recruiter, that for each person that he handed over, that he recruited, that the allocated money was of 4, an amount of 4,500,000 pesos, of which, he says, they only gave him a part, and that the rest of the money was used by [soldier 1] and [soldier 2] to buy the weapons they placed around our relatives once they were murdered. […]
>
> Why were they undocumented, they were people born, raised and recognized in the community. The GAULA[20] itself took the documents and then they committed crimes with the people, with the documents of the people who were victims. I ask those responsible to *please explain* to us all these types of situations, inconsistencies, that we were able to contrast, in the few versions to which we have had access, to learn more about the situation." —Gladys (emphasis added)

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[19] Stands for the group known as "Technical Investigation Team" (Cuerpo Técnico de Investigación) at the Office of the Attorney General.

[20] Group of the military and police forces whose goal is to combat kidnapping and extortion (Grupos de Acción Unificada por la Libertad Personal)

> "Another thing is, what did they do with my brother's documents. My brother at the time he took him away, my brother had his documents. What did they do with his clothes?" —Luna

While calls for truth and justice are the most common type of requests from victims adopting the "skipper" storytelling style, they also emphasize the importance of preventing such events from happening again to spare other families from experiencing similar pain in the future. Luna, for example, explicitly highlights how requesting clarifications to find the truth can safeguard other families from enduring similar agony and grief; while Soledad, after concluding her testimony, returns to the microphone specifically to request measures of lustration:

> "I know that with [requesting the truth] we are not going to suddenly solve the return of the lives of our loved ones, but we are contributing, so that other people do not go through this again, I tell you, what we have gone through" —Luna

> "Doctor, five more minutes, I am sorry, those who are responsible for the deaths of our children must be removed from the military" —Soledad

Additionally, many of the victims producing "skipper" testimonies mention the need for reparations, either from the government, or directly from offenders. Gladys, for instance, reminds the tribunal that her brother left his children orphaned, and requests restitution measures from perpetrators, also making the suggestion that the State should stop ignoring the needs of victims for support:

> "No person in charge, has stated, in what ways, is he going to offer, to these boys, to these orphans, help, in so many needs. How is he going to repair them? Still, the State, knowing these cases, has turned a deaf ear to our requests" —Gladys

Other survivors are much more explicit in their petitions for emotional and economic reparations. Both Luna and Soledad actively advocate for the *Lieux de Memoire*[21] that have already been promised to victims, and Soledad merges this request with mentions of the economic losses endured and the needs for support:

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[21] *Lieux de Memoire* here are understood as places/moments of that have a symbolic element for victims. For a complete discussion on the different notions surrounding the term, view Nora (1989).

> "There is another thing, the compensation was accompanied by an act of forgiveness, in which the army *must* publicly apologize to the victims. What has happened to that? It's been four years now, and they always call us, we meet, we have meetings, we set tentative dates and then what happens? They forget and then they come back again, so we also *demand* respect. We are people, we are human beings, they did not kill, they did not kill a dog, they did not kill an animal, they killed our loved ones. And at least that would be one tiny bit of something they can do" —Luna (emphasis added)

> "Most of us have very large debts in the cemetery, 11 years old debts, there has been no one to back that debt. Thank God, right now, I have paid for my son until 2021. The rest of the mothers have the problem of the debts, the Attorney General's office does not respond, the government does not respond, no one responds, so what are we going to do? With those debts, doctor, it's been a long time. They promised to build a mausoleum, everything is at a still, no one has said, the land plot is here, we are going to start working. So, we ask you please, you are the only people who can help us" —Soledad

On occasion, victims not only make calls and petitions, they also make demands. Luna and Gladys, who we saw before were comfortable requesting truth and justice, also seem to hold the belief that perpetrators have an obligation to provide them with truth and respect. They feel entitled as victims to make these demands within the tribunal:

> "I say again, here to the magistrate and to all those present, that I *demand*, if I could call it that way, that things be said as they were, as they happened. My brother was subjected to some ill-treatment by the army, which, no, he, they are not recognizing this. They also don't mention that the day they took my brother, in the [name] neighborhood. […], the group entered, that they entered the houses, he does not say that. In other words, there are many hidden things, and if we are talking about telling the truth, he should start with that. To say, that my brother was subjected by him, and by other lieutenants, to certain mistreatments" —Luna (emphasis added)

> "As you can hear, in the case of my brothers the civilian [name] is implicated, who was one of the recruiters involved so far in 5 cases known here in the department of Casanare. I *demand* respect for the victims from the aforementioned gentlemen, since there are inconsistencies in the versions presented by some of those responsible. […] They contradict themselves, that's why I *demand* respect, they contradict themselves a lot in their versions." —Gladys (emphasis added)

In a clear recognition that their testimonies will be used to contrast perpetrators' statements, the "skipper" storytellers make it easier for the tribunal to do its job by clearly

identifying the aspects and stories they wish to dispute, also demanding truth, justice and reparations. These victims make polite requests for clarifications while providing additional information that may be used by the judges when investigating both systematic and individual cases.

"Wind Chime" Storytellers

Unlike victims producing stories under the enactment style, who raise detailed and unambiguous points of disagreement with what has been said by perpetrators, survivors producing "wind chime" testimonies make complaints that emerge from a more generalized need for "truth" and make few requests to the tribunal and perpetrators.

These victims are less likely to make references to the perpetrators' testimonies. When doing so, they challenge moments that are not essential to the tribunal in its search for information to cast a verdict. For instance, Andrea contends the testimony of a perpetrator because he got the details wrong on his mode of transport as he has intercepted by the military:

> "I also ask that, that person, Mr. Magistrate, tell the truth, the lieutenant to tell the truth because yesterday, what he told us, he said one thing, and he was thinking a lot to say things, and he said that [my husband] was coming mounted on the donkey, he did not come mounted on the donkey, he had two thirds of supplies, firewood and supplies, and I tell the truth, what I lived with him"

The few appeals for justice coming from victims adhering to the "wind chime" storytelling style are open and imprecise. Andrea, primarily emphasizing the pain endured following her husband's death, unexpectedly raises the issue of justice in a seemingly disconnected manner:

> "They took him from his children, and that hurts the most, because they took him from his two youngest children, first in [sic], that does hurt me, and what I want is justice"

In a similar fashion, Deisy and Andrea appear to be confusing justice with truth in their testimonies:

> "What we want is justice, that they no longer lie to us, we want them to tell us the truth, we want to know who the hooded person was […] tell us the name of that person." —Deisy

> "I also ask, everything we saw yesterday, those lies, why does the lieutenant say that he doesn't remember, he doesn't remember that he killed [my husband] […]. Please do not lie to us so much, that would be enough, because I know that already as a human being he is already playing God, and what I ask is justice for that person and that they tell us the truth" —Andrea

Jorge, on the other hand, makes some demands for truth, not because he believes he is entitled to it as a victim, but because truth is a Christian duty:

> "My son had burned wrists, from the ((inaudible)) with which they tied him up, why are they lying? Speak the truth, speaking the truth, one is never going to sin, it is that way. I don't have anything else to say because I am speaking the truth, and wherever they take me I say this. Because it is like that, if they invented another thing let them be, God will take care of it, and that's it"

Further, producers of spasmodic stories, who seem to be unaware of—or ignore—the transitional justice context in which they are testifying, do not make any demands for reparations, restitutions, or guarantees of non-repetition, all of which are essential elements of TJSs. Nuria, the sole victim producing "wind chime" testimonies who calls for more witnesses to testify does so with a significant degree of skepticism on who to call.

