



**JOHNS HOPKINS**  
SCHOOL *of* ADVANCED  
INTERNATIONAL STUDIES

**Colombia:**  
**Understanding Conflict 2015**  
**Conflict Management Program**  
**Student Field Trip to Colombia**

Shauna Aron	Eric Rahman
Ryan Ball	Mohamed Raouda
Maia Blume	Jay Totte
Victoria Bosselman	Caitlin Watson
Irena Grizelj	Georgios Xenokratis
Joshua Levkowitz	Min Kyung Yoo
Maude Morrison	Emily Zeidler
Alexandra Papatheodorou	Keri Zolman

*Edited by Dr. P. Terrence Hopmann and Dr. I. William Zartman*



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## Acknowledgements

Our Field Trip would not have been possible without the generous assistance of three individuals. Jessica Baker was a skillful manager of all our arrangements on the ground, both for logistics and for scheduling. Philipp Lustenberger of the Swiss Embassy, a former SAIS student who participated in the sixth Field Trip to Mindanao, has the wisdom to steer us out of the “Bogotá Bubble” to Quibdó, that few analysts get to visit. Professor Fernando Cepeda Ulluo, an old friend and former Interior Minister and Ambassador, opened doors and shared his insightful personal insights. We are also grateful to the assistance of Ambassador Luis Carlos Villegas and the Colombian Embassy in Washington, and also to Dr Cynthia Arnson of the Woodrow Wilson Center for International Scholars and Dr Marc Chernick of Georgetown University for their important briefings that set us straight from the very beginning. In Colombia, we greatly appreciate the availability and frankness of all our interviewees, from President Juan Carlos Santos to the IDP community on the hilltop outside Quibdó. The Banco de la República graciously made its salons available for our meetings in Bogotá and the Fundación Universitaria Claretiana hosted us in Quibdó.

Dr Hopmann and Dr Zartman would also like to express their thanks to the SAIS student group for their good participation and agreeable companionship on the trip. Dr Zartman is also particularly grateful for the occasion to return to Colombia 30 years after the first opportunity with President Barco.









## List of Acronyms

ACR	Colombian Agency for Reintegration
ANUC	National Association of Users of State Agricultural Services
AUC	United Self-Defense Forces of Colombia
BACRIM	Bandas Criminales
BMPE	Black Market Peso Exchange
CMH	Center for Historical Memory
CNRR	National Commission of Reparation and Reconciliation
CNE	National Electoral Council
COALICO	Coalition against the Involvement of Children and Youth to the Armed Conflict in Colombia
CODHES	Consultorio para Derechos Humanos y Desplazamiento
CRC	United Nations Convention of the Rights of the Child
CRR	Comprehensive Rural Reform
DDR	Disarmament, Demobilization, and Reintegration
DMZ	Demilitarized Meeting Zone
ELN	National Liberation Army
EU	European Union
FDI	Foreign Direct Investment
FARC	Revolutionary Armed Forces of Colombia (Fuerzas Armadas Revolucionarias de Colombia)
FARC-EP	Fuerzas Armadas Revolucionarias de Colombia—Ejército del Pueblo
FPIC	Free, Prior and Informed Consent
FTA	Free Trade Agreement
FUPAD	Fundación Panamericana para el Desarrollo
GDP	Gross Domestic Product
IACHR	Inter-American Court of Human Rights
ICBF	Colombian Family Welfare Institute
ICC	International Criminal Court

ICG	International Crisis Group
ICRC	International Committee of the Red Cross
IDP	Internally Displaced Persons
IGO	Intergovernmental Organization
ILO	International Labor Organisation
INCODER	Colombian Institute of Rural Development
INCORA	Colombian Institute for Agrarian Reform
INML	Instituto Nacional de Medicina Legal y Forensica
IWGIA	International Work Group for Indigenous Affairs
JPL	Justice and Peace Law
M-19	the 19th of April Movement
MILF	Moro Islamic Liberation Front
MOVICE	Movimiento de Victimas de Crimenos de Estado
NDP	National Development Plan
NGO	Non-Governmental Organization
OAS	Organization of American States
OCHA	United Nations Office for the Coordination of Humanitarian Affairs
ONIC	National Indigenous Organization of Colombia
OECD	Organization for Economic Cooperation and Development
RNI	Red Nacional de Victimas
RWB	Reporters Without Borders
SAIS	School of Advanced International Studies
TI	Transparency International
UARIV	Special Administrative Unit for the Care of and Comprehensive Reparation for Victims
UN	United Nations
UNASUR	Union of South American Nations (Unión de Naciones Suramericanas)
UNESCO	UN Educational, Scientific and Cultural Organization
UNHCR	United Nations High Commissioner for Refugees

UNICEF	United Nations Children’s Emergency Fund
UNODC	United Nations Office on Drugs and Crime
UNSG	United Nations Secretary General
UP	Patriotic Union (Unión Patriótica)
USAID	United States Agency for International Development
Victims’ Law	Law on Victims’ Rights to Comprehensive Reparation and Land Restitution
Victims Unit	Special Administrative Unit for the Attention and Reparations of Victims
ZOPA	Zone of Possible Agreement







# Introduction: Colombia Report

I. William Zartman

One of the world's longest internal conflicts is carefully stumbling to a close in the peace talks in Havana between the government of Colombia and the Fuerzas Armadas Revolucionarias de Colombia (FARC). Seizing on this strategic moment, 16 graduate students and three faculty members from the Johns Hopkins University's School of Advanced International Studies (SAIS) traveled to Colombia on 15-25 January 2015 to study the situation on the tenth Conflict Management Field Trip to a live conflict area.<sup>1</sup> The delegation visited Quibdó in Chocó province on the Pacific coast, one of the poorest areas in the country and site of entrenched FARC activity, as well as Bogotá, the flourishing capital. We were graciously received by a broad spectrum of figures, from President Juan Manuel Santos in a frank and open conversation to the displaced persons in a muddy rain-soaked camp outside Quibdó, all of whom contributed to our understanding of a long, deep and complex conflict. They also contributed to a sense of a process that had developed its own dynamic to move ahead, despite founded interests and personal politics. Dynamics, interests and politics are normal ingredients of a serious process.

While one might locate the beginning of the conflict in the Spanish colonization with its landownership system, which continued after Colombian independence in 1819, the current phase grew out of the National Front pact in 1958 between the Liberal and Conservative parties to end the decade of *La Violencia*. Locked out of the official political arena by the agreement, some Liberal politicians and representatives of new social forces such as labor and the peasantry withdrew into the rainforest of Cauca province in southern Colombia and formed the FARC in 1964. In a country with one of the highest GINI indexes of income distribution and one of the largest populations of internally displaced persons (IDPs) in the world, there has been a ready audience for rural

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<sup>1</sup> Mindanao January 2014 and 2011; Nagorno Karabakh 2013; Tunisia 2012; Kosovo 2010; Cyprus 2009; Northern Ireland 2008; Haiti 2007 and 2006. Reports from previous Field Trips are available at <https://sais-jhu.edu/programs/cm/activities>.

unrest. The campesino protest group led by Marxist intellectuals began small and initially non-violent into the 1970s, but in 1982 it crossed fortunes with another Latin American problem. Coca growers in Peru and Ecuador used the wilds of southern Colombia as their production and marketing base but needed protection for their activities, just as the FARC was looking for sources of support for *its* activities. The symbiosis took hold and the FARC became hooked on drugs. When in the next decade, the drug lords of Medellín, Cali and elsewhere, such as the notorious Pablo Escobar, were finally broken, FARC remained entwined with its habit.

The Colombian state and particularly its army were in a very weak condition during this period, but it did make attempts to manage its conflict with guerrilla groups as early as 1982 and over the following decade, under the presidencies of Belisario Betancur, Virgilio Barco, and César Gaviria (Eisenstadt & Garcia 1995). It brought the small April 19 Movement (M-19), an imaginative group of intellectuals without a social base, and the moderate wing of the FARC, under the name of the Patriotic Union (UP), into legality, and members of both were elected to local office. A cease-fire (the Uribe Accord) in 1984 gave the FARC national stature but the conflict broke out again in 1987 as the FARC reasserted quasi-state control over its area. Revived negotiations in 1991-1992 dead-ended over the FARC's insistence on government withdrawal from cantonment or "evacuation" zones (*zona de despeje*). The UP was rejected by the FARC radicals and its leaders – including its presidential candidates – were systematically assassinated by a rising counter-terrorist group, the United Self-Defense Forces of Colombia (AUC), rightist paramilitary militias connected to up to a third of members of Congress, protected by the army, and involving ex-military personnel. During this period, local autonomy was increased by the election of mayors and then, under Gaviria's constitution of 1991, of governors, the National Front was broken into new party coalitions with Gaviria's election, and the surrender of drug lords was facilitated by the constitutional prohibition of extradition to the U.S.

Although the FARC had never been a Soviet implant, the end of the Cold War reinforced its autonomy, in isolated areas along the Ecuadorean and Venezuelan borders, the Pacific coast and the central piedmont, amounting to about a third of the country with 5 percent of its population (Chernick 2005). The next attempt, a decade later, reflected



the further weakening of the state. President Andrés Pastrana offered the FARC a large piece of territory, Caguán in Caquetá province, if it would cease its kidnapping and extortions and enter into peace talks. Under the cover of sporadic negotiations, the FARC build its military, logistical and political structures and its coca cultivation. Although Pastrana continued the military conflict, he pursued contacts without any agenda and got lost in haggling at every occasion for an extension of the zone. The experiment ended in February 2002 after the FARC hijacked a civilian airliner that included the president of the Senate's Peace Commission.

Strengthened since 1999 by Plan Colombia, which supplied economic and military support, Uribe rejected a peace process, reformed his army, launched an intensified military campaign against the FARC and the smaller National Liberation Army (ELN), and offered amnesty and rehabilitation to the members of the AUC (Palacios 2012). Peace talks began immediately after Uribe took office but with the militias, not the FARC, and ended with a demobilization agreement and the passage of a peace and justice law in 2005. Some militia leaders were tried jailed or extradited to the United States and many others demobilized and were given subsidies for rehabilitation. But many dissolved into the countryside to form *bandas criminales (bacrim)* that then entered into an undeclared collaboration with other groups of guerrillas, drug middlemen, and local officials and administrators to undercut state control in poorer (but resource-rich) parts of the countryside. Elected for an unusual second term, Uribe intensified efforts to overcome the FARC militarily, reducing it to more limited dimensions and laying grounds for the idea that its agrarian reform and social participation goal could be more attainable through political rather than military means. The death of the founding leader “Manuel Marulanda Vélez” in 2008 and of his successor, hardline Marxist Alfonso Cano, in 2011 brought in a new, less ideological leader, “Timoléon Jiménez” (“Timochenko”), FARC's drug commissar operating in the north along the Venezuelan border.

Uribe's defense minister Juan Manuel Santos was elected his successor in 2010 and immediately opened back channel contacts with the FARC about opening peace talks. Sensing a ripe moment composed of FARC weakness and government desires to be able to turn to development, he began with some basic principles following the lessons

of preceding failures: talks based on an agreed agenda, important attention to the land issue, Colombian talks by Colombians – no foreign involvement, talks to be held outside Colombia. With skillful diplomacy, Santos patched up relations with Venezuela, arranged a venue in Havana, with Cuba and Venezuela as sponsors, then balanced by Norway and Chile, with secrecy rules and nothing agreed until everything agreed. Agreement on the agenda was reached in August 2012 and then draft agreements on drugs and on agriculture were released, first by FARC, in March 2013. Rich with these accomplishments, Santos was reelected in 2014, but Uribe was furious. He launched a defamation campaign, and uribistas claimed that more military effort could have wiped out the FARC and made negotiation concessions unnecessary. Observers agree that the talks have seen a changed FARC, constant in its goals but committed to achieving them through electoral participation and local governance. Promising a referendum (or its functional equivalent) on the final agreements, Santos pressed for an outcome by May 2015 to be presented for public approval in conjunction with local elections (in order to have appropriate turnout) in October.

There is much to be done, as the following chapters analyze. Uribista opposition continues down to and then after the final public submission, making a referendum contentious. Implementation, the fifth topic, is neither automatic nor immediate. The drug problem remains. “Territorializing” the results by devolution of activities is important in bringing the results to the local level, but also favors the FARC plans for local political implantation in the smaller municipalities and enables the already functioning collaboration between *bacrim*, militias, rebels, drug agencies, and local authorities. Underneath still lies the enormous gap between rich and poor, between the cities and metropolitan areas, with two thirds of the population, and the rest in rural areas and smaller municipalities. These are long-term problems, but for the present the country is taking a huge step of major impact – backwards if the process fails, but forward as seems much more likely.

## **Part I: Drivers, Incentives and Consequences of Conflict**



# Rebels, Criminals or Both?

## The Role of Ideology in the Colombian Conflict

Georgios Xenokratis

The highly intractable Colombian conflict, the last civil war in the Western hemisphere is about to be resolved after years of fighting and thousands of victims. This paper aims to answer a simple, yet powerful question; **why?** Why did the Revolutionary Armed Forces of Colombia (FARC) start its struggle in the 1960s? Why did it get involved with drugs in the 1970s and 1980s? Why did it continue fighting for Marxism after its collapse in the 1990s? Why did it evolve and want to join regular political discourse today? I will examine whether the FARC's criminal activity is an end in itself, a means to an ideological set of goals, or both, and argue that the group was highly ideological using Marxism as the answer to Colombia's perennial problems, and evolving its ideology as the conflict and time went by. Furthermore, I will show how today's Colombians perceive the group its goals and ideology or lack thereof. Understanding the main drivers of conflict and how groups evolve can help us form better recommendations and policies that will bring real peace.

Existing bibliographic sources are combined with group interviews of actors from all parts of the political spectrum to ascertain their reflections on the conflict. Party affiliations are presented in a Left-Right spectrum (see Table 1) to examine how ideological proximity with the FARC affects their perception of the group. Responses from interviewees without a particular political affiliation (i.e., conflict affected groups in Quibdó) will be examined separately.

Table 1: Political Spectrum of Parties Interviewed in Colombia

Left		Center				Right	
FARC	Communist Party	Polo Democrático Alternativo	Liberal Party	Partido Social de Unidad Nacional	Conservative Party	Centro Democratico	AUC

Figure 1: Xenokratis 2015

### **Why Did the FARC Start its Struggle in the 1960s? Greed, Grievance or Both?**

The economic theory of conflict introduced by Collier and Hoeffler aspired to provide an exclusive explanation on why people rebel. Even though the authors have scaled back on their conclusions, revising the theory, the FARC is still cited by economists as an example of a greed motivated group who used annual proceedings of more than \$700 million for profit rather than political reasons (Collier 2007, 197).<sup>2</sup> While the economic theory of conflict seems to explain certain elements on why the conflict has been aggravated, grievance based theories explain more fully why the conflict started, as well as its main drivers. The very elements used by Collier and Hoeffler's theory, such as the fragmentation of the society, low education levels and partial state failures are all small pieces of a bigger picture of grievances that have fueled conflict from the era of Bolivar and Santander until today. Economists argue that since people in every movement will fight to be better off, they are motivated by greed, an argument that is cynically accurate based on the principle that everything is economics. The Colombian conflict is widely considered to be the result of inequality, political exclusion and a weak and corrupt state, while drug trafficking and the involvement of international actors has extended its duration and violence.<sup>3</sup> Juxtaposing the primary role of inequality as a driver of conflict on the one hand, and as an insignificant factor on the other, produces an interesting clash of interpretations. Thus, strictly using the economic theory would just focus on the FARC's involvement with organized crime and ignore root causes of the conflict such as inequality.

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<sup>2</sup>Also see Zartman, I. William. 2011. "Greed and Grievance: Methodological and Epistemological Underpinnings of the Debate." *Studies in Ethnicity & Nationalism* 11, no. 2: 298-307.

<sup>3</sup> In January 2015, a commission of 12 Colombian historians presented their account on the origins, causes, aggravators and consequences of Colombia's 50-year long armed conflict. The historians that took part in the study had been approved by the delegations of both the government and the FARC. The report did not reveal one "historic truth" but clarified where the scholars had found consensus and where they differed in opinion. Alsema, Adriaan. 2015. 'Historic Commission Releases Report On Causes Of Colombia's Conflict'. *Colombia News | Colombia Reports*. <http://colombiareports.co/historic-commission-releases-report-causes-colombia-conflict/>.

The Colombian conflict has deep historical roots starting from the colonization by the Spanish, when a powerful elite claimed land, divided it in *latifundia*, ran the government excluding most of the population, and built an economy with high inequality and large dependence on the export of commodities such as coffee and emeralds. Shortly after Colombian independence power was concentrated in a bipolar political system, with social inequality, political exclusion and corruption. Colombia is divided by rivers and mountains with geography hindering state presence in certain areas (SAIS Group Meeting, 16 January 2015). Significant cleavages led to *La Violencia* in the 1940s, with a death toll of more than 300,000 and the introduction of a culture that justified armed resistance against state institutions.

Nevertheless, the 10 year civil war didn't bring significant reforms that would address the grievances that started it, failed to produce a social revolution that would modernize Colombia and delivered a political compromise that further exacerbated political exclusion. The ruling class solidified its dominance while workers fled to the cities and provided cheap labor (McCarthy 2014, 19). As a result, liberal guerrillas rejected the agreement between the Liberal and Conservative Party and sided with peasants associated with the Communist Party, creating independent communist republics based on economic self-management and military self-defense (SAIS Group Meeting, 30 October 2014). An attack of the Army against the Marquetalia Independent Republic forced leftist guerrilla Manuel Marulanda Velez and Marxist "professional revolutionary" Jacobo Arenas to seek refuge together with 41 guerrillas in the southwestern state of Cauca where they founded the Fuerzas Armadas Revolucionarias de Colombia (FARC) in 1964 as an associated armed wing of the Colombian Communist Party (Molano 2000).

### Ideology defines the movement

#### *Stalinist Marxism*

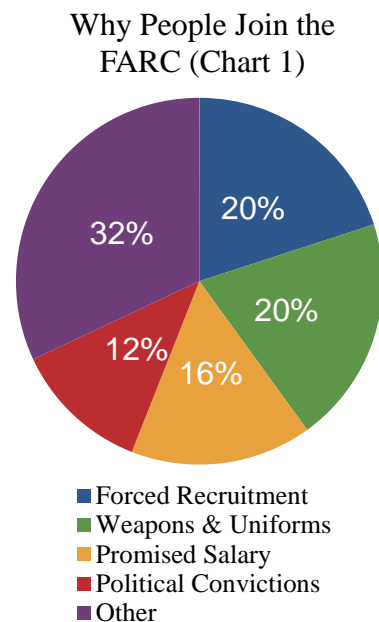
The rebels saw in Marxism the answer to the problems of inequality, property rights and political exclusion that plagued Colombia, with Marxist scholarship combining all these elements into the notion of a class conflict (Zartman 2011, 299). Ideology was the founding block of the movement, defining its organization, goals, worldview, strategies and practices. The Russian Revolution had been the only successful socialist movement,

with the FARC adopting Marxism-Leninism as its core ideology, acting as a “professional revolutionary” that would lead people to socialism. The guerrillas were heavily influenced by Stalinism, ignoring the role of public opinion in their revolutionary actions. Having little appeal in a conservative country like Colombia, the insurgents began as an armed revolutionary enclave, designed to achieve the “armed colonization” of successive areas within the Colombian national territory. Searching for a mass base, the FARC was inspired tactically by the successful Vietnamese approach, while torture, assassination, kidnapping, extortion, intimidation and other terrorist tactics were acceptable means to its ends (Manwaring 2002, 5).

## **Evolution: Organization, Leadership, Membership and Funding**

### Recruitment, Membership and Organization

Early membership in the FARC was low and the base for the movement was the marginalized agrarian poor and socialist-leaning rebels living in rural Colombia. Uneducated agrarian peasants were initially used to fill its ranks. When it felt the need to broaden the recruitment, the organization started recruiting members from cities, where countless oppressed laborers and students lived (McCarthy 2014, 20). FARC’s membership tends to include more women, younger recruits, peasants and individuals with generally lower levels of education (Saab and Taylor 2009, 462). The most common reasons for joining FARC were forced recruitment, the allure of weapons and uniforms, a promised salary or better treatment and political convictions (see chart 1).<sup>4</sup>



Our field research in Chocó showed that Afro-Colombian and indigenous populations were recruited forcefully or through false promises of a salary with

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<sup>4</sup> An unconventional recruitment method used by the FARC was love; guerrillas that would visit a town and look for lovers, enter a community and make it join the movement. (SAIS Group Meeting, 16 January 2015).



significantly low ideological alignment. The local population, mainly affected by the misallocation of land rights, operates communal ownership but doesn't embrace collectivism, proposed by the FARC's Marxist ideology. Forced recruitment is conducted through intimidation, blackmail, including threats against family members, and kidnapping (SAIS Group Meeting, 17 January 2015). In Bogotá, narratives on why people joined the FARC diverged according to political proximity. The closer parties felt to the insurgents, the more they emphasized ideological purposes, while center-oriented respondents also mentioned poverty as a reason for joining the movement. Right wing parties underlined crime and blackmail, though it is worth mentioning that demobilized paramilitaries indicated that for many people caught in the middle of the conflict it was inevitable to become insurgents (SAIS Group Meetings, 18-24 January 2015).

Regardless of how people joined the FARC, the movement operates regional training facilities and runs a formal training program since the 1970s that aims to standardize its operations. Early recruitment age and constant Marxist indoctrination of its members likely has some effect on the ideology of the guerrillas, while the group operates with a strong Marxist ethics and penal code, despite its involvement with illegal activities. In general the vertical line of command gives no room for expression by ordinary members, with the leadership comprised of a general secretariat dictating the political orientation of the FARC. In vertically integrated groups based on discipline and obedience, the motives of the movement are better defined if we examine the motives of its leadership rather than the cumulative motives of its members.

### Leadership

The FARC has traditionally drawn its leadership from its own peasant combatants who come up through the ranks due to military merit and political intrigue (Saab and Taylor 2009, 460). Good leaders didn't just have to prove their merit on the battlefield but also had to have a strong ideological background. For that purpose the second generation of aspiring leaders was educated in the Soviet Union, both in science and in politics (SAIS Group Meeting, 22 January 2015). The secretariat dictates the ideology and practices of the group, exerting absolute control over regional subdivisions. A recent example is that after the capture of General Alzate in November 2014, the negotiating team in Havana

ordered his immediate release and the unit near the Atrato river complied within a couple of days, despite any opposition to the leadership's participation in the peace talks (SAIS Group Meeting, 21 January 2015).

Since the secretariat is responsible for guiding the group, changes in strategy and ideology can be linked with changes in the secretariat's mentality or membership. Initially leaders like Manuel Marulanda who had rural peasant origins provided military guidance while Jacobo Arenas envisioned the ideological doctrine. In 1982, during the Seventh Guerrilla Conference, the FARC group wanted to capitalize on successes and growth in the 1970s and pursued a different strategy and means to achieve it. Marulanda and Arenas wanted to legitimize the FARC as a party to a conflict and be treated as a government receiving international support. Their claims were based on the fact that they controlled territory, had an organized armed force, and claimed their independence from a state. FARC was renamed as FARC-EP (People's Army), while their army organization was remodeled after a regular army, with a rank structure and uniform policy. The goal of the group was to conduct an Eastern Type revolution by building parallel state structures in rural areas and running a political agenda.<sup>5</sup>

The plan required a force of around 30,000 guerrillas that would dominate towns and villages, while running a political arm (Unión Patriótica) that would win sympathy in the cities, eventually overthrowing the regime (Maddaloni 2009). The plan worked at least until 2001, as the FARC expanded from approximately 2,000 guerrilla fighters in 1982 to around 20,000 fighters, able to confront regular Colombian military units up to a battalion size, overrunning smaller units with ease. In the late 1990s, before the introduction of Plan Colombia, the country was on the verge of collapse with the insurgents having more sophisticated and powerful forces than the regular army at one point.

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<sup>5</sup> "Eastern" revolutions begin with the mobilization of new groups into politics and the creation of new political institutions and end with the violent overthrow of the old order. See Huntington, Samuel P. 1968. *Political Order in Changing Societies*. New Haven: Yale University Press, p. 266.

### Funding and the International Factor

Usually insurgent groups look for lootable resources that they can use to cover their costs, by stealing, smuggling, kidnapping or extortion. Nevertheless, during the Cold War, the global entrapment in an ideological competition between the United States and the Soviet Union led the two superpowers to finance movements, expanding their zone of influence against each other. Latin America, an area traditionally under the influence of the United States, faced similar problems with Colombia, due to its colonial history with multiple leftist movements calling for help after being inspired by the Cuban revolution. The FARC was influenced by the Cubans to a very limited extent, because of ideological disagreements with Castro, and looked towards the Soviet Union for inspiration, training and guidance. Nevertheless, despite a loose affiliation with Moscow and Havana, the FARC had mainly been ideologically and financially independent by using proceeds from criminal activities.<sup>6</sup>

Colombia is a country rich in minerals and oil, and became an area of major drug cultivation. At first, the FARC tried to find ideologically compatible financing and used fierce criminal methods justified as a struggle against capitalism to secure funds. It viewed coca and marijuana as counter-revolutionary, an elitist disease that plagued Colombia and consequently forbade its cultivation. In the 1970s higher margins from coca and marijuana cultivation provided a way out of poverty for many farmers that were the base of the FARC, and usually exploited by powerful drug cartels. The most famous decision of the 1982 FARC conference though isn't its refreshed ideology but the decision to cooperate actively with drug dealers to finance its new projects. The involvement became official in the 1980s after serious debate on the impact it would have on the group's reputation as an ideological movement. Members of the FARC were forbidden from using drugs or being directly involved in the process, except for growing and selling coca leaves, though the venture proved to yield significant profits.

1992 was a pivotal year for the FARC and its ideology. The failure of the socialist experiment in the late 1980s caused great disappointment to communists worldwide, questioning the applicability of Marxism as a viable social theory. In addition, the

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<sup>6</sup> Other groups such as the ELN were inspired by the Cuban revolution, with their ideology drawing from Marxism and Catholicism.

FARC's ideological leader passed away and was replaced by Alfredo Cano, who had no reservations about the group's involvement with drugs, actively engaging in coca production gaining hundreds of millions of dollars annually. Income from drug trade is closely related to the strength of the group, though only speculation can be made on the amount of money collected and its use (see Alexandra Papatheodorou's chapter in this volume). The FARC's vertical hierarchy had created a clear line of command, where looting for individual benefit was nearly inconceivable and punishable by death (Sanín 2008, 13). Nonetheless, the leaders had direct access to financial resources, with thoroughly documented cases of corruption being relatively rare, especially taking into account the magnitude of the sums handled by the guerrillas (Sanín 2008, 14).

As the Colombian military launched offensives and recaptured territory formerly held by the guerrillas it observed signs of parallel structures, a sign that the FARC was more than just a criminal organization. In many of the isolated villages, it discovered evidence that the insurgents were attempting to create shadow governments establishing themselves as the *de facto* governing authority (McCarthy 2014). Our field research in Chocó produced some interesting findings; victims of the conflict mentioned that the FARC filled the void created by government absence and ran in some cases social welfare programs such as education and healthcare (SAIS Group Meeting, 17 January 2015). People in Quibdó were indifferent between the presence of the FARC and the presence of the government, since in both cases the only apparent element of a state structure that they perceived was an army. The FARC has tried to preach about people's rights according to Marxism, with some communities sympathizing with the group because of distrust towards the government. Recently the guerrillas have tried to use local support, mobilizing the public in demonstrations against the government when issues that hurt their interests arise. Nevertheless, most parties mentioned that Marxism is not understood or popular in the area; while criminal activities are considered inevitable during a conflict, they worsen further the reputation of the FARC.

Political actors in Bogotá presented different narratives based on what motivates the FARC and drives the conflict. The narrative is different, since speakers affiliated with leftist ideologies referred to the Colombian conflict as a civil war with significant grievances as its main driver, and highlighted the involvement of all sides in organized

crime as a problem, but also a way to get funding. Moving towards the center, speakers affiliated with the Liberals and the Partido Social de Unidad Nacional, characterized the conflict as an internal struggle where several grievances existed, with organized crime being an aggravator posing significant concerns for security in Colombia. Moving towards the right wing of the political spectrum, the conflict itself is viewed essentially as a form of crime-based terrorism, with guerrillas being “politicized criminals” motivated by greed. Former members of the United Self-Defense Forces of Colombia (AUC) viewed the conflict as a battle of ideologies where criminals infiltrated both sides in an effort to secure funds.

### **Conclusions**

The creation and involvement of the FARC is not a part of a separate conflict, or a Cold War proxy fight but just the latest chapter in Colombia’s struggle with inequality and deeply rooted historical grievances. The post-civil war political system failed to resolve the issues that started the violent struggle and as a consequence various leftist movements appeared and attempted to capture the state in a conflict that has lasted for more than a century. In a plethora of leftist movements without significant success, the FARC stood out because of its organization, perseverance and effectiveness, with the entire organization drawing from orthodox Marxism for aspects of its life.

In the greed-grievance debate, though no research could provide definite answers, had the FARC been a purely or primarily greed based criminal organization motivated by profit, they wouldn’t waste resources in a futile battle against the government or global capitalism. The group’s primary plan was to build parallel state institutions according to their worldview, while building a guerrilla army that would capture the state when possible. The amount of proceeds from illegal activities is directly related to the group’s military might, and very few cases of corruption or mismanagement of funds have been reported.

Seeing how ideology evolves in a conflict driven by grievance produces interesting findings; I will argue that the duration of the conflict has a greater effect than the intensity of the conflict itself or other factors. Initially the FARC was a rural Marxist peasant movement fighting for survival against government attacks. The group’s

ideology remained constant, though its practices changed because of its inability to produce satisfactory results in the course of two decades. The duration of the conflict and the involvement of a second and a third generation of fighters was essential in changing the group's ideology. In 1992, the death by natural causes of the FARC's ideological leader had a greater effect than the death of the socialist world, while the rise of the new leadership vetted by the FARC and educated in the Soviet Union made the group orthodox Marxist in an era of social democracy.