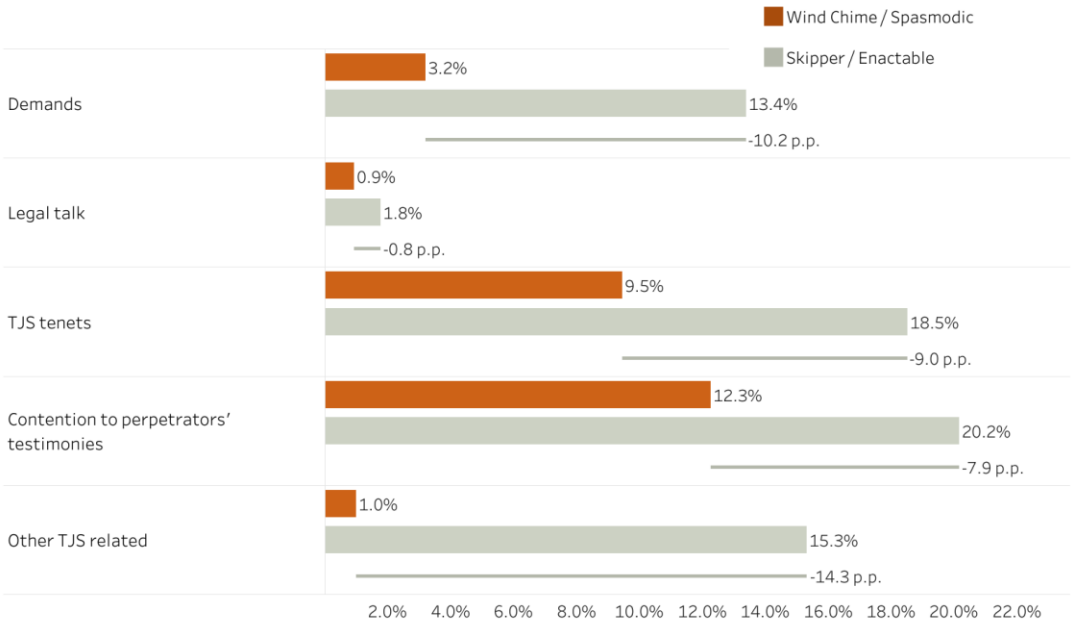
> "We had to fight, to get by on our own, because we did not have any support, and what I am asking here, we already have indications that, in the case of my father's death, well, there is a person who is supposedly Lieutenant [name], I don't know, well if he's one of those involved, then tell him to talk about what happened with my dad, I want to know who gave the order to assassinate him. And to establish the truth of all the murders that took place here"

Rather than making specific requests for information, clarification, or airing disagreements with the testimonies provided by perpetrators, "wind chime" storytellers tend to make general calls for truth and justice that are challenging to fulfill due to their broad and abstract nature.

Frequencies

While "skipper" storytellers are very attuned to the language of the tribunal, making specific demands for justice, truth and reparation, "wind chime" storytellers make broad requests that are difficult to satisfy. The former group of victims use 20.2% of their words to contend perpetrators' testimonies, compared to 12.3% among "wind chime" storytellers (Figure 6-5). When speaking of truth, justice or reparations, victims producing testimonies under the enactable style use another 18.5% of their space, doubling the space dedication from "wind chime" storytellers (9.5%). There are also sizable differences between the two groups of victims regarding direct demands made to the tribunal and perpetrators (13.4% vs. 3.2%), and other aspects that are specific to a tribunal setting such as mentions of being grateful for the space to speak and for being given the opportunity to listen to offenders' testimonies. While producers of "skipper" testimonies spend more than two thirds of their time speaking directly to the tribunal, those producing spasmodic testimonies only devote one fourth of their space to these requests. The former group are more intentional in their storytelling and seek to capture the attention of their audience and elicit empathy, rather than speaking spontaneously out of a reflex response to their trauma.

Figure 6-5. Frequency of interventions that are specific to a tribunal setting in victims' testimonies, comparison by storytelling style



Note: Any sentence may be assigned to one or more of the codes defined. Items coded to "Demands" refer to explicit requests from victims to the tribunal. "Legal talk" are sentences uttered by victims utilizing legal

language. “TJS tenets” are present when victims make reference to one or several of TJSs’ tenets (i.e. truth, justice, restitution and guarantees of no repetition). “Contention to perpetrators' testimonies” correspond to all the moments in the testimonies when victims refer specifically to perpetrators’ testimonies and express their disagreement or disgust to what was said. Finally, “Other TJS related” refer to all other sentences that are clearly related to a TJS or tribunal setting, but do not correspond to any of the other codes defined.

6.5. A Quantitative Analysis: Trauma Symptoms among Colombian War Victims

The conceptual framework proposed, which draws on trauma studies and highlights two distinct storytelling styles among victims, implies that the rhetorical structures observed in survivors’ testimonies are shaped by the degree of integration of the traumatic experience into their existing mental schemes. To assess whether there are distinguishable differences in the levels of emotional distress between victims in each style, I study the language used by survivors in their testimonies. Trauma scholars have identified that it is possible to learn about victims’ psychological wellbeing and their mental health through the analysis of their testimonies (Ng et al. 2015, 304). Evidence suggests that there is a relationship between the length of a testimony, the amount of cognitive processing words, the type of pronouns used, and the focus on sensorial aspects and trauma symptoms (Ng et al. 2015; Crespo and Fernández-Lansac 2016; O’Kearney and Perrott 2006; Papini et al. 2015; Marshall and Venta 2020).

The purpose of this section is to assess whether victims who adhere to a “wind chime” storytelling style have a linguistic expression that suggests higher levels of trauma symptomatology compared to “skipper” storytellers. Through a quantitative content analysis of victims’ testimonies, using the text analysis program Linguistic Inquiry and Word Count (LIWC), I analyze the words used by victims in their testimonies to examine whether victims’ adhering to the “wind chime” storytelling style are indeed more prone to having lower levels of assimilation of the traumatic event.