When radical and orthodox Marxism failed to produce results after the group's power surged in the late 1990s, when the FARC became outgunned by the army supported by Plan Colombia, it realized in the late 2000s that it wouldn't be able to escalate to military victory and readjusted its ideology to "Socialism in the 21st century," mainly articulated by Hugo Chavez, and tried to replicate the effect of the "pink tide" that brought former guerrillas to government offices through elections. The ultimate goal of the FARC, under its readjusted ideology and following its involvement in the Havana process, is perceived differently throughout Colombia. Communities in Chocó suggested that the main motivation of the FARC for entering the peace negotiations was conflict fatigue, and the need to legalize existing operations without being persecuted by the army.

The behavior and positions of the FARC have evolved during the negotiation process, gradually becoming more moderate. Members of the left in Bogotá mentioned that the FARC aims to enter politics, solve basic issues while negotiating as an equal with the government, and disarm, creating significant political momentum for the left, which has been hurt in people's perceptions due to the FARC's actions. Liberals agreed that the guerrillas want to solve inequality and promote land reforms long needed by Colombia, but also pointed out that the group's leadership may want to retire in politics, having an increasing role in local and regional governments. Conservatives underlined the possibility of Colombia turning Chavista in a short period of time, an event highly unlikely based on prevalent conservatism of the Colombian society and the collapse of the Venezuelan economy after Chavez' death. Uribistas claimed that the FARC uses the process as a plan to get impunity, dictate its terms on the government and eventually capture the state in order to run their criminal operations unopposed.

## **Recommendations**

Though it is hard to predict how actors will behave after an agreement is signed based on their bad track record, our research suggests the following recommendations to achieve enduring peace in Colombia and to avoid relapsing into conflict.

### The Colombian Government should

- **Approach the FARC as an ideologically driven organization.** The Uribe administration employed a counterterrorist approach that hurt but didn't kill the FARC. A military victory would take up to a decade but wouldn't address the main drivers of the conflict. Santos deals with the FARC as an ideological entity, creates political space and may achieve a peace agreement faster than with the previous approach. The current administration should institutionalize its response towards the FARC, preventing any significant shifts by future administration that might undermine with the peace process.
- **Address the grievances, prosecute the greedy.** Signing and ratifying a peace agreement with the FARC is an essential first step for peace in Colombia, though as long as inequality and political exclusion continue to exist, conflict will arise. The failure of the Civil War to produce policies that would alleviate the situation gave birth to multiple insurgencies that plagued Colombia; failure to address development, inclusion and inequality with the current process may give birth to other movements and further conflict. Given that, after the agreement on political participation, former insurgents shouldn't have to seek funds illegally to finance their purposes, the government should prosecute those who do as common criminals motivated by greed rather than grievance, establishing a rule of law.
- **Provide guarantees and require that the FARC demobilizes.** After the extermination of Unión Patriótica members in the FARC's previous attempt in politics, the group is hesitant to hand over their arms, distrusting the government. The latter **should provide guarantees that political participation will be protected**, and that arms are not necessary for security reasons. For that purpose the National Protection Units of the Ministry of Defense, responsible for the

- protection of political parties, should prepare and adjust for the new political reality.
- **Restore faith in the political system.** Reforms that were essential for Colombia hadn't been agreed by the political system for over 50 years and will be promoted after the involvement of the FARC in the negotiations. Many Colombians mistrust the political system and find it corrupt and inefficient. It is essential for the government to claim ownership of the positive externalities of the peace agreement, limiting the political space for the FARC, as well as to pursue reforms that will deal with corruption and prove that politics can be more efficient than a rebel armed group.
  - **Include Afro-Colombians and indigenous into the development planning.** Countries which have recently experienced conflict are more likely to relapse into violence. Communities in Chocó repeatedly mentioned their exclusion from the design of Colombia's development plans and the peace process. In order to avoid another conflict, the government should design a more inclusive, locally-led process.

#### The FARC should

- **Embrace its political role and responsibilities. Renounce crime and violence:** After a peace agreement is signed, the FARC will attempt to enter politics and win the support of Colombians who now consider it a terrorist organization. Political arrangements that might give the FARC power or representation disproportionate to its popular support are not viable in the long run. If the FARC wants to have a chance of succeeding in politics, it first **needs to convince Colombians of its ideological intentions and show good will** in the implementation of the agreement, by assisting the government in its war against drugs, and renouncing effectively crime and violence, becoming a purely political power.
- **Build alliances with other leftist parties in Colombia and internationally.** Even though the FARC began as an arm of the Colombian Communist Party (CCP), in the 1980s it claimed its political independence. If the left appears



fractured in future elections, it is less likely that it will be able to claim more seats in Congress, and a more important role in politics. In addition, the FARC needs to join regional affiliations such as the Forum of São Paulo after convincing its members of their intentions, seeking guidance on how to run a political movement and become successful electorally.



# **Addressing Inequality in Post-Conflict Colombia**

Maia Blume

Socio-economic inequalities and agrarian reform issues continue to fuel the decades-long conflict in Colombia. Development in the agricultural sector in rural areas lags far behind the positive growth in other sectors, and the lack of state presence in many regions of the country, in large part due to the conflict, condemns people to poverty. Efforts to promote a “territorial peace” at the negotiating table recognize the regional disparities and underscore the importance of promoting local development and combating inequality. In the post-conflict stabilization process, the government must make significant investments in the provision of services to the poorest regions of the country, capitalize on the engagement of international actors, and promote socio-economic growth to bridge the sizeable gap between the center and periphery. This paper will examine the socio-economic dimensions of the Colombian conflict throughout its history, current issues surrounding inequality focusing on the Chocó region, and steps at the negotiating table to improve prospects for rural development. Finally, recommendations to the Colombian government and international community will be provided.

## **A History of Socio-Economic Issues in Colombia**

The FARC emerged in 1964 when radical liberals, rejecting the creation of the National Front in 1958, splintered off and joined members of the communist party to form a Marxist rebel group. The newly established organization sought to adapt the ideology of the Cold War to the local social and political context and address inequitable land distribution, break the hierarchical and inflexible socio-economic structure in Colombia, and install a socialist model in its place (Ballentine and Sherman eds. 2003, 75).

By the mid-1980s, guerrilla organizations and paramilitary groups were taking advantage of the lack of state presence in many rural areas of Colombia to expand their bases of support. These organizations delivered basic services, built and maintained infrastructure networks in regions that lacked it, and used local communities, which were resigned to the presence of these groups, to provide economic and political support to the competing ideologies. In many ways, the armed groups in Colombia took on the

responsibilities of the state by regulating markets, delivering justice and enforcing social norms and rules, as well as placing restrictions on the freedom of movement of peasant farmers and the transportation of food products (International Crisis Group 2014, 27). As a result of the absence of state institutions, the national government of Colombia lacked legitimacy in much of the countryside. Many of these areas remain the least developed and most marginalized regions of the country today and do not receive the necessary social services or public investments needed to support regional development.

Unlike other regional conflicts that wound down with the end of the Cold War, the Colombian conflict intensified through the 1990s. Political violence, growing socio-economic disparities, competing ideas for appropriate political and economic structures, and the influx of drug money and weapons caches continued to fuel and grow the conflict (Ballentine and Sherman eds. 2003, 73). Since then the violence has spread into other regions, such as the Chocó region of Colombia's Pacific coast, which had no previous exposure to the conflict. Without government intervention in these regions to help mitigate the socio-economic threats posed by ongoing violence, these regions will remain at the economic and political periphery.

### **Prospects for a Territorial Peace**

The conflict in Colombia has a negative impact on socio-economic wellbeing, and studies have shown that it has significantly increased levels of poverty in rural areas, where most of the violence occurs (Lemus 2014, 131). Over the past ten years, the government of Colombia has made important strides in alleviating poverty: More than 2.2 million people have been lifted out of extreme poverty, but inequality persists, particularly when comparing urban and rural areas. In 2013, 42.8% of the rural population lived below the national poverty line, in comparison to only 26.9% of the urban population (World Bank Databank, accessed 10 March 2015). Social investments are providing free education and housing to 100,000 families thus far, but the government recognizes that in one of the most unequal countries in the region, poverty reduction is difficult to tackle (SAIS Group Meeting with President Santos, 19 January 2015).

Inequality thus remains a persistent problem. Communities in marginalized regions lack public infrastructure and social services, and development planning has

typically failed to engage the majority of Colombians to address these needs. Until the 1991 constitution, development programs reflected the interests of wealthy investors, large corporations and landholders, and planning was a centralized process that largely ignored the need to improve social indicators. The state sought to develop rural areas through policies promoting “the colonization of indigenous peoples’ lands” and regional integration through large-scale, market-oriented infrastructure and agricultural projects (Bouvier 2009, 238). As a result of the strong emphasis on capital-intensive development projects, the state neglected the importance of small-scale agriculture production and effective natural resource management. The failure to focus on regional grassroots-led development has perpetuated the cycle of inequality and poverty in Colombia by neglecting the needs of the country’s large peasantry.

The agreement signed between the government and FARC on agrarian reform and rural development in May 2013 attempts to tackle this issue, and places greater emphasis on locally-driven development projects. In addition to land redistribution policies, the agreement emphasizes the importance of taking a territorial approach to local development by giving input to community representatives and prioritizing the regions most affected by the conflict and extreme poverty that lack state presence and infrastructure. It details a number of steps that will be taken to address rural development with a focus on the importance of socio-cultural and environmental considerations of each prioritized region. Furthermore, the agreement addresses the importance of hiring local workers and providing technical assistance to promote sustainable development projects. Notably, it strongly emphasizes collaboration with local communities to create action plans to address local needs. While this agreement tackles many of the core issues of the conflict, there are still a number of items pending, including a discussion of food security and plans for implementation in non-prioritized zones (Agrarian Reform and Rural Development Agreement, 26 May 2013). These, and other pending issues, will be addressed at the conclusion of the negotiations. Because this agreement is so ambitious, however, challenges will come in the implementation phase.

Significantly, the FARC has accepted the need for large-scale agro-businesses, which represents a clear change in their ideology (SAIS Group Meeting with Alejandro Reyes, 20 January 2015). Industrial farms will be necessary to develop the agricultural

sector through access to new markets and investments in research projects. Such farms, however, can be very destructive to the “ecological equilibrium” and must be complemented by smaller scale agricultural activities, which will also promote food security in parts of the country that are difficult to access (SAIS Group Meeting with Francisco de Roux, 20 January 2015). Creating a balance between industrial farming and small-scale agricultural activities also highlights the need for a regional focus to rural development planning: Geographically, some regions are better suited to farming on small plots of land, while others can handle larger projects (SAIS Group Meeting with Alejandro Reyes, 20 January 2015). Such policies have the potential to create more conflict, however, as the owners of larger commercial farms might see these changes as a threat to their business model. State legitimacy and the presence of the national government in all areas of the country are thus crucial factors in maintaining peace and stability.

In many ways, post-conflict Colombia will resemble a project in state-building across many regions of the country in an effort to promote territorial integration and the consolidation of the state. This will be a monumental task, as the withdrawal of the FARC from regions it had previously controlled may create a power vacuum that could be filled by other armed groups and illegal actors (International Crisis Group 2014, 27). Activities will include a complicated process of land titling and redistribution, implementing food security and social safety net programming, building educational and health care systems, and strengthening – and legitimizing – local governments. Efforts should therefore focus on preparing local populations for the implementation of these state-building activities to increase the legitimacy of these projects and the eventual intervention of state institutions in new areas.

### **Addressing Development Issues from a Local Perspective: Chocó**

Lack of social investments and educational opportunities, widespread corruption and inaccessibility due to poor infrastructure compound to make Chocó one of the regions in Colombia most severely affected by poverty and social problems. Data indicate that 78.5% of the population in Chocó lives below the poverty line, and 48.7% lives in extreme poverty (Bradshaw-Smith 2015). Minimal national government presence and

high levels of unemployment in the region created incentives for the FARC, *bacrim*, and other armed groups to infiltrate the region, which brought the conflict to Chocó within the last twenty years. These armed groups sought to take advantage of Chocó's dense and impenetrable jungle, where the military and state apparatus were not present, and further exacerbated existing social problems. High levels of population displacement due to the conflict also resulted in increased crime and violence, as people moved into the cities without jobs or money (SAIS Group Meeting with Interethnic Solidarity Forum of Chocó, 17 January 2015).

While socio-economic indicators have improved substantially around Colombia and many regions have seen sustained economic growth, Chocó continues to lag behind with some of the lowest social development indicators in the country. Whereas 37% of Colombians' basic needs – such as healthcare and education – are unmet, this figure sits at 81% in Chocó. People rely heavily on rainwater for their daily activities and frequently children die from malnutrition. Sanitation also remains a huge problem; thus far in 2015, 18 people have died from drinking contaminated water (Bradshaw-Smith 2015). Few, if any, educational opportunities exist to residents in Chocó. Students who finish high school cannot afford university, and educational funding from international donors does not make it to this region. Despite government resolutions that address the need to improve public policies and development indicators in Chocó, many people in the region feel that they are forgotten by the state and are being denied the resources to which they are entitled (SAIS Group Meeting with Comisión Vida Justicia y Paz, 16 January 2015).

Food insecurity in Chocó is also a mounting problem. Agricultural production has significantly diminished in the region, because people are afraid to access their land. Persistent security threats, land mines, violence, and population displacement have made many agricultural lands inaccessible, which has stripped people of their basic livelihoods and decreased production of basic foods (SAIS Group Meeting with Mesa de Víctimas, 17 January 2015). In addition, the government fumigates illegal crop production, which destroys agricultural lands and diminished their productive capacity. As a result, many goods need to be imported into Chocó, making basic resources very expensive for the already impoverished local population.

The relationship between the local community and regional government has been improving since 2007, and many civil society organizations believe that the governor possesses a lot of good will and is eager to promote local development (SAIS Group Meeting with Mesa de Victimas, 17 January 2015). Nevertheless, rural communities throughout the country remain skeptical that the peace process will improve socio-economic indicators and result in less communal violence (International Crisis Group 2014, 5). There are also “clashing visions of rural development” between local needs and the national vision (Miroff, 2014). While the Colombian government has drafted a five-year development plan for Chocó, civil society groups have created their own plans for regional development. At present, there are two local initiatives created by the Afro-Colombian and indigenous communities. These “ethnic development” plans are born out of the local culture of how people live with, and rely on, the land, river networks, and jungle for their livelihoods (SAIS Group Meeting with Comisión Vida Justicia y Paz, 16 January 2015). Taken into consideration in these plans, for example, are the agricultural sector development policies; in such dense jungle, large-scale farming is impossible, and instead, peasants need land by the river, which is ideal for cultivation. Additionally, many people view development in Chocó negatively: They believe that infrastructure projects brought the conflict and armed groups into the region by enabling them to more easily carry out illicit cultivation and smuggling activities. Instead, interventions should consider the cultural and geographic attributes unique to the region to promote development from the ground up (SAIS Group Meeting with students of Conflict and Peace, 17 January 2015). Civil society, however, believes that Bogotá is not concerned with these details.

Many citizens think that the lack of state institutions in Chocó causes the national government to misunderstand the reality on the ground. As a result, the state does not have the legitimacy from the local population it needs to carry out the national development plans. While the state has consolidated its presence in some rural regions of Colombia, its presence in Chocó is primarily represented by the National Police. People, therefore, come to associate the government with the conflict and fail to see its role as a provider of services and infrastructure. For the state to gain legitimacy in Chocó, it needs to be present in other ways, through the provision of public services, including education



and healthcare, and the development of small-scale infrastructure projects and cultural centers. In post-conflict Colombia, it will be essential for the government, as well as international actors, to make investments in regions like Chocó that promote the role of the state as a provider of public goods and services.

### **International Donor Priorities in Improving Inequality in Colombia**

As Colombia prepares for its post-conflict transition, many international organizations and donor governments are creating plans and establishing funding programs to promote local development projects. The European Union (EU) is assembling a 67 million Euros bilateral aid package that will be disbursed once negotiations are finalized (Luke 2015). Aid will focus on income-generating activities, strengthening institutional capacity and citizen participation, and human and victims' rights. Similarly, the World Bank will focus on mid- and long-term development plans with a territorial focus and, with support from Sweden, will provide upwards of \$38 million to programming targeting conflict-affected communities (Florey 2015).

The United Nations Office on Drugs and Crime (UNODC) has been promoting “alternative development” strategies in Colombia in an effort to encourage small-scale farmers to shift production away from the cultivation of illicit crops. Current UNODC projects support more than 33,000 families across 22 departments in Colombia (UNODC 2015). In collaboration with the national government, UNODC is also supporting infrastructure projects in regions affected by illicit crop production, by building schools, roads, and communal housing. Such efforts complement many activities undertaken by the national government.

Plan Colombia, a U.S. bilateral aid program conceived of in the late 1990s to combat the drug cartels and insurgent groups, provided \$3.5 billion (of \$7.5 billion) to strengthen the Colombian military, and approximately 30% of Plan Colombia funds supported social development initiatives. This investment allowed the balance of power in the conflict to shift in favor of the military and strengthened the state's institutional capacity. Since this time, the United States Agency for International Development (USAID) has continued to support Colombia, by funding rural development programs and targeting the regions most affected by the conflict.

As it stands, many civil society organizations rely on the UN and other development agencies to implement programs that address socio-economic problems in rural areas. The UN Children's Fund (UNICEF), for example, has been a strong ally in providing education and social protection programming in Chocó, and the United Nations High Commissioner for Refugees (UNHCR) is working with displaced populations to help them vocalize their needs. The expansion of the activities of these organizations will be vital in the post-conflict phase.

### **Conclusion and Recommendations**

Despite significant progress over the past decade in combating inequality and lifting millions of Colombians out of poverty, more must be done to ensure that these gains continue and are not lost, particularly in the wake of a peace agreement between the Colombian government and FARC. The rural development agreement already signed between the two parties attempts to tackle these issues by supporting grassroots development initiatives and concentrating resources in regions most affected by poverty and conflict. The plans set forth by the agreement are ambitious, however, and will require significant investments from the Colombian government and international community.

In addition to implementing the rural development agreement, the **state must focus efforts on building legitimacy, particularly in regions where state institutions have been absent.** Increasing state infrastructure in peripheral regions of Colombia will also help to tackle inequality by creating a framework for carrying out the activities set forth at the negotiating table and in the government's national development plans. To promote economic development and the social wellbeing of populations in marginalized regions, the state must engage in regions where the FARC and other armed groups have historically provided services.

Therefore, in post-conflict Colombia, **the government and international community must undertake a number of activities to continue to reduce the inequalities that have persisted for decades.** Such activities will address some of the root causes of conflict, contribute to reconstruction efforts and improve the socio-economic disparities between Colombia's diverse regions.

Government:

- **Expand the presence of state institutions to provide social services and infrastructure investments to rural communities.** This step must be the first priority for the government. For the state to gain legitimacy and trust from local populations, the government must establish an institutional presence that provides basic public services to citizens. The government should concentrate resources on expanding access to education and healthcare projects that support community development. Investments should also be made in small-scale infrastructure and transportation projects to expand state presence and support local development needs. Prioritizing institutional development will protect against potential threats from other dissident groups in unstable regions.
- **Establish local agencies to implement region-specific development plans in consultation with local populations.** To effectively carry out elements of the rural development agreement and implement a territorial peace, the government should create local agencies to consult and engage with communities in order to prioritize development activities and address the specific development needs of each region. As the agreement and national development plans recognize, the needs of each region will vary, and local civil society organizations should therefore assist in forming plans specific to their regions.
- **Prioritize culturally sensitive development over the implementation of large-scale infrastructure projects.** The state can gain legitimacy by focusing on development projects that recognize the unique culture of each region. Examples include building cultural and community centers, schools and clinics, and investing in public housing and communal educational spaces. Such projects will also contribute to mental and emotional wellbeing and create a positive role for the government in the view of local populations.
- **Establish rigorous criteria to determine priority regions for post-conflict development planning, and concentrate financial resources and development projects these areas.** The government should focus its initial post-conflict development programs in the most marginalized regions of the country, in line with the rural development agreement. Clear criteria must be established for

evaluating the regions most in need, based on indicators of poverty, education, employment, nutrition and health. At the same time, other regions must not be neglected. Focusing on the most marginalized areas of the country will also encourage people to trust in, and rely on, state institutions.

International Community:

- **Implement programming to prepare regions that have lacked government involvement for the establishment of state presence.** The international community should increase programming in regions in which the state is not presently engaged. It should expand activities that prepare the local communities for the presence of the state, such as trainings on civic and political participation, basic rights guaranteed by the constitution and the obligations of state institutions. Teaching local populations about public services and the role of the state will build trust in institutions.
- **Develop projects in coordination with the government to increase institutional capacity in newly accessible regions.** International organizations should continue to coordinate activities with the government, and begin to implement programs in line with the activities called for in the rural development agreement. These programs will help increase the capacity of the government in areas in which it is not currently active in preparation for the eventual takeover of all service provision by the state in these regions.
- **Enhance the disbursement of safety nets and social protection programming in the short- and mid-term period.** In the immediate aftermath of the conflict before the benefits of the rural development programming agenda are realized, local populations will need additional services and safety nets to promote food security and social wellbeing. Such programming will also build resilience in rural communities by providing them with the necessary tools to maintain food security and create income-generating activities immediately as the implementation of development plans gets underway. Providing sufficient and ongoing support to the rural poor will be instrumental in preventing potential reversion to conflict.

- **Maintain long-term financial commitment to support the Colombian government.** Implementation of the peace agreement will be extremely costly, and the government's resources will be stretched thin. The international community must support the government financially to implement the activities agreed to in the peace negotiations to facilitate an effective post-conflict transition.
- **Define a clear exit strategy and time frame for activities.** Clear exit strategies will enable government agencies to take responsibility for program implementation and eventually become the sole provider of public goods and services in rural areas. As international organizations are already very active in many remote areas of the country, they are best poised to facilitate the transition process. Clear exit strategies are needed to keep institutional strengthening programs on track and ensure that state agencies develop into effective and efficient providers of public goods and services.



# **Living at the Margins: The Impact of the Conflict on Colombia's Indigenous and Afro-Colombian Populations**

Maude Morrison

Colombia's indigenous and Afro-Colombian populations make up a disproportionate number of the conflict's seven million official victims. Historically marginalized, these communities have yet to reap the rewards of a 'peace dividend' and look set to be the last of Colombia's population to do so. This paper examines their social, political, legal and economic marginalization as a factor in Colombia's current conflict, before assessing the role of these communities in the current peace process.

## **Demographics**

Colombia is host to some 1,450,000 Indigenous people (IWGIA), making up just over 3% of the total population. Consisting of 87 separate groups, speaking 65 different languages, the indigenous populations have collective land rights to 710 indigenous land reserves, or 34 million hectares. They have pursued traditional agricultural livelihoods on collective territories. The Afro-Colombian population makes up some 10.6% of the population, although the land over which they claim ownership consists of only 2% of Colombia's territory. The Afro-Colombian population is largely located in Colombia's Western Pacific and Caribbean regions, with the indigenous populations inhabiting the Pacific region, the Northeastern and the Southeastern regions, including the Amazonas bordering Peru and Brazil.

## **'Progressive Constitution, Regressive Implementation'**

To place the struggle of Colombia's indigenous and Afro-Colombian populations is contextualized by a disparity between Colombia's legislation and its implementation. This situation, best characterized as 'progressive constitution, regressive implementation' (Sánchez-Garzoli 2012, 5) is crucial to understanding the historical marginalization that has led to their disproportionate victimization.

In 1991, a national constituent assembly was elected, including three indigenous representatives. These representatives worked to produce some of the most progressive legislation in Latin America regarding indigenous communities, demanding state recognition of ‘the ethnic and cultural diversity of the Colombian nation,’ guaranteeing two Congressional seats for indigenous representatives, stipulating that resource extraction must not harm indigenous peoples and establishing the right to Free Prior and Informed Consent (FPIC) for development projects. It provided outlines for establishing Indigenous Territorial Entities granting a degree of legal, cultural, economic and political autonomy (Wirpsa et al. 2009, 231). Simultaneously, Colombia signed on to ILO Convention 169 on Indigenous and Tribal Peoples. In 1993, Law 70 was introduced to protect the Afro-Colombian population, defining Afro-Colombians as an ethnic group, granting them collective land rights and autonomy over health, education and legal policies. In 2009, Colombia ratified the UN Declaration on the Rights of Indigenous Peoples (IWGIA).

In the following years decisions were poorly implemented, faced with weak institutions, corruption, resource extraction and powerful local intermediaries whose decisions often contradicted local desires (Jaramillo 2014, 126). For example, it took until 1997 for the first collective territories to be granted to Afro-Colombians – by which time the affected community was already displaced (Gray 2012, 52). The Constitutional Court continued to uphold progressive legislation, with decrees 004 (citing human rights violations of indigenous peoples and ordering the state to protect 35 indigenous groups at risk of extinction) and 005 (ordering the protection of Afro-Colombian communities violently displaced from collective lands) in 2009 (Jaramillo 2014, 133). However, the chasm between legislation and implementation remains, as the state retains ownership of natural resources. As an illustration, of 83 FPIC processes carried out between 1994 and 2009, the ONIC reports that ‘there is not one single example of good practices’ (Sánchez-Garzoli 2012, 12). This disparity lies at the heart of indigenous and Afro-Colombian marginalization, fostering a deep lack of trust in government. In Havana, implementation plans must be carefully considered and communicated. This peace process provides a historic opportunity to address this legislation-implementation gap and transition towards a more inclusive Colombia.



### **Drivers of Conflict**

Although they have not been major actors in the armed conflict (despite forced recruitment by the FARC of a number of both populations), the historic marginalization and geographic location of both indigenous and Afro-Colombian populations has resulted in their unique experience of the Colombian conflict. Both populations have been economically, socially and politically side lined, increasing their vulnerability. A historic lack of political participation despite progressive legislation has left them almost completely absent from the political process in Bogotá, while their location in rural areas far away from economic centers has left 28% of the indigenous population living in extreme poverty (Tovar-Restrepo 2014, 46). Socially, the Afro-Colombian population continues to suffer from historic racism and the legacy of slavery, while the indigenous communities are subject to a cultural misunderstanding by Colombia's elite regarding their traditional way of life.

Their geographic location in rural areas initially led to economic and social isolation from urban Colombia, but the discovery of resource wealth in their territories brought violence. Their land became strategic property in the fight between the government, guerrillas, paramilitaries and drug cartels, as they were 'located within and perceived as obstruction to corridors that armed actors deem strategic to their physical domination of territory or control over their activities' (Wirpsa et al. 2009, 232). The forced production of coca on their land also left many indigenous and Afro-Colombians with no choice but to abandon traditional land use practices in favor of more lucrative coca production. Extractive industry megaprojects and illegal mining practices were also accompanied by violence. Government licenses were granted over land within indigenous reserves and Afro-Colombian collective lands, resulting in forced displacement. As a result, both indigenous and Afro-Colombian communities came to see armed actors on all sides as invaders of their land and as a threat to their traditional societies (SAIS Group Meeting with victims in Quibdó, 16-17 January 2015).

### **Living the Conflict**

This marginalization and strategic rural location where guerrillas found easy hiding places and vulnerable communities on which they could rely on for supplies (of food and

shelter but also prostitution and new recruits) led the Afro-Colombian and indigenous populations to make up a disproportionate number of Colombia's displaced. In 2013, the United Nations Office for the Coordination of Humanitarian Affairs (OCHA) found that 73% of mass displacement victims were indigenous or Afro-Colombian, while Sánchez-Garzoli suggests that 60% of Afro-Colombians with land titles are now internally displaced (2012, 7). Not only have they been the greatest victims of displacement, but their experience of displacement is unique, particularly for the indigenous populations. As Wirpsa et al. explain, 'indigenous culture, community and survival are inextricably linked to the land; displacement thus provokes a dramatic deterioration of community coherence and physical health' (2009, 226). In 2009, the Colombian constitutional court recognized the greater psychological impact of displacement on the indigenous communities due to the cultural significance of their lands. Alongside these psychological impacts, displaced indigenous populations suffer from 'ruptured access to traditional foods and medicines' (Sánchez-Garzoli 2012, 7), while both indigenous and Afro-Colombians are subject to discrimination by receiving communities as members of already marginalized communities. Poor education levels also makes finding jobs following displacement more difficult.

Beyond displacement, both populations have been subject to violence, kidnappings and massacres. Their location at the centre of battlegrounds has led to accusations of disloyalty by all sides of the conflict. As one indigenous leader from Cauca put it, 'although we resist war, we are always accused of belonging to one side or other of the conflict' (Wirpsa et al. 2009, 232). Often forced to provide for whichever armed actors are in their area at any time, both Afro-Colombian and indigenous villagers have found themselves caught between sides, living in an endless cycle of violence. In addition, the almost universal lack of state presence in communities heavily populated by Afro-Colombian or indigenous peoples, resulting in a lack of infrastructure and social provision, has eroded trust between populations and the state. In some cases, the FARC has been the more visible service provider, making any sustainable peace contingent on major trust building between government and communities.

Both Afro-Colombian and indigenous communities have been subject to FARC recruitment, although there are no exact figures on current members in the FARC. The

International Crisis Group suggests that over 6% of demobilized FARC to date are Afro-Colombian and 3% are indigenous (International Crisis Group 2014, 17). However, these figures may not represent current composition, particularly as recruitment of both populations is likely to have increased recently due to lack of educational and employment opportunities. Recruitment is often forced, encouraged by the promise of sending relatives money on behalf of the recruit or a “choice” to join that is less of a choice and more of a reflection of the hopeless alternative of continued life under siege.