Previous linguistic analysis suggest that survivors with greater use of body and sensory/perceptual words are likely to report higher trauma symptoms (Marshall and Venta 2020; Beaudreau 2007), greater use of cognitive process words is associated with lower signs of trauma (Marshall and Venta 2020; O’Kearney and Perrott 2006), and pronoun use is also predictive of traumatic manifestations (Marshall and Venta 2020; Crespo and

Fernández-Lansac 2016; Papini et al. 2015). Evidence also suggests that longer narratives are a sign of better adjustment (Crespo and Fernández-Lansac 2016) and that frequent expressions of negative emotions among survivors may be an indication of higher PTSD symptoms (O'Kearney and Perrott 2006), although a higher use of anxiety words has been associated with lower trauma symptoms (Papini et al. 2015). Studies on patterns of grammatical structure among trauma survivors also indicate a positive relationship between the use of present tense and trauma signs (Crespo and Fernández-Lansac 2016; O'Kearney and Perrott 2006).

Results

Considering only victims adhering to either the spasmodic or enactable storytelling styles, there are 182 minutes recorded, with the corresponding transcripts totalling 18,000 words. The shortest testimony has just under 1,040 words, and the longest just over 4,060. This study examined the linguistic expression of both sets of victims', analyzing testimonies based on 19 linguistic categories that have been linked to symptoms of trauma in the literature (Table 6-1).

Table 6-1. LIWC2007 Linguistic categories considered

Category	Abbrev	Spanish Abbrev	Examples
Linguistic Processes			
Word count	wc	wc	
Personal pronouns	ppron	PronPer	I, them, her
1st pers singular	i	Yo	I, me, mine
3rd pers singular	shehe	ElElla	She, her, him
3rd pers plural	they	Ellos	They, their, they'd
Present tense	present	Present	Is, does, hear
Psychological Processes			
Negative emotion	negemo	EmoNeg	Hurt, ugly, nasty
Anxiety	anx	Ansiedad	Worried, fearful, nervous
Anger	anger	Enfado	Hate, kill, annoyed
Sadness	sad	Triste	Crying, grief, sad
Cognitive processes	cogmech	MecCog	cause, know, ought
Insight	insight	Insight	think, know, consider
Causation	cause	Causa	because, effect, hence
Perceptual processes	percept	Percept	Observing, heard, feeling
See	see	Ver	View, saw, seen
Hear	hear	Oir	Listen, hearing

Category	Abbrev	Spanish Abbrev	Examples
Feel	feel	Sentir	Feels, touch
Biological processes	bio	Biolog	Eat, blood, pain
Body	body	Cuerpo	Cheek, hands, spit

Note: See Pennebaker et al. (2007) for a comprehensive explanation of each of these categories and those not included in this analysis.

Consistent with the literature, "wind chime" testimonies were significantly shorter than "skipper" ones (5,128 words vs. 12,759), and victims adhering to the former storytelling style used: a higher proportion of first-person singular pronouns (4.4% vs. 3.1%) and third-person singular pronouns (8.1% vs. 6.1%); less insight words (1.9% vs. 3.2%); and more body state words (0.8% vs. 0.5%). No differences were found between victims producing spasmodic and enactable testimonies in terms of use of third-person plural pronouns, negative emotional expressions, and most sensory/perceptual categories. Contrary to the evidence discussed above, the use of present tense was higher among victims producing "skipper" styled testimonies (8.6% vs. 6.7%), and those producing spasmodic testimonies used more words of causation (3.0% vs. 2.1%) (Table 6-2).

Table 6-2. Word frequency use among Colombian victims

Category	"Wind Chime" or Spasmodic Style	"Skipper" or Enactable Style	P-value of the difference
Linguistic Processes			
Word count	5,128	12,759	0.000
Personal pronouns	13.40	10.16	0.000
1st pers singular	4.45	3.09	0.000
3rd pers singular	8.09	6.07	0.000
3rd pers plural	2.52	2.36	0.528
Present tense	6.65	8.90	0.000
Psychological Processes			
Negative emotion	2.09	2.05	0.865
Anxiety	0.04	0.20	0.014
Anger	1.23	1.09	0.423
Sadness	0.33	0.52	0.091
Cognitive processes	23.40	23.26	0.841
Insight	1.91	3.21	0.000
Causation	3.00	2.12	0.000
Perceptual processes	4.27	3.78	0.127

Category	"Wind Chime" or Spasmodic Style	"Skipper" or Enactable Style	P-value of the difference
See	0.55	0.68	0.325
Hear	2.26	1.76	0.027
Feel	0.53	0.47	0.602
Biological processes	2.18	1.69	0.027
Body	0.84	0.49	0.006

Note: Except for "Word count" all numbers reflect the percentage use of each of the category words within the texts. The P-value of the tests on the equality of proportions is reported. The proportions are considered to be statistically different from each other when the P-value is below 0.05. Numbers have been greyed to signify a significant higher proportion of word use among the corresponding group.

The quantitative analysis of the rhetorical structure of the testimonies given by Colombian victims before the country's war tribunal confirms what the qualitative analysis had already indicated, that victims producing testimonies under the "wind chime" style appear to have lower levels of assimilation of the traumatic experience. These victims have higher use of body words which scholars have found is an indication of a higher likelihood of reporting PTSD symptoms such as intrusion, hyperarousal and avoidance (Ng et al. 2015, 307). Their greater use of body words alongside fewer insight words has been recognized in the literature as indicative of more trauma symptoms (Marshall and Venta 2020, 442). Moreover, the larger proportion of usage of singular pronouns among these victims reveals that they have a narrative style that "overemphasizes individual characters as reference points" which is consistent with measures of reexperiencing symptoms (Papini et al. 2015, 299).

These results, alongside those from the qualitative analysis, support the premise of this thesis that not all survivors have a similar experience when participating in TJSs. The framework proposed here highlights that victims' interaction with TJS is mediated by their level of processing of the traumatic event. Survivors who adhere to a spasmodic storytelling style demonstrate lower levels of processing of the traumatic experience, leading to a rhetorical structure that is less attuned with the objectives and expectations of the tribunal. This situation exposes these victims to further risks as participants. As we will see below, their testimonies deviate from the officials' expectations, increasing the

possibility that their words will be disregarded and their testimonies ultimately dismissed. Victims who adopt a “wind chime” storytelling style are susceptible to being wronged in Lyotard’s sense, which can heightened their risk of retraumatization as they participate in TJSs.

Chapter 7.