As current negotiations in Havana are being conducted in the absence of a ceasefire, both communities continue to be disproportionately affected by on-going hostilities. As such, it is crucial that the government work towards de-escalation of the conflict and the implementation of a bilateral ceasefire, along with sufficient monitoring and verification processes. The end of hostilities and the re-imposition of a sense of security in conflict-affected areas will have the greatest and most immediate impact on Afro-Colombian and indigenous populations. To that end, the recent decision by President Santos to halt air raids on FARC for the next month is commendable.

## **The Current Peace Process**

### Participation

Beyond the sample of victims that have been directly invited to Havana, of which a small percentage are from indigenous or Afro-Colombian backgrounds, these communities feel disconnected from negotiations. In October 2013, ONIC figures suggest that 120,000 indigenous people mobilized to protest against this lack of involvement through the ‘Minga Social, Indigenous, Popular.’ Initially met with force by the authorities, demonstrations did lead to a commitment from the government which included assurances that the lands and territories of the indigenous peoples would not be affected by subsequent agreements with mining companies, as well as a commitment to the demilitarization of indigenous territories and respect for exercise of territorial control by indigenous guards (IWGIA). These agreements can now be added to the list of commitments that have not yet been honored.

These strikes fall within a long tradition of advocating for alternative approaches to peace and development on the part of both communities. The Foro Interétnico

Solidaridad Chocó, for example, has developed its own peace accord. After sending this accord to Havana, the group received no feedback and the general sentiment among the local population is that their suggestions will not be meaningfully integrated into the agenda (SAIS Group Meeting, Quibdó, 16-17 January 2015).

That victims' delegations were sent to Havana, meeting face to face with both government and FARC negotiating teams, was a positive step towards greater participation, with Afro-Colombian and indigenous representatives playing some role in those delegations, albeit small. The appointment of an Afro-Colombian woman, Nigeria Rentería, to the government's chief negotiating team was another important step in ensuring the most marginalized communities voices' are heard. However, the effort to amplify indigenous and Afro-Colombian voices in the peace process remains unsatisfactory. While they were represented in the victims' delegations, there was no specific delegation from either community. The UN has held a number of civil society forums designed to increase participation in the Havana process, sending findings back to Havana, but there has been no forum specifically for indigenous or Afro-Colombian populations, despite calls from both populations.

Participation in Havana is crucial to gaining these populations' buy-in. As one representative of a civil society group in Quibdó put it 'most people in Chocó wouldn't know what they were voting on if there was a referendum today.' The government needs to make a concerted effort to communicate the progress of the negotiations to communities most affected by the on-going hostilities and whose daily lives are most at stake at the table. It also needs to make an effort to include their unique concerns in the Havana agenda, through responding to documents like the peace proposal of the Foro Interétnico Solidaridad Chocó and through inviting a specific delegation of both indigenous and Afro-Colombian victims and representatives to Havana. A women's delegation has already been invited to participate in Havana and a gender sub-commission has been created, laying the groundwork for similar delegations from both the indigenous and Afro-Colombian communities.

Participation in Havana is not only about gaining buy-in for an eventual accord. It addresses the deeper issue of political participation and the opportunity the talks provide for a transition from marginalization to political inclusion. The political participation

provisional agreement temporarily reserves seats in Congress for representatives from conflict-affected regions, in a move to target the problem of under-representation of minority groups. However, no specific number of seats has been agreed. In addition, Colombia's existing legislation provides an apt example of its ineffectiveness as an instrument for tackling widespread marginalization. Two parliamentary seats are reserved for Afro-Colombian representation, but two white representatives, Maria del Socorro Bustamante and Moisés Orozco, were initially elected to the seats. Although both members were suspended in July 2014 for having 'no ties' to the Afro-Colombian communities, the episode provides an example of the limitations of imposing quotas to address injustice. Havana's provisional agreement must go beyond existing legislation to ensure its implementation in a meaningful manner.

### DDR

Currently under discussion in Havana, the issue of Disarmament, Demobilization and Reintegration (DDR) has a direct impact on the indigenous and Afro-Colombian populations. Many of them are members of the FARC as a result of forced recruitment, yet reintegrating indigenous and Afro-Colombian former combatants will not be equivalent to reintegrating other members of the FARC. It is imperative that any DDR plan make provisions for specific programs for the demobilization and reintegration of indigenous and Afro-Colombian ex-combatants, providing them with entry points into their former ways of life or the provision of alternative livelihoods.

Also on the Havana agenda is the organization of FARC former combatants into cantonments across Colombia. Given that the FARC have been most active in areas with large Afro-Colombian and indigenous populations, it is likely that these will be in areas populated by either group, a situation that risks provoking local tensions as ex-combatants settle in local areas. In anticipation of this danger, there needs to be strong consultation with communities before they are designated cantonment areas in Havana, as well as robust guarantees to ensure the security of local inhabitants. Crucially, communities under consideration must be engaged immediately to help them prepare for the return of former combatants (International Crisis Group 2014, 17).

### Land Restitution

As the majority of Colombia's displaced from largely rural communities, land is high on the agenda of Afro-Colombian and indigenous peace and development plans. Although a provisional agreement on land reform has been reached it remains vague in a number of areas. Stating that a new 'land fund will distribute xxx million hectares of land in a period of xxx years', where x's mark points where agreement has not yet been reached, challenges clearly lie ahead. With major issues still to be decided, the current agreement on rural reform is decidedly vague.

Colombia's 2011 victims' law is a progressive piece of legislation outlining the legal basis for reparations and land restitution. While the provision on land restitution is a positive step for displaced communities, the implementation of the law remains inconsistent. To date, only 500 legal decisions have been passed down out of 66,000 requests for land (Bedoya 2014). There have also been inadequate security guarantees for those returning to their land or preparing to do so. Even if a ceasefire is reached between the FARC and the military, other groups operating in these areas, including the ELN and the paramilitary groups or *bandas criminales (bacrim)* will continue to pose a threat to Afro-Colombian and indigenous individuals wishing to return to their land. Furthermore, the nature of Afro-Colombian and indigenous perceptions of land, in which land is perceived as more of a collective than an individual right, will pose problems for the legal process of land restitution and has not been addressed in legislation to date. It is not mentioned in the provisional rural reform agreement.

### Development

The peace process should be considered a long-term structural process if it is to ensure sustainable peace in Colombia. Although Havana may succeed in ending the conflict, a greater strategy will be needed to ensure long-term conflict resolution. The need for development in historically marginalized areas inhabited by Afro-Colombian and indigenous populations is stark. Yet there is also a heightened sensitivity to government plans in these regions, exacerbated by a lack of trust when it comes to implementing legislation such as FPIC. As development came to their regions in the form of resource wealth and extraction, so too did violence, the presence of armed actors and the

destruction of livelihoods and the environment. This connection, perhaps oversimplified, is widely shared by both indigenous and Afro-Colombians. President Santos' continued focus on mining as Colombia's 'engine' of growth (SAIS Group Meeting, Bogotá, 19 January 2015) has done little to reassure local populations that the goals of government development can be reconciled with their own. The continued signing of Free Trade Agreements (FTAs) with foreign governments also concerns local populations, as such agreements are often seen as giving 'carte blanche' to the government for fuelling growth without meaningful development.

While objecting to government-imposed development projects that carry symbolic connotations of violence, both indigenous and Afro-Colombian populations recognize the need for growth and have developed innovative strategies for development. Indigenous 'planes de vida' (life plans) and Afro-Colombian ethno-development plans promote models of economic sustainability, 'emphasizing cultural and physical survival through cultural autonomy,' taking into account the nuances of the land and the conservation of ecosystems (Wirpsa et. al., 2009, 238). Although innovative approaches, there is very little political space for these ideas to contribute to government plans. The plans from Chocó region have been presented to multiple levels of government, but they have so far received no response.

The government has made efforts, including a \$400 million development plan for Chocó. Their latest national development plan appears progressive in its use of open forums to collect input from communities, and specific delegations of Afro-Colombian and indigenous representatives have been invited to participate in discussions on the plan (SAIS Group Meeting, Bogotá, 20 January 2015). However, among local populations in Quibdó, there is a feeling that such efforts are 'token' and have not led to a National Development Plan that incorporates the content of ethno-development and indigenous life plans. The inclusion of community ideas in development is a necessary trust-building measure, but it must go beyond the process of consultation itself towards the adoption of specific demands into national policy.

## State Presence

In areas where the state has been historically absent, characteristic of many Afro-Colombian and indigenous areas, the role of the state post-conflict is crucial to long-term peace. As the FARC demobilizes and withdraws from areas currently under its control, there will be a vacuum of power which the Colombian state must fill before other violent actors enter. However, a legacy of mistrust makes the introduction of a strong state presence a challenge. In particular, there is a need to build the ‘face of the state’ that goes beyond a purely military actor (SAIS Group Meeting with Sergio Guarín, 22 January 2015). Until now, many local communities have associated state presence with military presence, causing a problem of legitimacy. Widespread corruption in local offices often adds to the feeling on the part of Afro-Colombian and indigenous populations of being a ‘forgotten peoples’ (SAIS Group Meeting with civil society representatives, Quibdó, January 2015) whose desires are secondary to the conquests of armed actors.

The idea of “territorial peace” currently supported by President Santos is designed to tackle this legacy of state non-presence, referring to the idea of building institutions from the bottom up. This task, although challenging, will be crucial to a successful implementation of Colombia’s peace. The idea, although vague, refers to the necessity of building strong state institutions in areas previously lacking them, while including local stakeholders in the design of such projects. For the Afro-Colombian and indigenous communities, territorial peace will need to be implemented fast in order to fill any power vacuum and begin the process of building trust in governance. Local voices should be prioritized in the design and implementation of state building through a territorial peace program. Not only do both populations have their own sophisticated ideas to contribute, but a level of autonomy over internal affairs has been a long-standing demand, promised but not delivered since 1991.

## **Conclusion**

Colombia’s Afro-Colombian and indigenous populations have long been subject to marginalization, despite the introduction of progressive legislation beginning in the early 1990s. Disproportionately victimized by the last 50 years of conflict, these communities form the majority of Colombia’s displaced and are the last to gain from any so-called



‘peace dividend.’ Negotiations in Havana provide a unique opportunity to address the grievances of these populations in a way that will ensure sustainable peace. While Havana may succeed in ending the conflict – a step that will be most vividly felt in the Afro-Colombian and indigenous communities most affected by on-going violence, it will not alone serve to address the structural concerns that have led to the marginalization and victimization of so many indigenous and Afro-Colombians. What is needed is a long view from all parties to the conflict, one that sees Havana as the beginning of a process that brings Afro-Colombian and indigenous populations in from the margins.

### **Recommendations**

#### To the government of Colombia:

- **Step up efforts to communicate with Afro-Colombian and indigenous populations regarding the current peace talks**, preparing them for any potential ratification. Without adequate efforts to prepare communities for an accord, the government risks losing their buy-in and further undermining their legitimacy in areas where state legitimacy is already weak.
- **Invite delegations of Afro-Colombian and indigenous populations to Havana** as specific representatives of their communities. This will ensure their concerns are heard by parties to the negotiations, increase the chances of their buy-in in the peace process and provide symbolic recognition of the disproportionate victimization they have been subject to.
- **Incorporate local development plans into national development plans** in a way that goes beyond token participation through large open forums. The innovative indigenous life plans and the Afro-Colombian ethno-development plans must shape the government development agenda in order to address structural marginalization and sustainable development.
- **Ensure the full implementation of Free, Prior and Informed Consent (FPIC)**. In accordance with the 1991 constitution, there must be sufficient consultation over development projects and resource extraction in areas with indigenous or Afro-Colombian populations.

- **Implement Constitutional Court orders 004, 005 and 092, the 1991 constitution and Law 70 of 1993.** The disparity between legislation and implementation, if it continues, will severely undermine the government's attempt to bring lasting peace and development to the country, continuing the legacy of marginalization for indigenous and Afro-Colombian populations.
- **Create a DDR strategy that takes account of the needs of indigenous and Afro-Colombian populations.** This includes the provision of alternative livelihoods, reintegration into former communities and, crucially, the consultation of communities regarding the creation of cantonments for former FARC combatants in their areas.
- **Refine the agreements on rural reform and land restitution to address the issue of collective land rights,** working towards the restitution of land previously awarded as collective Afro-Colombian land or indigenous reserves.
- **Broaden the agreement on political participation to include details on the extent of special representation for Afro-Colombian and Indigenous groups.** The government must ensure proper implementation of any provision and ensure that no representatives of other communities can be elected into seats designated for either Afro-Colombian or indigenous representation.
- **Engage in an inclusive process of state building in rural areas,** in which local communities are consulted, included and granted some autonomy over internal community affairs in the context of stronger state institutions and non-military security guarantees, such as monitoring of the peace agreement.

To the FARC:

- **Cease forced recruitment of Afro-Colombian and indigenous populations immediately.** As part of the unilateral ceasefire declared by the FARC in December 2014, they must cease all forced recruitment and cooperate with the government to de-escalate the conflict.
- **Commit to engaging in community reconciliation efforts.** In anticipation of being found in cantonments near or in rural areas populated by indigenous and

Afro-Colombian populations, the FARC must make attempts to reconcile themselves with populations upon which they have imposed violence.

To the International Community:

- **Evaluate the impact of FTAs on Afro-Colombian and indigenous communities and develop plans to mitigate their negative effect** on the environment as well as the traditional livelihoods of communities.
- **Adopt an inclusive approach to monitoring and verification of a ceasefire agreement.** If a ceasefire is reached and the international community called upon for verification, they will have to be sensitive to the needs and history of the Afro-Colombian and indigenous populations, taking particular account of their fear of invasion of their lands by external actors.

To the private sector:

- **Engage in full and meaningful FPIC regarding any projects affecting Afro-Colombian or indigenous populations.** In line with 1991 legislation, these companies must ensure their activities do not further marginalize communities and contribute to continued instability and violence.
- **Operate within regulatory frameworks that are carefully designed to protect local populations and their livelihoods as well as environmental sustainability.** Colombia's rural areas are fragile ecosystems that must be protected as well as home to fragile communities who will need to be given a voice in local development if sustainable peace is to be achieved.



# **Forced Internal Displacement in Colombia: Challenges of Addressing Victims' Needs and Implementing the Ambitious Victims' Law**

Caitlin Watson

For more than five decades Colombia's armed conflict has driven some 5 million Colombians from their homes and roughly 300,000 people continue to be internally displaced each year. Violence or fear has forced more than one in ten Colombians to flee his or her home at one point in life. As the Colombian government engages in peace talks with the country's largest armed group, the FARC, the rate of displacement has ebbed. Yet, the crisis remains grave and widespread as people continue to flee armed confrontations, sexual violence, fear of forced recruitment or kidnapping, and scarce resources. In spite of impressive economic improvements in recent years that have placed Colombia among middle-income nations, in 2013, one in three Colombians still lived below the national poverty line, including 94% of Internally Displaced Persons (IDPs) (CODHES, May 2014). Most of Colombia's IDPs flee rural areas for urban centers. However, IDPs who have lived their whole lives in the countryside arrive ill equipped for urban life and struggle to make a living. Faced with no livelihood and a lack of resources, some opt to return home in spite of ongoing violence and continued threats, while others stay and try to navigate an urban existence. Dispossessed of their land and livelihoods, often traumatized by gruesome violence, and separated from family, the large majority of displaced people in Colombia lack adequate housing and basic necessities in unfamiliar, inhospitable environments.