Sources of Retraumatization in Transitional Justice Systems: Insights from a Theoretical Perspective

The risk of reactivating traumatic distress among survivors as they participate in transitional justice institutions causes concern among scholars. As seen in Section 3.1, there is evidence that TJSs negatively impact victims' emotional journey by restricting participation eligibility, imposing strict rules of speech, insisting on forgiveness, and inducing victims to re-tell the traumatic story reactivating posttraumatic distress among survivors. That is, TJSs expose victims to two out of the three sources of retraumatization that trauma scholars have identified (Layne et al. 2006):[22] firstly, by involving survivors in stressful proceedings aimed at ensuring accountability;[23] and secondly, by compelling victims to re-tell their traumatic story.[24]

In addition to the distress caused by the rules and requirements of participation and the process of testifying, survivors also face the disillusionment of being overlooked by the system even after successfully navigating the eligibility process and adhering to the system guidelines to testify. Testimonies that don't abide to the system rules of functioning may be erased, retraumatizing participants. As socio-legal scholars have found, victims are subject to a risk of being silenced even after speaking (Carroll 2004; Bunch 2014; Lee and Crowe 2015; Dembour and Haslam 2004; Ailwood et al. 2022). Survivors willingly subject

[22] According to Layne et al. (2006, 248–51) there are three ways in which victims may be retraumatized: through revictimization (as victims are exposed to additional traumatic events); exposure to posttraumatic adversities (consequent to, or independent of, a prior traumatic event); and exposure to trauma and/or loss reminders ("cues" or "triggers" that symbolize or resemble aspects of a past traumatic experience). The two ways in which TJSs may reactivate victims' distress is through posttraumatic adversities and exposure to trauma/loss reminders.

[23] Layne et al. (2006, 250) call this posttraumatic distress reactivation through exposure to "posttraumatic adversities."

[24] According to Layne et al. (2006, 250), this source of posttraumatic distress reactivation occurs through exposure to distressing reminders such as "cues" or "triggers" that emerge as the traumatic event is discussed.

themselves to the systems' eligibility process in order to participate in TJSs,[25] hoping that their voices will be heard and their suffering recognized. In practice, however, the testimonies of some victims will end up being disregarded.

Participants not only are subject to reactivation of emotional distress as they realize that their stories are ignored and their harms unrecognized, but also because the process of truth-finding in courtroom proceedings is adversarial. TJSs ways of accounting and investigating past events relies in a true/false dichotomy (Dembour and Haslam 2004) that directly translates in a contention between judges, victims and perpetrators to establish "truths." This confrontational atmosphere results in the perception that the only possible outcome of the proceedings is binary: either winning or losing, with no option for a middle ground. This dynamic is not conducive to reconciliation.

7.1. The Criteria of Optimization Reactivating Victims' Distress

The process of providing testimony before transitional justice institutions, therefore, carries the risk of reactivating posttraumatic distress at two different moments in time: during the act of giving testimony and after the process has concluded. An analysis of the functioning of TJSs under the lens of Lyotard's pragmatics of knowledge ([1979] 1984) and his concepts of damages and wrongs ([1983] 1988) provide a theoretical framework to understand how victims experience retraumatization both when their stories are curtailed while testifying and once they realize they have been ignored.

Transitional justice processes often occur in states with weak or compromised institutions (Porciuncula 2021) in which institutions have to compete for financial and temporal resources with other political, social and economic demands (OHCHR 2006a). In an attempt to address these challenges while procuring peace and reconciliation, TJSs often implement policies to optimize performance. Truth commissions normally limit the time

[25] Victims usually need to navigate a process in order to participate in transitional justice institutions. As an example, Colombia's victims are only able to participate in the country's trial after: (i) receiving accreditation as victims; (ii) adhering to the timelines defined to present information and testimonies; (iii) complying with the institution's rules of presenting evidence in terms of formatting and content, including grouping themselves to be able to present additional evidence—as information presented by individuals is not accepted; and (iv) defining a mode of legal representation before the tribunal (JEP 2020).

frame in which they will receive victims' testimonies, and focus on "representative" cases in the name of efficiency (OHCHR 2006b). In prosecution trials, cases are not individually analyzed but grouped into "system crimes" to investigate a series of criminal acts and the machinery behind them. TJSs work under a rigorous methodology of case analysis and of rules to define eligibility and story salience (as reviewed in Section 3.1.2), which can be thought of as policies intended to reduce the systems' complexity in search of what Lyotard called the best possible input/output equation (J. F. Lyotard [1979] 1984). TJSs are engaging in a game of performativity in Lyotard's sense, in which the criteria of efficiency and optimization prevail. Time and budgetary restrictions are leading TJSs into a language game in which optimization is the goal.

When efficiency becomes the target—as Lyotard describes—speed becomes an important component of the system to avoid delays that lower performativity ([1979] 1984, 61). The consequences of this policy for victims, is that the prioritization of speedy systems prevails over any attempt to emphasize the significance of events or the emotions felt by victims (Dembour and Haslam 2004, 159). Under the criterion of performativity, individual productions are analyzed in terms of what Lyotard called the 'use-value' of the story ([1997] 2004); and victims' way of telling their stories becomes scrutinized vis-a-vis the rules, needs and expectations of the system. The value of victims' stories is, therefore, measured in terms of their truthfulness, length, symbolic value and unambiguity—similar to Grice's (1975) maxims of communication (i.e. quality, quantity, relevance, and manner). Victim's testimonies under the performativity criterion are analyzed in relation to their 'reception' and 'visibility' (J.-F. Lyotard [1997] 2004, 117).[26] Within the transitional justice setting, truth commissioners and trial judges evaluate victims' stories according to the institutions' rules of procedure and account making (discussed in Section 3.1.2) to determine which stories will aid in the truth-finding process without causing delay. Sentences produced by victims are assessed in terms of their usefulness, prioritizing the performance of the system as a whole.

[26] Lyotard ([1997] 2004) proposes that cultural objects' success is evaluated in terms of 'reception' and 'visibility,' with "their success calculated and accountable in terms of print-runs, visitor numbers, spin-offs". Victims' testimonies, in a similar fashion, are assessed in terms of how reproducible and representative they are, and how much empathy they elicit.

The efficiency criterion employed by TJSs not only creates the risk of evaluating victims' testimonies solely in terms of their usefulness for the institution's objectives, but also sends a message to victims that their contribution to the system is not indispensable. According to Lyotard, performativity increases the possibilities of producing proof ([1979] 1984, 46). In TJSs, this phenomenon is expressed in the establishment of databases for storing testimonies and the elaboration of mapping exercises to identify broad trends of violations (OHCHR 2006b; 2006a). To maximize resources, it is common for transitional justice institutions to receive evidence in different forms (Dembour and Haslam 2004, 162), which commonly include: statements taken directly from victims, documentary investigation, analysis of the socio-historical context, and crime-base reconstruction (OHCHR 2006b; 2006a). The large amount of evidence collected means that no single story is fundamental for the establishment of official truths and verdicts, reinforcing the model in which TJSs' assessment of each story is based on usability, rather than on individual significance. As Lyotard pointed out, victims cannot claim to have seen everything, or being the only ones able to testify about the event (J. F. Lyotard [1983] 1988). As a result, survivors are treated as replaceable and other sources of information are equally valuable to their testimonies. TJSs follow a view of memory that is predominantly archival—in Nora's sense (1989)—placing the responsibility of remembering on the victim. As more evidence is fed into the databases, there is a growing friction between the weight of individual victims' memories and the dispensability of their testimonies. It becomes the responsibility of the individual rather than the system to establish why each victim's individual story deserves attention.

As the institutions evaluate victims' testimonies in terms of use-value and bury individual stories in a vast database of information, the stories that don't capture officials' attention are wronged in Lyotard's sense. Victims are unaware that they are being instrumentalized: only the stories that align with the prevailing findings of transitional justice institutions are selected for repetition—either as "representatives" of conflict events or as evidence for verdicts (McEvoy and McConnachie 2013). Survivors whose stories are not selected by officials are effectively overlooked by the system and victims are retraumatized. Their stories and experiences are ignored by institutions that promised to give victims voice. Even after testifying, they are effectively devoid of ways to attest to the

experiences and damages they suffered. In this sense, they are being "wronged" as defined by Lyotard ([1983] 1988). Their testimonies are not transmittable or integratable, their stories become unreceivable (Laub 1995, 69). However, there is a delayed realization of this phenomenon. Victims only become aware that their stories were ignored after the verdict is cast and the official reports are published.

By following the criteria of optimization and efficiency, TJSs limit certain victims from expressing themselves freely and forcibly silences some, leaving survivors in a vulnerable position where they are devoid of means to express the damages suffered. The ability of "sailboat skipper" storytellers to tailor their testimonies increases their chances of being heard rather than being forgotten. Victims who can adjust their stories to the rules and requirements of the system ("sailboat skipper" storytellers) encounter fewer difficulties in adjusting to formatting requirements. Additionally, victims who adhere to this storytelling style view transitional justice institutions as an avenue to showcase and prove the harms and losses endured, while also providing a mechanism to ensure accountability for the offences perpetrated against them. Conversely, victims producing spasmodic stories face the risk of being overlooked and erased, leading to additional anguish and concern among them.

It may be theorized that the more healing victims expect to find within the tribunal setting, the greater the risk of retraumatization due to the system's regulations. Victims who are spasmodic storytellers and use their testimony before judges to make sense of the event, may be the ones who rely more on their testimony for their healing process. While all victims may find disappointments in the process of witnessing before a transitional justice tribunal, those who have not processed the event will be more prone to feeling wronged—in Lyotard's sense—as they have not yet been capable of transforming their story into a narrative memory to be shared differently to different people. Being wronged, even as active participants of TJSs, is likely to elicit posttraumatic distress among survivors, as socio-legal scholars have found in similar circumstances.[27]

[27] View Murphy-Oikonen et al. (2022) for a discussion among women victims of sexual assault.

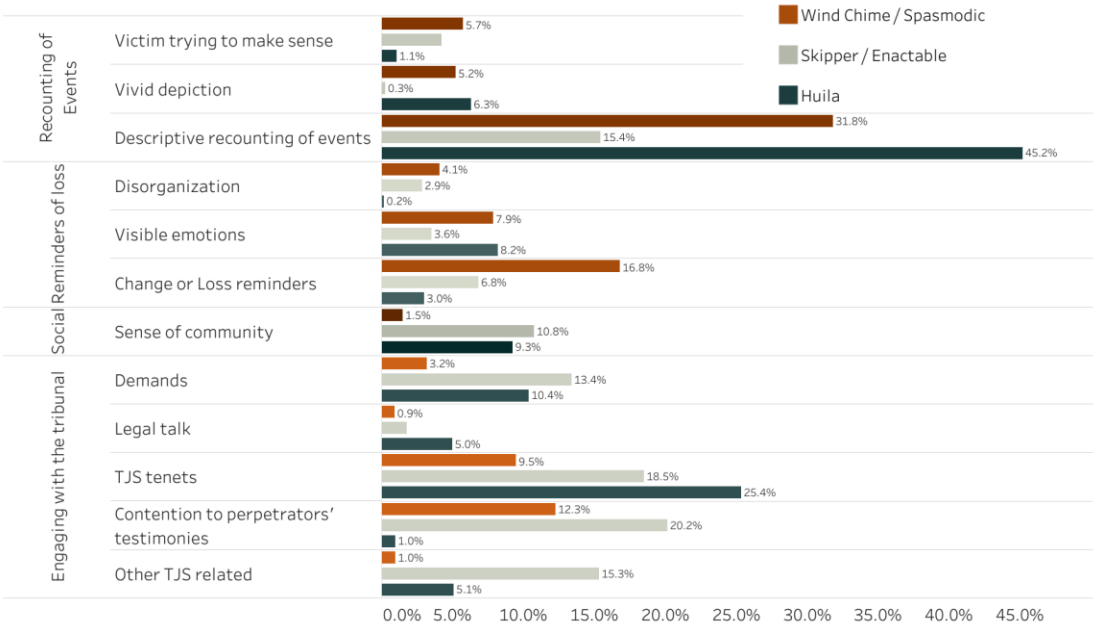
7.1.1. Examining the Effects of Procedural Changes in Victims' Rhetorical Structures

The recognition that trauma victims participating in TJSs are subject to retraumatization in two different moments in time raises the question whether survivors adhering to the "wind chime" storytelling style are effectively more vulnerable to posttraumatic distress reactivation than "sailboat skippers." Do the rules imposed by the system affect one group of victims more than other? Assessing the extent to which there is a differential retraumatization impact of TJSs' rules on "wind chime" and "skipper" storytellers requires first to analyze whether victims do react to changes in the rules imposed by TJSs.

The public hearings that occurred in Huila (view Figure 4-1 and Figure 4-2) offer an unlikely demonstration of how the efficiency criteria employed by the system can impact victims' rhetorical structures. Victims' testimonies at this location seem to have been limited to a maximum of 10 minutes, a significant restriction considering that the average length at all other locations is almost 22 minutes. Other participation conditions remained the same, suggesting that the time restriction imposed was the only varying factor that could explain any differences in the ways victims present their testimonies.

One way in which victims seem to have adjusted to this strict time limit in Huila was by preparing scripts for their testimonies. During these two days, victims were more likely to have memorized their words or read their script out loud to the judges. The content of their testimonies also differs when compared to that of other victims. Victims in Huila dedicated most of their time to recounting the events ("descriptive recounting of events") and making reference to TJSs' tenets of truth, justice and reparations ("TJS tenets"). While survivors in Huila allotted approximately half of their time to describe the events and the surrounding circumstances (45.2%), victims adhering to the spasmodic and enactable storytelling styles dedicated only a third (31.8%) or a sixth of the time (15.4%) respectively for the same purpose (see Figure 7-1). Similarly, testimonies in Huila are considerably more skewed towards making requests for truth, justice and reparation (25.4%) than any other victim (9.5% and 18.5% for victims producing "wind chime" and "skipper" testimonies respectively).