To tackle this colossal crisis, Colombia boasts one of the world's most thorough and ambitious legal frameworks to address internal displacement. The Victims' and Land Restitution Law – Law 1448, passed in 2011, aims to expand government assistance and reparations to victims of the armed conflict, including IDPs, while initiating a process of land titling and restitution so that IDPs might safely return home. The law calls for a Victims Registry to help the government better identify victims in hopes of more effectively allocating aid and reparations. To register, a victim must make a declaration

before a local administrator called a *personero*, explaining his or her victimization in detail. The *personero* then reports the declaration to the Victims Unit in Bogotá, where members of the Unit evaluate the declaration to determine if it falls into any one of the 12 categories of victimization set out by the law, including forced displacement. Within 30 days, the Victims Unit informs the victim of the evaluation results. If the declaration of displacement is approved, the victim begins to receive emergency relief and then reparations. If the Unit rejects a declaration, the victim has 5 to 10 days to appeal the decision.

The ambitious and comprehensive Law 1448 represents a major step toward improving Colombia's immense history of human rights violations and contains the first official acknowledgment of the government's role in perpetuating the armed conflict. Yet, the magnitude of the country's displacement crisis, continued violence, pervasive distrust of the government, limited resources, and corruption present major hurdles to the law's successful implementation and the provision of adequate attention to IDPs – a critical step toward achieving durable peace in Colombia.

### **Drivers and Conditions of Internal Displacement**

Even as the FARC has called for a unilateral ceasefire, violence that drives Colombians from their homes has persisted. Military confrontations between armed groups and the security forces and direct threats to individuals and communities cause the vast majority of displacements. Widespread abuses, including the recruitment of minors, sexual violence, the deployment of anti-personnel mines, extortion, and the targeting of human rights defenders, have also forced many people to flee their homes. The guerrillas of the FARC and the smaller National Liberation Army (ELN) have both caused displacement, but re-emerging paramilitary groups and organized crime syndicates, or *Bandas Criminales (bacrim)* now commit the majority of abuses and violence against civilians (Human Rights Watch 2012). In acute disputes for control over territory and population, all parties to the conflict have forcibly displaced local inhabitants suspected of collaborating with other groups.

Narcotics trafficking remains the most powerful catalyst of violence and displacement in Colombia. As guerilla groups and *bacrim* fight to maintain control of trafficking corridors and to protect their coca production, they kill and threaten communities in their way, while seizing land and forcing landowners to flee. Government response to coca cultivation also forces people from their homes. Coca fumigation damages farmland and frequently brings violent counter-insurgency operations in its wake. A failure to prevent widespread environmental damage from fumigation or to provide meaningful economic alternatives to coca farmers has left many Colombians with little choice but to seek opportunities elsewhere (International Office on Migration 2013).

Widespread illegal mining for gold and platinum also contributes to forced displacement. In 2012, some 87% of displacement occurred in municipalities that receive royalties from mining and oil production, such as Chocó, Cauca, and Antioquia (CODHES, May 2013). Armed groups repeatedly kill and threaten to encourage locals to relinquish their land for mining, while clashes among criminal groups vying for access to gold-rich areas spare few who stand in the way (*Red Nacional de Víctimas* – RNI). Illegal mineral extraction also diminishes chances for IDPs to return home by undermining the productive potential of land and environmental health of these regions. Mercury and cyanide, used to separate gold from its ore, leach into and poison water systems and soil.

Armed actors protect their illicit activities by scattering antipersonnel mines and explosive ordnances throughout the Colombian countryside, turning homes and farmland into deadly minefields. Colombia suffers the world's second highest rate of landmine casualties after Afghanistan, and regions where the most landmine casualties occur are also the regions from which IDPs have fled and to which some hope to return, such as Antioquia, Chocó, and Cauca (Instituto Nacional de Medicina Legal y Forensica – INML). In 2014, Antioquia, one of Colombia's departments with the highest rates of forced displacement, suffered 19 landmine casualties—all of them civilians, and that represents a 68% decline from 2013 (Instituto Nacional de Medicina Legal y Forensica – INML). In some cases, the presence of land mines and other explosive ordnances restricts freedom of movement and confines communities, while in others it pushes people from their homes and extinguishes hopes of returning safely.

Colombia's *bacrim*, or criminal bands, pose a particular threat to efforts to improving the internal displacement crisis and to helping IDPs return home. *Bacrim* have no role in current peace negotiations and continue to terrorize the Colombian countryside, largely unchecked. In 2012, *bacrim* caused 43% of all displacements and the majority of mass displacements (CODHES May 2013). Moreover, *bacrim* target land claimants, thwarting the land restitution process (discussed further in the chapter by Jay Totte) and perpetuating a culture of fear among IDPs who might otherwise move home. Since 2012, more than 700 internally displaced people and their leaders attempting to reclaim land through the Victims Law reported threats from *bacrim* (CODHES May 2014). With no political agenda, *bacrim* will prove especially difficult to neutralize politically and will pose a persistent threat to security and a stumbling block for the Victims' Law's implementation.

Continued rural violence fuels flight to urban centers, where resources for IDPs, especially adequate housing, are scarce. The lack of available housing for IDPs means that many squat in makeshift structures. For example, on the outskirts of Santander de Quilichao in the Valle del Cauca department, a community of IDPs has established a temporary living space in an abandoned warehouse. Dozens of families live there under one roof, with no electricity, plumbing, or adequate sources of food. Such grim living circumstances breed and incubate violence and illicit activity. Micro-trafficking, sexual violence, and youth recruitment into urban gangs and larger armed groups are common there, undermining an already fragile security situation and fueling a cycle of re-victimization (Interview with Nancy Andrade, Colombia Responde, 10 January 2015).

IDPs in Chocó live in similar squalor. At the end of a badly damaged dirt road, nearly impassable after frequent, heavy rains, lies El Futuro – the town's name seeming to underscore bleak prospects for Colombia's internally displaced. Most of El Futuro's residents have lived there for more than a decade, displaced from Boyacá, where in 2002, a FARC front fired an improvised mortar that hit a church, killing 119 civilians. Traumatized by that attack and a series of violent clashes there, Boyacá residents fled to Quibdó, Chocó's capital, and settled on its precarious outskirts. There, most registered IDPs receive only very small and inconsistent funds from the Victims Unit – checks meant to arrive monthly come only a couple of times a year (SAIS Group Meeting with



IDPs, Quibdó, January 2015). Still other IDPs have never officially registered as victims, either due to unfamiliarity with the process or lack of access. One resident of El Futuro suffers a health condition that has left her knees so badly swollen that she cannot walk, and thus cannot physically access the registration process. With neither medical care nor public transport available in El Futuro, limited financial resources, and no family to help her – they were all killed in Boyacá – her prospects are bleak, indeed. For another woman, the misery in El Futuro serves as a persistent reminder of the loss she suffered in Boyacá – a memory she relives every day (SAIS Group Meeting, Quibdó, January 2015). A lack of mental health care for victims like her, coupled with the dismal conditions of their relocation, means leaving home rarely offers relief from violence and trauma for victims of the conflict.

While IDPs often flee to poor conditions and lack adequate state assistance, other Colombians are unable to flee, confined by armed groups to violent areas and entirely out of the reach of assistance mechanisms. Armed groups impose strict social control on some communities, denying them the freedom to leave and register as victims or to seek help. Between January and August 2013, more than 91,000 people were confined by hostilities of armed groups (OCHA 2014). For instance, in March 2012, the FARC refused to allow any movement along Chocó's rivers for nine days. The department's abundant riverways provide an important means of transport and commerce to Chocoans (SAIS Group Meeting, Quibdó, 17 January 2015). Many confinements last much longer – for months or even years. Confined communities lack the means to meet basic needs as well as timely access to humanitarian aid, leaving them in especially precarious conditions and invisible to the Victims Law.

Chocó and many regions with the most IDPs are home to ethnic minorities who often suffer disproportionately from displacement (previously discussed in the chapter by Maude Morrison). In 2013, Indigenous people and Afro-Colombians made up 73% of mass displacement victims (OCHA 14 August 2013). While indigenous people make up just over 3.4% of the general population, they account for more than double that as a percentage of IDPs, and every month an average of 3,100 indigenous suffer restrictions to mobility and access to basic services (OCHA 2013). Afro-Colombians also face especially high rates of displacement. In 2013, they accounted for over 33% of all IDPs,

though they make up only 10% of the country's population (CODHES May 2013). Both Afro-descendants and indigenous Colombians maintain strong ties to their land for cultural and spiritual reasons, making them less likely to relocate far from their homes and more likely to attempt to return in spite of unsafe conditions. As a result, members of both groups remain under-registered as victims and out of the reach of humanitarian assistance. For indigenous groups, spiritual ties to the land and community are deeply entwined, so displacement and dislocation proves especially damaging – destroying the social fabric and cohesion that previously helped them resist displacement or recruitment into armed groups.

Women also account for a disproportionate number of all IDPs, as many fled after massacres in which mostly men were killed or recruited into armed groups. Left as heads of households, with limited resources and skills, away from their families, women IDPs face particular challenges. Moreover, a large percentage has suffered brutal sexual violence by members of armed groups and must care for their families from behind a veil of psychological trauma that often goes untreated (Human Rights Watch November 2012) (further discussed in the chapter by Shauna Aaron).

### **Government Response and Shortcomings**

Against this dismal backdrop, the Santos administration has undertaken significant efforts to incorporate IDPs into the peace process in Havana and to improve assistance and reparations through the Victim's Law. In 2014, with the collaboration of the United Nations, the National University, and the Catholic Church, the Peace Delegation in Havana invited five groups of 12 victims each to Havana to voice their demands and to come face to face with their victimizers in the FARC and the military to demand truth and accountability. These delegations represent a very small segment of the vast IDP population in Colombia and will not necessarily improve implementation of the Victims' Law. Nevertheless, IDPs who returned from Havana reported feeling listened to and respected (SAIS Group Meeting with Ephraim, delegate to Havana, Quibdó, January 2015). This unprecedented element of the peace process demonstrates an important recognition of the diverse types of victimization and an active commitment to victim participation and reconciliation. Moreover, the government's financial commitment to

IDPs has risen substantially since 2004, from approximately \$200,000 to \$136 million in the first six months of 2013 alone (International Displacement Monitoring Centre 2013). Additionally, a Constitutional Court ruling in 2013 compelled the government to include victims of organized crime as well guerilla groups in the victims' registry, granting access to reparations and assistance to the hundreds of IDPs displaced by *bacrim* who were previously invisible to the process (Human Rights Watch 2013).

Nevertheless, IDPs' needs have overwhelmed public infrastructure and social services in urban areas. Meanwhile, access constraints in rural areas, lengthy delays in the registration and emergency assistance processes, corruption, and widespread distrust of the national government mean that many IDPs receive little or no humanitarian or social assistance at all.

An insufficient budgetary and financial plan presents one major obstacle to the law's swift and effective implementation. While it equips the government with a thorough legal and constitutional framework through which to address the conflict's victims, Law 1448 fails to create financial resources for its implementation. In addition to the national government's investment commitments, Law 1448 relies heavily on departmental and municipal authorities to provide resources out of their own budgets. Yet, most municipal budgets have not increased significantly since the law's passage (CODHES 2013). So, assisting victims means diverting funds from other sources – an especially difficult task in the regions that are both hardest-hit by incoming IDPs and among the country's poorest. Moreover, most municipal governments rarely set out funds particularly for IDPs. Instead IDPs, who have very particular needs, are lumped together with “vulnerable populations” and other victims. In Santander de Quilichao, the municipal government allocates 25 million Pesos (about \$9,500) to aid the city's “vulnerable population.” This includes IDPs, the mentally ill, and victims of domestic violence, among others (interview with Colombia Responde, Santander de Quilichao, January 2015). Santander de Quilichao is home to some 14,000 relocated IDPs – nearly 30% of the city's total population. With high rates of poverty among its non-displaced population, 25 million Pesos gets stretched thin, leaving IDPs to compete with other vulnerable groups for resources.

In the face of scarce resources, even when political will exists at the local level, limited budgets and personnel mean that the law's ambitious demands overburden local governments. The registration process is beset by delays, poor communication, and distrust. In Santander de Quilichao, IDPs have waited, homeless or nomadic, for over six months just to schedule an appointment with a *personero* (interview, Santander de Quilichao Mesa de Victimas, January 2015). Moreover, some local officials there expressed a lack of understanding of the law. Victims echoed similar concerns that municipal officials charged with implementing the law are not properly educated about it. One IDP organization leader recounted a meeting in which a municipal authority misadvised her on the registration process, delaying her declaration and registration by several months (interview in Santander de Quilichao, January 2015).

Persistent and pervasive corruption also undermines aid to IDPs. Illegal actors maintain influence over local governments, and corrupt officials often divert funds. Resources allocated by the federal government plus those promised at local levels often disappear before they reach the victims entitled to them. In addition, illegal actors still hold significant sway within local governments. During local elections in October 2011, many candidates were disqualified from parties due to presumed links with illegal groups, but still ran as independents. As a result, nine out of 32 governors elected that year were financially supported by affiliates of armed groups. (Corporación Nuevo Arco Iris). Moreover, vote buying still occurs in much of the country, especially in the poorest regions where indigent voters are more susceptible to handouts and bribes (Nuevo Arco Iris). Given the responsibilities Law 1448 allocates to these local levels of governance for administering humanitarian assistance and reparation, local level corruption is especially troubling.

Corruption contributes to a deep-rooted distrust that plagues the assistance and reparations system. The notion that the state remains a victimizer pervades IDP communities in Colombia, who perceive the state as not only unwilling to implement the law, but also implicated in the very violence that brought about their displacement in the first place (interviews with Mesas de Victimas, Quibdó, January 2015). Skepticism toward the state nourishes a cycle of ill will. As one victim put it, "what this process

generates is real disgust” (interview with Mesa de Victimas, Santander de Quilichao, January 2015).

Moreover, the evaluations of victimhood for the victims’ registry that take place from Bogotá nourish skepticism and distrust in the system. Given limited resources, a thorough evaluation process is critical to prevent fraudulent claims. However, in a conflict like Colombia’s that involves a variety of armed actors, widespread human rights abuses, and a patchwork of victims, across several decades and a complicated geography, evaluations of displacement must be made with an understanding of a region’s particular experience with the conflict. An assessment made from Bogotá overlooks regional particularities and reinforces distrust, further undermining state legitimacy in the country’s farthest reaches.

### **Victims’, NGO, and International Response**

Many IDPs have formed victims’ groups to better empower themselves. These groups can be extremely useful in organizing victims and building channels of communication. Yet, with limited guidance and resources, most struggle to meet and achieve real action. Moreover, perceived inattention from the government reinforces feelings of distrust. In some cases, victims groups with no oversight have become sources of revictimization themselves. Consultoría para los Derechos Humanos y el Desplazamiento (CODHES) and the International Office on Migration (IOM) have recorded instances in which self-appointed IDP leaders have extorted other IDPs, demanding membership fees from vulnerable individuals in exchange for supposed representation. Greater attention from the government to victims groups could avoid this type of internal corruption, help streamline the victim’s reparation and assistance processes, and offer an opportunity to reinforce state presence and build trust among IDP communities.

Fear further hampers the Victims’ Law’s implementation. Many victims, especially IDPs avoid making declarations for fear of being identified and targeted for reprisals by armed groups. Fear pervades the land restitution process as well. According to Law 1448, each municipality must offer security and accompaniment to those seeking to return. However, a lack of resources means this rarely happens. Many of those fighting for the return of their land face threats by the same armed groups that displaced them in

the first place. Between 2011 and 2014, 89 individuals attempting to return to or reclaim their land were re-victimized by homicide, forced disappearance, among other violent acts. Of these, 41% were IDP group leaders (CODHES Informa, 2014). This discourages victim organization and activism that is vital to improving the system and ensuring victim participation. Violent opposition to the restitution process has led to a decrease in the number of claims, as many IDPs decide to prioritize their physical security over the recovery of their land. Agrarian strikes in August 2013 highlighted the resulting crisis in small-scale agriculture and raised questions about the viability of IDPs' return to the countryside. More effectively linking security and land restitution could mitigate this problem.

Non-Government Organizations (NGOs) have stepped in to lighten the burden on both victims' groups and municipal governments. Organizations such as FUPAD (Fundación PanAmericana para el Desarrollo) and Colombia Responde, among others, accompany victims and victims' organizations through the registration and victims assistance processes, help grant IDPs access to healthcare, housing, and credit, and work to educate victims about their rights under the Law. In Chocó, with support from Colombia Responde, a group of displaced women have begun a pineapple cultivation cooperative, which seeks to provide economic alternatives for their communities to joining armed groups and illegal mining enterprises, while providing these women with a sustainable way to avoid relocating to an urban setting. Programs like this one that offer locally developed opportunities grant agency to victims and can significantly alleviate the burden of displacement for IDPs as well as for urban centers and the taxed assistance system. However, the pineapple cooperative and other endeavors like it have encountered threats of violence from armed groups. While NGOs can help seed these programs, local projects need support from the government and security forces to sustain them by mitigating threats of violence. The government has already begun to allocate more funds to local development projects. For instance, FUPAD, once almost exclusively funded by USAID, now receives 90% of its funds from the Colombian government, much of which goes toward assisting IDPs. This is an important shift. A growing and more visible government role in promoting and protecting similar capacitation programs will offer a

much-needed boost to citizen confidence in the state, while ensuring the sustainability of these projects.

Colombia's government also receives substantial international support in attending to IDPs, though only a small percentage of all development assistance is dedicated to humanitarian needs. According to OCHA, Colombia received \$57.8 million in humanitarian assistance in 2013, but humanitarian assistance made up only 9% of all the development assistance the country received between 2007 and 2011. The U.S. has been the largest donor of humanitarian assistance in recent years, but the \$220 million it gave between 2001 and 2010 is dwarfed by the estimated \$3.5 billion it allocated to narcotics control over a similar period of time (GHA 2013). Colombia will need to manage its own resources better to fund the implementation of the ambitious victims law, but as it enters a post-conflict scenario, it will need to seek vast international support as well.

## **Recommendations**

### For the Colombian Government:

- **Complete numerous, small aid projects at local levels to highlight positive state presence and begin to chip away at the lack of confidence in the state in rural areas.** Proving to Colombians who have suffered the most from the conflict that the state is on their side, is the most important investment the Colombian government can make to begin to alleviate the struggle of the country's IDPs. Consistent and effective state presence at the local level will encourage victims in rural areas to engage with the government in the victims' registration process and to feel that they have a voice in the policies that govern them.
- **Incorporate the displaced population into the design and implementation of assistance programs** intended to benefit them, especially in designing housing programs, so that the aid provided aligns more closely with needs.
- **Shift the victims' evaluation process to the local level,** employing local authorities or national authorities with a knowledge of the particular experience of the conflict in each region. This will not only make for a more effective and fair

evaluation process that accounts for regional differences, but will also increase the state presence at the local level and with it, local confidence in the state.

- **Educate local officials about the Victims' Law and hold capacitation workshops for municipal authorities**, similar to those that NGOs have held for Victims. This will ensure that local administrators understand how to most effectively aid IDPs, help streamline a badly delayed process, and build confidence and trust in state institutions.
- **Make registration requirements more flexible and explicitly state and protect victims' confidentiality** so that IDPs know that registration will not endanger their lives.
- **Specifically dedicate funds to internally displaced victims**, who face particular challenges and require more targeted resources than other victims' groups. In addition, **funds for IDP assistance should be consistently earmarked** at the municipal level, rather than left up to municipal authorities to divert funds from their own already tight budgets ad hoc.
- **Fortify the electoral management system** so it can give special attention to the marginal areas where IDPs live and hope to return and where former combatants choose to reside. This will help both groups reintegrate, develop a sense of political ownership, reduce alienation and temptation on former combatants parts to return violence and extortion, while cultivating mutual trust.
- **Provide more consistent accompaniment for victims' organizations**, including physical spaces for them to meet and clear, abundant, and easily-accessed channels through which to communicate their needs to knowledgeable, and accountable officials at the local level. Officials and victims' groups should meet regularly to ensure adequate communication and mutual oversight.

To NGO/International Community:

- **Use NGOs to continue to develop sustainable income generation projects** that target women and adolescents as well as men, to alleviate causes of displacement.
- **NGOs that have garnered the trust and confidence of local communities should work toward encouraging similar confidence in the state.** Currently,



many NGOs actively distance themselves from the state in order to gain trust locally. However, this cements perceptions that the state is absent and perpetuates distrust in state institutions.

To the United States Government:

- **Continue to shift bilateral cooperation away from the military** and security component and **focus on humanitarian**, economic, and social elements.
- **Provide technical assistance and resources directly to the leadership of displaced groups** and to local and international agencies working with them to strengthen leadership and organizational structures, improve capacity to access existing legal mechanisms to redress rights violations, and develop skills in project management and financial reporting. Groups of displaced women as well as indigenous and Afro-Colombian groups should be prioritized.



# **The Role of Illicit Drugs in the Colombian Conflict and Its Implications for the Peace Process**

Alexandra Papatheodorou

The Colombian conflict can be traced back to 1948, when widespread political violence took over the entire country during a period that became known as *La Violencia*. As insurgent groups sought ways to finance their struggle, illicit drugs provided a profitable means of expanding both their military capacity and controlled territory. During the current negotiations between the Colombian government and the FARC in Havana, drug trafficking and illicit crops have been listed as one of the five main issues under discussion. The main question that this chapter will try to answer is to what extent the peace agreement can solve the problem of illicit drugs and criminal activity in Colombia. Can a guerrilla group that has accumulated billions of dollars from narco-trafficking break off its ties with drug trade in the name of peace? Does the leadership of the FARC in Havana express the interests of the entire organization, or can splinter groups continue illicit activities after the signing of the agreement? Could demobilized guerrillas or disgruntled fighters follow the example of demobilized paramilitaries and join the *bandas criminales (bacrim)*, in search for higher profits? This essay will first analyze the role of illicit drugs in financing the activities of guerrillas and paramilitaries and then examine the implications of this relationship for the implementation of the peace agreement, concluding with recommendations for the Colombian government.

## **The Role of Illicit Drugs in the Conflict**

Colombia didn't engage in drug trafficking until the middle of 1970s, when the United States cracked down on marijuana trafficking routes used by Mexican and Jamaican cartels. After 1975, marijuana cultivation gradually moved towards Colombia, while Peru and Bolivia still remained the world's main producers of coca. During the 1980s, crackdowns on coca in Peru and Bolivia pushed coca trade towards Colombia, producing once again what has become known as "*the balloon effect*": going after drug production in one region causes it to swell in another (*The Economist* 2 April 2013). Coca cultivation

also presented advantages for poor farmers: growing on mountainous terrain with no need for advanced fertilizers and being sold at increasingly high prices, coca was a more profitable crop than marijuana. By the end of the 1990s, Colombia had become the world's largest producer of cocaine, supplying the markets of the United States and Europe.

The FARC is not a drug cartel in the strict sense of the term, meaning that it is not part of larger network that regulates cocaine prices based on supply and demand and divides markets among its members (Suarez 2000, 585). Nevertheless, starting from the 1990s, the FARC made significant profits from a taxation system it imposed on coca cultivation that took place in regions under its control. While the bulk of FARC's profits from illicit drugs came from protection fees, process of raw materials and transportation of coca paste to refineries, some factions of the organization gradually started moving towards more upstream activities, such as operating refineries and trading directly with traffickers, thus in some cases eliminating the "middlemen". By 2000, over half of the FARC fronts were linked to drug trade (Rabasa and Chalk 2001, 32).

The profits derived from drug trade were used by the FARC to advance its military and political goals, namely expanding its troops, purchasing new equipment, maintaining a social security system for fighters and their families and undertaking sporadic infrastructure works that either facilitated the guerrillas' activities, or benefitted impoverished communities. As a result, drug trade not only financed FARC's military struggle, but also expanded its territory through taxation of crops and control of drug routes and strengthened its popular support in impoverished areas. It is important to note that the FARC also administered economic, social and family differences in the areas it controlled, taking advantage of very weak state presence in remote areas (SAIS Group Meeting, 23 January 2015), while it also gained support from coca farmers by allowing them a higher profit margin than drug cartels. A large number of studies has already acknowledged the relationship between the expansion of coca crops and the strengthening of the FARC both geographically and militarily, pointing to the fact that the drug trade played a significant role in increasing the guerrilla's resistance capacity and prolonging the conflict. By 2000, the FARC had managed to obtain a military

capacity superior to that of the Colombian state, an observation that was shared by most persons we interviewed.

As a response to the growing threat of guerrillas, self-defense paramilitary groups (*Autodefensas Unidas de Colombia - AUC*) were formed to provide security to landowners, presenting themselves as an anti-communist force that defended private property and enterprise. The creation of the AUC is also linked with the void created by the dismantling of the large Colombian cartels of Medellin and Cali. Unlike the FARC, AUC had a complete vertical penetration of the drug chain, actively engaging in all stages of trade, from cultivation, to refining, to trafficking on an international level. The semi-autonomous self-defense organizations were based on a capitalist business model, seeking cheap labor and maximizing profit, without facing the ideological obstacles of leftist groups (SAIS Group Meeting with Lerber Lisandro Dimas Vásquez, 19 January 2015). In 2000, the leader of AUC, Carlos Castaño publicly stated that 70% of the organization's funding came from drug related activities (Saab and Taylor 2009, 463).

Contrary to the FARC, AUC didn't have an antagonistic relationship with the state, as its political and economic interests were limited to a regional level. In 2006, the Uribe administration initiated a campaign to demobilize paramilitary groups, offering in exchange to limit criminal prosecution and extradition to ex-combatants. By 2008, it is estimated that more than half of AUC's members had demobilized. Nevertheless, these numbers could be inflated by the poor who sought demobilization stipends presenting themselves as ex-combatants, by the AUC that encouraged such behavior in order to demonstrate compliance and increase its negotiating leverage, and by individuals engaged in drug trade who sought to take advantage of the favorable penal and extradition provisions (Saab and Taylor 2009, 462). More importantly, a large number of AUC combatants did not demobilize, but rather joined the *bacrim*, handing over to the government obsolete weaponry and continuing their engagement in criminal activities (SAIS Group Meeting, 17 January 2015). Being purely motivated by profit, the *bacrim* have shed the anti-communist principles of the paramilitaries, developing instead a collaborative and at the same time competitive relationship with the FARC, where they compete for territory but also collaborate in different stages of drug trade. As will be analyzed in a subsequent section, this relationship may have significant implications for

the implementation of the peace agreement, as demobilized members of the FARC may decide to join the *bacrim* and continue their criminal activities.

### The Effect of Anti-Drug Policies on the FARC

Chocó is one of the regions most affected by conflict, with high levels of poverty and very low performance of all social indexes, including education and employment. Nevertheless, due to its strategic position in the Northwest, Chocó has attracted the interest of narco-traffickers, serving as a corridor between the Pacific and the Caribbean and transferring drugs through Panama and Costa Rica to the U.S. and international markets (SAIS Group Meeting with a Municipal Officer at Chocó, 17 January 2015). Both the guerrillas and the *bacrim* actively engage in drug trade in the region, with locals stating that the FARC encourages drug use and cultivation, while the paramilitaries terrorize the rural population and don't allow them to move to urban centers. At the same time, micro-traffickers and independently run cartels, such as the ones in Buena Ventura and Chocó that are also active in the region with the help of the FARC.

In an effort to deal with narco-trafficking and social violence, the police has placed a special force in the northern region of Chocó, while the army has a strong presence on the rivers in the south, given their strategic importance for the cultivation and transport of drugs (SAIS Group Meeting with Giovanni Buitrago Beltrán, 18 January 2015). These measures are part of a larger anti-drug campaign that is taking place on a national level, aiming to resolve the issue of drug-trafficking and at the same time financially weaken the FARC. Aerial spraying, manually eradicating coca plants and seizing cocaine are some of the measures that the Ministry of Defense is employing with both the army and the national police force, which is under the Ministry of Defense. According to a report by the Ministry of Defense entitled "A Year of Action and Results," 1.8 kgs out of every 3 kgs of potential production of cocaine were seized, bearing proof of the effective fight against drug trafficking. In that respect, Vice Minister of Defense Jorge Enrique Bedoya underlined that the significant progress in decreasing the sources of finance of the FARC, combined with the military successes of the Colombian army, played an important role in bringing the guerrillas to the negotiation table (SAIS Group Meeting, 19 January 2015).

Nevertheless, according to UNODC's 2013 survey, coca cultivation area has remained unchanged in Colombia, with manual eradication and aerial spraying pushing coca out of one region and causing it to bulge in another, creating again the “*balloon effect*.” Another source of concern is the guerrillas' engagement in illicit mining, a source of profit that according to estimates may be even greater than drug trafficking. The advantage of gold is that, unlike coca, it is legal and its price is globally rising, making it easier and more profitable to sell. In areas like Chocó which is one of the richest in mining, guerrilla groups have assumed the role of the state, issuing mining permits and imposing extraction taxes, while the seizure of heavy machinery, equipment and vehicles that service illegal mining increased by 56% between 2013 and 2014 (*Dinero*, 15 January 2015). In general, it seems that one of the reasons for the economic survival of the FARC is the evolution and adaptation of its financing: drug trafficking has been one of the most important sources of income; extortion and kidnapping have also brought significant revenue, but have made the guerrillas unpopular among the population; illegal mining is both a means of supplementing drug trade income and making up for lost profit due to the FARC's recent renouncing of kidnapping (SAIS Group Meeting with Giovanni Buitrago Beltrán, 18 January 2015). The diversification of FARC's financing has led some interviewees to believe that the government was successful in militarily containing the guerrillas, but hasn't managed to do the same in the economic front, an opinion also shared by former Minister of Defense of the Uribe administration, Marta Lucia Ramirez (SAIS Group Meeting, 23 January 2015). The nature of FARC's financing, the profits it has accumulated over the past 50 years and the effect of the government's policies can have significant implications for the implementation of the peace agreement, as will be analyzed in the next section.