Figure 7-1. Frequency of criteria recurrence in victims' testimonies, comparison between Huila and other locations



Note: "Huila" refers to testimonies delivered by victims in Huila. The categories of analysis are equivalent to those in Figure 6-1.

The style of testimony that prevailed in Huila is represented by Liliana, who lost her brother and cousin to the hands of the military. While talking before the tribunal, she lists demands for reparations and guarantees of no repetition, before sharing with the judges how the events unfolded.

> "I want to state, in front of this auditorium, that the following requests be taken into account: that the national government implement a law whereby our children's children are not required to provide military service. Due to the trauma caused by the same state. Second, that it promotes scholarship opportunities for children who want to continue university studies, fully paid for in private or public state universities. Third, implement a law of which, implement a law of non-repetition of these events in Colombian territory. Fourth, clean up the good name of the victims, and that the perpetrators apologize to the families publicly, and through the country's mass media.
>
> On December 21, 2007, my brother [name] and my cousin [name2] were murdered. By troops from the 7th Infantry Battalion of the 9th Pitalito Huila Brigade. They were murdered in the village of La Florida, La Laguna township, Pitalito municipality. They were going to collect coffee at my farm. The army killed them approximately 50-60 meters from my house. At 6:30 in the morning, at that moment, I was outside my house, in the patio,

> collecting firewood for the stove. When I heard the shots, I ran out to see what had happened, and I heard my cousin's screams. I yell at my husband. I see when my cousin falls, and my brother was already on the ground. And the soldiers came out of the coffee plantation, grabbed me and dragged me towards the house. With the two bodies on the ground, the soldiers continued shooting into the air"

The time restriction imposed in Huila seems to have influenced victims to conform to the preferred rhetorical structure of the proceedings. As defined in the JEP's published participation guidelines, victims' interventions should ideally focus on describing the most representative events, identifying victims and perpetrators, and describing the impacts the event had (JEP 2020, 65–68; 2018, 9–14). The implementation of an additional rule for sharing testimonies affected the way in which victims narrated their story. While the Colombian tribunal may have considered it a minor alteration to the process of account making, its effect on victims was noteworthy. This case suggests that the rules of participation have an impact on how victims engage with transitional justice institutions.

Victims in Huila appear to have adjusted their rhetorical style as a result of changes in the rules of account-making defined by the tribunal. However, the extent to which "wind chime" storytellers were more affected than "skippers" is unclear from the data available. Information on the level of victims' processing of their traumatic experience is not available to the public. This information could have been useful in formulating theories about which storytelling style these victims would have been more likely to adhere to in the absence of the time restriction. Understanding this would have been valuable in comprehending how the rules of the tribunal in interaction with the level of assimilation of the traumatic event influence victims' speech.

7.2. The Adversarial Nature of War Tribunals

One of the tenets of transitional justice systems is the "the right to know the truth about past abuses" (United Nations 2014). Truth commissions are set up to understand the extent and patterns of abuses from victims' perspectives (OHCHR 2006b), and prosecution initiatives aim to establish conflict facts to cast verdicts (OHCHR 2006a). Transitional justice institutions use conflict truths as the foundation of their reports and judgements,

ignoring information deemed as false. The importance of the criterion of truth in TJSs parallels Lyotard's ([1979] 1984) pragmatics of scientific knowledge, where the "scientific community debates about what is true or false" (J. F. Lyotard [1979] 1984, 30). The truth criterion, a guiding principle of TJSs, is grounded in the belief that the pursuit of a "historical truth" is a strong contributor to peace (Forcada Barona 2011). Similar to Lyotard's definition of a scientific community, in TJSs the criterion of truth is used to assess and determine acceptability of new information.

TJSs in their effort to search for conflict truths, heavily rely on victims' testimonies for information. Truth commissions and prosecution trials—as they attempt to offer some accounting of the past (OHCHR 2006b; Amnesty International 2007) and establish the relevant facts (Dembour and Haslam 2004)—require victims to detail and describe the events as they unfolded. In TJSs, victims are expected to produce "descriptive statements" or, in Lyotard's terminology "denotative utterances" that the institution may declare as truths or falsehoods ([1979] 1984; [1983] 1988).[28]

However, the modification of victims' testimonies into a descriptive recounting of events as a result of the introduction of a time constraint (see Section 7.1), indicates that victims are influenced by the imposed rules of speech. This further undermines the idea that eyewitness testimonies are entirely objective and unmodifiable, and prompts recognition of the subjectivity that exists in such accounts. Memory, after all, is a process and not a thing that works differently at different points in time as affirmed by Olick and Robbins (1998, 122). However, the recognition of testimonies as a dynamic action, is in tension with common notions of truth as a fixed entity that can be uncovered.

The view of truth as a process of memory retrieval, rather than a stable unit (Olick and Robbins 1998), creates a friction with the tribunals' structure around the true/false dichotomy (Dembour and Haslam 2004). The view of truth held by TJSs is similar to

[28] Lyotard differentiates between a denotative game and a prescriptive game, the latter arising from the just/unjust criterion (J. F. Lyotard [1979] 1984; [1983] 1988). The prescriptive game could be particularly relevant for the analysis of prosecution trials in TJSs. However, the sender of prescriptive utterances are judges. As this thesis focuses on the analysis of victims' testimonies, the focus here is on the pragmatics of the denotative language game.

Lyotard's read of scientific knowledge, in which the referent of statements is mute, predictable and available for repeated access (J. F. Lyotard [1979] 1984). In TJSs, victims are simply expected to do account-making to aid in the stabilization of the referent. Survivors' testimonies are supposed to serve as mere inputs to populate a database through which the conflict "truths" will be found. However, as discussed earlier, victims are susceptible to changes in the rules governing account-making. Furthermore, their testimonies extend beyond a mere description of events. Those whose statements follow a spasmodic storytelling style are simply reacting to the referent, unable to retrieve the event in clear and specific ways; while enactment storytellers deliberately choose the details in their reconstruction of events. The modifications in the testimonies of victims will be viewed by the tribunal as inconsistencies, contradictions, or falsehoods. TJS institutions are searching for a stabilization of a referent based on testimonies of victims that are likely to change: either as a response to strict rules of speech; in an intentional fashion as victims' account-making is tailored to satisfy the addressee (enactment storytellers); or unintentionally when they focus on making sense of the event rather than on the facts (spasmodic storytellers).

The recognition of the flexibility of the mind also imposes some challenges among victims' expectations of truth. Victims' witnessing of an autobiographical event comes with an implicit claim of truth (Blank 2009). That is, while victims will examine modifications made by perpetrators to their testimonies in a similar manner to judges—identifying any inconsistencies or contradictions, they may not realize that their own accounts may be evolving based on their own level of processing of the traumatic event. In their minds, they possess the truth because they experienced the events. However, victims' testimonies are malleable. It is not uncommon for victims to fill their own stories with reports from fellow survivors, creating a shared memory of the event in which eyewitnesses influence each other's recollections (Krystal 1995, 92; Blank 2009). Figures of authority may also influence the stories reported by shaping the interpretation of events and the way experiences are remembered (DeGloma 2007). Unaware that the memories that form their "truths" are shaped by own cognitive and cultural frameworks (Olick and Robbins 1998; van der Kolk and van der Hart 1991), it appears as if victims are likely to reject any official "truth" that does not align with their understanding of the event (Doak 2011, 279).

Victims and tribunals hold the belief that the truth can be uncovered, and both experience disappointments when their narratives do not align with each other's expectations of information retrieval and truths. Under the true/false dichotomy framework, truth-finding processes are challenging and adversarial, creating a tense atmosphere that is not conducive to emotional healing.

If we invite Lyotard's vision of postmodern knowledge (J. F. Lyotard [1979] 1984, 57), and recognize that the game of finding truth can be perceived as one without perfect information, we may be able to find a process of transitional justice that is more cooperative. Currently, TJSs view truth as an indifferent, mute and achievable unit—resembling natural sciences as defined by Lyotard ([1979] 1984) where "nature" is the referent. What we know from previous research from TJSs, trauma and memory scholars is that the process of truth-finding is subjective. It resembles more what Lyotard understands as a human science ([1979] 1984, 57) where men and women are participants in the game. A conscious understanding from judges and victims that the process of account-making is subjective, and that truth-finding is a game of incomplete information, could alleviate the pressure on all parties to reach a consensus regarding a particular "truth." The final verdicts and accounts that result from trials would be perceived as one of the many steps towards reconciliation. The "truth" resulting from truth commissions and prosecution trials would no longer be conceived as the totalizing truth of what occurred during the war. Victims, officials and the society in general would be more open to different versions of truth depending on the lens we use to look at conflict events. "Truth" would resemble more what Lyotard called a local consensus ([1979] 1984), as there is a recognition that there can never be a "final truth" but there are "truths for us" (Roger Gottlieb as cited by Douglass and Vogler 2003, 29).

The acceptance of local truths that results from acknowledging that memories are malleable, contributes to the current understanding of TJSs as an array of processes and mechanisms that support the consolidation of peace. Each of the components serve a specific purpose in the broader puzzle of achieving accountability, justice and reconciliation.

Chapter 8.

Final Remarks

There is ample evidence that Transitional Justice Systems (TJSs) successfully help countries to reestablish broken social tissue in the aftermath of conflict, but the aspiration that TJSs will also help heal victims' psychological wounds remains elusive. As socio-legal and TJS scholars have identified, the strict rules that are currently defining participation eligibility and outlining conditions for providing testimony are silencing some victims and curtailing accounts of those who are able to provide their testimonies. This thesis confirms these findings and builds on them to offer further insights into the limitations of TJSs in facilitating emotional healing among victims. By analyzing TJSs through the view of Jean François Lyotard, and drawing on trauma and witnessing studies, I propose a conceptual and theoretical framework to understand the ways in which TJSs reactivate victims' posttraumatic distress in the process of account-making.

Victims produce two basic types of rhetorical structures before TJSs shaped by the level of processing of the traumatic event. While survivors who have processed their trauma can strategically construct narratives, victims who are still trying to make sense of the event produce testimonies that are spontaneous, where their utterances are more of a reflex rather than a deliberate intention. Using the metaphors of "wind chimes" and "sailboat skippers" that I developed, I analyze the testimonies of civil war victims before Colombia's transitional justice trial. This exploration reveals that victims producing spasmodic testimonies tend to devote more time to describing events and recounting the unbearable pain caused by the losses and changes experienced as a result of the traumatic event. In contrast, victims who adhere to the "skipper" style tend to emphasize the social ties that have been created as a result, and request clarifications from perpetrators to reach truth and accountability. Further, this research revealed that the distinctive rhetorical styles that emerged in Colombia's TJS trial are a product of victims' assimilation of the traumatic experience, as evidenced by a linguistic analysis of testimonies.

The intentional narrative structure of enactable testimonies enables victims who adhere to this style to effectively fulfill the role of a witness, reducing their risk of being silenced. Their ability to tailor their testimonies to the expectations of the system places them at less risk of retraumatization when compared to victims producing spasmodic testimonies, whose storytelling style and language deviate from the norms and expectations of the trial. The attempt of those producing “wind chime” testimonies to express themselves genuinely, without conforming to the witness role, collides with the expectations of the genre of discourse of the tribunal.

The sources of retraumatization in TJS, however, are not only a product of the rules of the proceedings but also a result of the confrontational nature of court proceedings. The belief that there is a singular and retrievable "truth" creates unattainable expectations for both victims and officials involved in transitional justice processes. The view of account-making in a true/false dichotomy leads to tensions between victims, perpetrators and judges to discover the “truth” of the events, creating an adversarial atmosphere that is conducive to retraumatization. The tense atmosphere during trials also reduces levels of acceptance among participants of the “official” narratives surrounding the conflict, which is known to harm reconciliation and slow down social cohesion (Cárdenas et al. 2015).

The framework proposed here does not imply that truth commissions and trials should dramatically change their goals and procedures. Evidence reviewed here suggests that TJSs have played a significant role in rebuilding the social fabric of countries affected by mass scale human right abuses. Therefore, any changes to the current institutions should be carefully analyzed to ensure they don’t undermine the progress that has already been made. Rather, viewing TJSs through the lens of Lyotard's philosophy of language and his notion of postmodernism invites the inclusion of an additional obligation to TJSs: the systems need to assume “responsibility for their rules and effects” (J. F. Lyotard [1979] 1984, 66). Besides the pursuit of official "truths" through truth commissions and the attainment of justice verdicts through trials, an understanding of the subjectivity of “truth” calls for a recognition of how the rules of transitional justice institutions affect victims’ processing of their traumatic event. It is crucial, as a result, to provide victims with additional spaces to support their healing.

Although many recent TJSs have attempted to create safe spaces for victims to develop collective memory accounts and seek individual psychological support, these spaces are often given less priority and are not recognized as a fundamental component of the overall TJSs mechanism. Current schemes of psychosocial rehabilitation, while fundamental, were designed and envisioned only as supportive structures for the implementation of truth commissions and trials. The conceptual framework proposed and the findings of this thesis suggest that these schemes should have equal importance than transitional justice mechanisms such as truth commissions, trials, amnesties, reparations and lustration. TJSs need a thoughtful and deliberate strategy of emotional support for victims within the system. Incorporating a scheme for continuous emotional support as a fundamental part of TJSs would mean that the systems prioritize the needs of victims and ensure they are at the forefront, rather than being viewed solely as providers of information. By intentionally designing an approach to provide psychological support, TJSs would alleviate the pressure on truth commissions and trials to provide emotional healing, setting more reasonable expectations of what can be achieved through them. This could also transform the provision of psychological healing from a circumstantial outcome to an intentional goal of TJSs, prioritizing victims' wellbeing at the same level of importance as social cohesion. Ultimately, implementing a strategy of emotional support for victims would alleviate the tension between pursuing meso-level outcomes of social cohesion and micro-level goals of attending victims' suffering, as TJSs would be capable of achieving both objectives.

The realization that trauma interacts with the act of witnessing, is a novel area in socio-legal studies, making the conceptual framework and theoretical analysis proposed here promising. While careful analysis of additional data from other TJS proceedings would be advised to make more definitive claims, this thesis contributes to research on the ways through which social and physical environments shape behaviors and cognition (Vaisey 2009; Leschziner 2019) in legal proceedings.

Further research is warranted to better understand additional ways in which the proposed framework interacts with class, race, gender and age. Also, additional studies would be advised to uncover whether current daily hardships and stressors—and not only

emotional distress product of the original traumatic event—could also be shaping victims speech patterns (Newnham et al. 2015). Similarly, studies on the interactions between trauma and the rhetorical structures brough forward by perpetrators would also be of interest for the advancement of TJSs on peacemaking (Payne 2008). Finally, an expansion of this framework to consider those victims who do not engage in TJSs is justified, as the act of non-participation could be thought of as a manifestation of trauma that engenders feelings of despair and hopelessness among victims (Masoumi 2023) that may also be shaping their speech patterns.

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Appendix A.

Qualitative Analysis: Results Tables

Table A.1. Percentage of words coded in each category by testimony style

	"Wind Chime" or Spasmodic Style		"Skipper" or Enactable Style	
Category of Analysis	Entire testimony	Unprompted only	Entire testimony	Unprompted only
Other TJS related	1.0%	0.5%	15.3%	15.7%
Contention to perpetrators' testimonies	12.3%	8.9%	20.2%	21.5%
TJS tenets	9.5%	8.5%	18.5%	20.6%
Legal talk	0.9%	0.0%	1.8%	1.7%
Demands	3.2%	1.8%	13.4%	15.1%
Sense of community	1.5%	0.3%	10.8%	10.8%
Descriptive recounting of events	31.8%	30.8%	15.4%	9.8%
Vivid depiction	5.2%	5.6%	0.3%	0.0%
Victim trying to make sense	5.7%	9.5%	4.2%	5.0%
Change or Loss reminders	16.8%	14.7%	6.8%	6.7%
Visible emotions	7.9%	9.2%	3.6%	4.3%
Disorganization	4.1%	2.0%	2.9%	2.9%
Other	25.2%	31.2%	12.5%	13.7%

Note: Each word may be coded to one or more categories. "Unprompted" refers to the portion of the testimony before the trial judge intervened to request clarifications and additional information.

Table A.2. Percentage of words coded in each category, comparison between Huila and other locations

	Spasm		Enactment		Huila	
	Entire testimony	Unprompted only	Entire testimony	Unprompted only	Entire testimony	Unprompted only
Other TJS related	1.0%	0.5%	15.3%	15.7%	5.1%	5.1%
Contention to perpetrators' testimonies	12.3%	8.9%	20.2%	21.5%	1.0%	1.0%
TJS tenets	9.5%	8.5%	18.5%	20.6%	25.4%	25.4%
Legal talk	0.9%	0.0%	1.8%	1.7%	5.0%	5.0%
Demands	3.2%	1.8%	13.4%	15.1%	10.4%	10.4%
Sense of community	1.5%	0.3%	10.8%	10.8%	9.3%	9.3%
Descriptive recounting of events	31.8%	30.8%	15.4%	9.8%	45.2%	45.2%
Vivid depiction	5.2%	5.6%	0.3%	0.0%	6.3%	6.3%
Victim trying to make sense	5.7%	9.5%	4.2%	5.0%	1.1%	1.1%
Change or Loss reminders	16.8%	14.7%	6.8%	6.7%	3.0%	3.0%
Visible emotions	7.9%	9.2%	3.6%	4.3%	8.2%	8.2%
Disorganization	4.1%	2.0%	2.9%	2.9%	0.2%	0.2%
Other	25.2%	31.2%	12.5%	13.7%	7.9%	7.9%

Appendix B.

Quantitative Analysis: Results Tables

Table B.1. LIWC-22 analysis results and p-values of the difference

	Entire testimony			Unprompted only		
Category	"Wind Chime" or Spasmodic Style	"Skipper" or Enactable Style	P-value of the difference	"Wind Chime" or Spasmodic Style	"Skipper" or Enactable Style	P-value of the difference
Linguistic Processes						
Word count	5,128	12,759	0.000	4,097	11,285	0.000
Personal pronouns	13.40	10.16	0.000	14.43	9.77	0.000
1st pers singular	4.45	3.09	0.000	4.76	3.07	0.000
3rd pers singular	8.09	6.07	0.000	8.79	5.75	0.000
3rd pers plural	2.52	2.36	0.528	2.86	2.28	0.039
Present tense	6.65	8.90	0.000	6.96	8.98	0.000
Psychological Processes						
Negative emotion	2.09	2.05	0.865	1.93	2.03	0.696
Anxiety	0.04	0.20	0.014	0.05	0.17	0.076
Anger	1.23	1.09	0.423	1.10	1.05	0.789
Sadness	0.33	0.52	0.091	0.24	0.51	0.025
Cognitive processes	23.40	23.26	0.841	22.53	23.39	0.264
Insight	1.91	3.21	0.000	1.81	3.30	0.000
Causation	3.00	2.12	0.000	2.86	2.14	0.009
Perceptual processes	4.27	3.78	0.127	4.44	3.61	0.018

	Entire testimony			Unprompted only		
Category	"Wind Chime" or Spasmodic Style	"Skipper" or Enactable Style	P-value of the difference	"Wind Chime" or Spasmodic Style	"Skipper" or Enactable Style	P-value of the difference
See	0.55	0.68	0.325	0.59	0.63	0.780
Hear	2.26	1.76	0.027	2.44	1.60	0.001
Feel	0.53	0.47	0.602	0.63	0.53	0.461
Biological processes	2.18	1.69	0.027	2.27	1.63	0.008
Body	0.84	0.49	0.006	1.03	0.41	0.000