## **Implications**

### Will the Agreement of the Leadership be Implemented by the Fighters?

Tight organization and discipline have been widely listed in literature as some of the main reasons of resilience of the FARC. For that reason, many believe that the agreement will be implemented by the guerrilla forces, despite being decided by the leadership. In that respect, Fidel Cano, publisher of *El Espectador*, mentioned that the FARC now has an

ideologically driven, Soviet educated new generation of members who follow a vertical, very disciplined structure that generally makes noncompliance unlikely (SAIS Group Meeting, 22 January 2015). Nevertheless, the possibility of splinter groups can't be completely ruled out. When the M-19 guerrilla movement was considering demobilization in 1990, the majority of the fighters voted in favor of signing the agreement, while a small minority disagreed and decided to continue their activities as guerrillas. According to a former commander of M-19, Senator Antonio Navarro Wolff, the same could happen with the FARC: the majority will decide to demobilize, but a small percentage may choose to remain guerrillas and continue engaging in criminal activities (SAIS Group Meeting, 22 January 2015).

The key aspect behind determining whether the FARC will implement the peace agreement is the potential difference of interests between its leadership and its fighters. As some of the FARC's leaders are getting older, retirement with favorable judicial arrangements makes a peace agreement more appealing (SAIS Group Meeting with Rodrigo Lara, 20 January 2015). As Crandall put it, "it's no fun becoming middle-aged in the jungle, it seems" (Crandall, 2005 63). Another scenario for some of the leaders would be entering regular politics, continuing their struggle and pursuing victory in the political arena. Both scenarios become more plausible when considering the leadership's access to financial resources that have been accumulated for over 50 years (Sanín 2008, 14) and which could be laundered and reused for either personal or political purposes. Whatever the scenario, a prison sentence for the leadership means that they will not be able to enjoy the fruits of their struggle, both financially and politically. For that reason, the FARC has been pushing for minimum jail time, with the FARC's chief negotiator recently declaring that the guerrillas won't accept any prison sentence at all (Florey, 23 February 2015).

On the other hand, the FARC's fighters don't take part in the negotiations, they are unlikely to join politics after a peace agreement and they don't have access to the organization's accumulated funds. The government believes that providing housing, food, employment and family reunification will encourage FARC fighters to demobilize, provided that many of them have been recruited at a young age and have spent a large part of their lives in the jungle (SAIS Group Meeting with Jorge Enrique Bedoya, 19 January 2015). Nevertheless, there is no guarantee that fighters of the FARC will not



choose more lucrative activities over low level job opportunities offered by the government (SAIS Group Meeting with Fernando Cepeda Ulloa, 18 January 2015), continuing their activities as guerrillas or even joining the *bacrim* and abandoning ideology for the sake of profit. The demobilization process of the paramilitaries, which has been considered successful by the Uribe administration, led to a large part of the combatants joining the *bacrim*, suggesting that the same scenario could apply to the case of the FARC. As noted in a previous section, FARC's focus on coca cultivation and the *bacrim's* ability to refine coca paste and sell cocaine to international markets has sometimes created ties of interdependence between the two groups. In that respect, although the capitalist-oriented paramilitaries were more likely to join a purely profit-motivated organization such as the *bacrim*, the collaborative relationship between the FARC and the *bacrim* in certain stages of drug trade could facilitate the transition of guerrillas from one group to the other. Currently, the Ivan Rios Bloc, operating mostly in Antioquia, Cordoba and Chocó and formerly run by the FARC's head negotiator in Havana, is considered one of the most likely to fragment and criminalize, due to weak command and established ties with the *bacrim* (McDermott, 20 May 2013). Such groups of the FARC may act as spoilers during the peace negotiations as well as during the implementation process, in an effort to protect their interests and continue their activities.

Even if the agreement of the leadership is implemented and the majority of the fighters demobilize successfully, the void created by the FARC may attract other criminal organizations, which will pick up the guerrillas' share in illicit mining and drug trade (SAIS Group Meeting, 17 January 2015). These criminal groups may suffer damages by the government's anti-drug campaign and may thus hinder the implementation of the agreement regarding drug trafficking, prolonging instability in certain regions.

#### What Happens with the Financial Assets of the FARC?

After decades of engaging in criminal activities, it is estimated that the FARC has acquired tens of billions of dollars, using them to advance its military and political goals or accumulating them for future use. The lack of a clear picture of the size, location and diversification of what is sometimes called "the treasure of the FARC" can have significant implications for the implementation of the peace agreement.

Ten years ago, U.S. authorities calculated FARC's wealth to be roughly \$25 billion (SAIS Group Meeting with Fernando Cepeda Ulloa, 18 January 2015). Today, the guerrillas have at least four sources of income derived from illegally traded commodities: drugs, mining, gasoline and coltan. Gasoline is a less discussed lucrative activity of the FARC, where the guerrillas buy cheap gasoline mainly from Venezuela for 18 Pesos per gallon, and sell it in Colombia for 8000-9000 Pesos per gallon (SAIS Group meeting with Fernando Cepeda Ulloa, 18 January 2015). It is interesting to note that the FARC does not use all of its income for military purposes, but rather invests a significant amount in the formal economy on a local, national and international level. On a local level, investments are made on small businesses or "front companies" to generate profit, create intelligence networks and facilitate money laundering thanks to high cash flows; on a national level, investments in large companies secure a steady flow of cash for the guerrillas, while on an international level, deposits in hard currency allow the purchase of illegal arms, the bribery of officials and the cultivation of diplomatic relations with institutions and organizations (Suarez 2000, 579). Apart from investment, the FARC also uses money laundering mechanisms, such as the Black Market Peso Exchange (BMPE), where U.S. dollars from drug trafficking revenues are exchanged by peso brokers and then reinserted into the legal U.S. economy by unsuspecting businessmen interested in trading U.S. goods. The advantage of the BMPE is that, unlike banks and financial institutions, businessmen cannot identify dirty money, thus facilitating its circulation in the legal economy and making the source of illicit activity particularly hard to trace (Cook 2011, 30).

Based on the above, it is evident that the guerrillas have adopted a more entrepreneurial outlook about the management of their assets, setting more diverse goals than financing the needs of direct combat and choosing instead to invest in high profit businesses millions of pesos that were once buried in the jungle (Suarez 2000, 597). It is speculated that this transformation occurred during the interaction of the guerrillas with the paramilitaries and the *bacrim*, who had a business oriented way of operation. The difficulty to assess the size of FARC's assets and their location, the complexity of money laundering mechanisms, the low spending profile of the guerrillas and the connections of

the FARC with other criminal organizations in the region, create serious concerns about the use of illegal funds after the signing of a peace agreement.

Experience from the demobilization process of the paramilitaries shows that individuals engaged in drug trafficking may try to take advantage of favorable judicial arrangements and either serve shorter prison sentences or launder money. It is true that the common denominator for most of the FARC's criminal activities has been a political goal. In that sense, if a peace agreement is signed and FARC enters regular politics, it may once again turn to its assets in order to finance its political struggle, which will now take place in state institutions rather than the jungle. The Ministry of Defense has stated that the FARC can participate in politics after a peace agreement is signed, but the use of illegal money for that purpose will not be accepted. Nevertheless, the lack of a clear picture of the location of those funds and the exact mechanisms through which they are being managed, call for further strengthening of regulations, inter-agency intelligence sharing and more effective background checks for sources of funding of political activities.

## **Recommendations**

### To the Colombian Government:

- **Develop a DDR system that provides significant compensation and employment opportunities to ex-combatants of the FARC.** Providing financially attractive solutions and guaranteeing employment is key in persuading guerrillas to demobilize and preventing their re-engagement in criminal activities. At the same time, the government should be aware of the possibility of moral hazard, thus **establishing an effective verification and control system** that will prevent the allocation of benefits to those not eligible and will give a clear picture of the demobilization process, **avoiding data inflation.**
- **Increase inter-agency and international cooperation against money laundering.** The Ministry of Defense, being in charge of both the army and the police, should increase the collaboration of intelligence agencies and law enforcement, optimizing inter-agency communication and operational capacity. At the same time, the Ministry should lead efforts to increase international

- cooperation on law enforcement, supporting the creation of an intelligence sharing network that will contribute to the identification of money laundering activities, the forfeiture of assets and the apprehension of individuals.
- **Increase regional inter-state cooperation against drug trafficking.** Provided the importance of **Venezuela** in drug trafficking, as well as the links of the FARC with local criminal groups, the Colombian government should continue to pursue good diplomatic relations with its neighbor and intensify cooperation on issues of drug trade. Other potential regional partners include **Mexico, Bolivia and Peru**, all of which play an active role in coca or marijuana cultivation and trafficking. By enhancing regional cooperation, the Colombian government will avoid producing a “balloon effect” of drug trade, increasing stability in the region and ensuring a coordinated response.
  - **Increase domestic regulations that prevent the use of illegal or laundered funds. The Ministry of Defense should collaborate with the Ministry of Justice** in creating an extensive set of regulations that **trace funds from illegal activities** and increase **penalties for the operation of “front companies”**, with particular emphasis on the local level, where the majority of cash-checking front stores is to be found. Extensive **background checks** should also be carried out **regarding the funding of political activities**, ensuring that illegal funds are not used to advance political goals and raise popular support.
  - **Intensify the struggle against corruption in all levels, ranging from police forces to local administration and the Congress.** Over the course of the conflict, the FARC has managed to create alliances in the state apparatus, thus the government should continue its efforts to identify and address cases of corruption, ensuring a coordinated response to the issue of drug trade.
  - **Provide significant financial and social benefits that will make crop substitution an attractive alternative for coca farmers.** Many of the impoverished farmers have chosen coca over legal crops as a more lucrative and fast yielding source of income, while illegal mining is also presented as a plausible source of income. Increasing development efforts in rural areas and providing financial incentives through a context sensitive approach can encourage

a switch towards the cultivation of legal crops. In that respect, the government could **use the FARC's expertise on the particularities of rural and remote areas**, providing alternatives that are tailored to the problems and needs of each region.



# **A Territorial Peace in Colombia: Economic Development Planning as an Incentive for Peace**

Eric Rahman

Despite a significant divergence in the way the various parties to Colombia's conflict view the struggle, there is one glaring commonality: that underdevelopment and poverty are a drag on the Colombian economy and are both a cause and symptom of the decades' long civil war. More than fifty years of conflict have emerged from the gap between a core network of modern metropolises with relatively robust economies, and a conflict-afflicted periphery that remains impoverished and beyond the reach of effective governing authorities. This is not a matter of perception but rather an objective reality that both the government of Colombia and the FARC acknowledge. While the Colombian government and the FARC have historically harbored competing visions of how to address this development dichotomy, or even how to define the drivers of poverty and inequality, the current peace process in Havana represents a novel convergence of opinion. The negotiations in Havana are the most promising attempt to date in a history of failed attempts to end the conflict, and the inertia that this process has generated stems in large part from the unique "territorial" focus. This "Territorialization of Peace" represents a new approach to economic management that aims to re-equilibrate the Colombian state by closing the development gap between the rural and urban areas. The approach in theory has been crucial for bridging the divide between the bargaining positions of government and the FARC, but could also create difficulties in the implementation phase. How government reconciles its plans for national economic development with the regional and locally driven economic development priorities will determine the sustainability of peace in a post-agreement Colombia.

## **The Development Dilemma**

Colombia is by many measures a vibrant and dynamic economy. The country currently boasts the third largest economy in Latin America, which is growing at the fastest rate in the region (*The Economist* 2014). No longer considered by many as a developing

country, Colombia has closed ranks and moved into the position of a middle-income state that is increasingly integrated into the global economic system. The asymmetric patterns of development however, which break predominately along geographic and ethnic lines, are both a cause and a symptom of the conflict that has proven a major impediment to more robust, inclusive economic growth. This is clearly illustrated in USAID's justification for providing aid to Colombia, expressed in the 'Country Development Cooperation Strategy for 2014-2018:'

“Colombia is not a typical aid recipient and USAID's commitment stems from the instability and strife associated with the country's 50-year civil conflict. Colombia's status as a steadily growing middle-income country masks severe inequities. In reality, there are two Colombias: a dynamic and sophisticated Colombia in a half-dozen urban centers such as Bogotá and Medellín that coexists with a poor, institutionally weak, conflict-ridden rural Colombia.”

The conflict and the economic development of Colombia are inextricably linked both historically, as poverty and inequality have driven conflict dynamics, and presently, as development agendas figure prominently into the negotiations to bring the conflict to a close. Consequently, to evaluate the prospects for a sustainable peace one must see how the economy and the conflict have intertwined and evolved historically, as well as how both the government of Colombia and the FARC envision a post-agreement economic development plan.

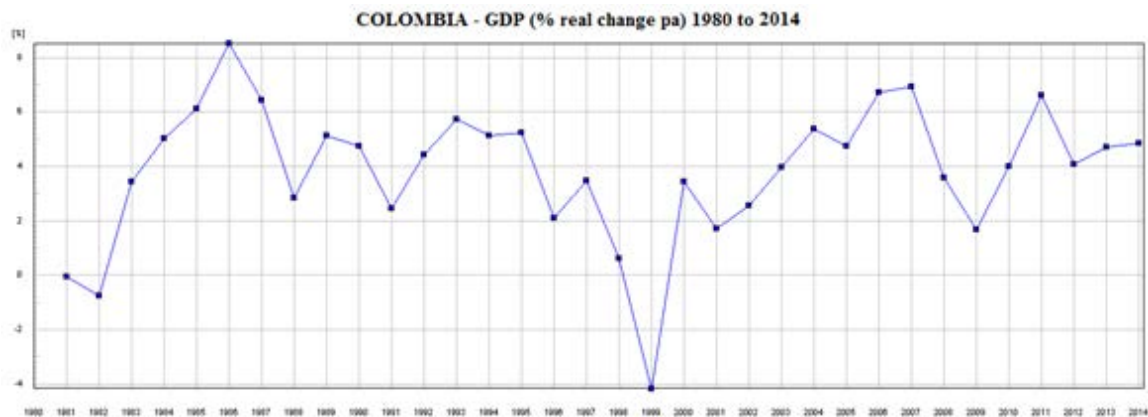
The conflict in Colombia can be traced back to a period known as *La Violencia*, which stretched roughly from 1948 to 1958. The 1948 assassination of Jorge Eliécer Gaitán, a reformist Liberal party member from outside the elite structure who had cultivated a following among the economically disadvantaged sectors of society, sparked the most devastating and violent period of the conflict. From this turmoil, a pact known as the 'National Front' emerged between the institutional elites of both parties that deliberately excluded the reformist voice that Gaitán and his followers had provided. The grievances of the FARC related to economic development were forged during this period of contestation between the Liberal and Conservative institutional elites of Colombia. The exclusion and disenfranchisement of elements of the Liberal party became the



ideological justification for the development of both the Ejército de Liberación Nacional (ELN), as well as the FARC. The rejection of the political covenant between the institutional elites was a result of the rebel armies' populist agenda, which was principally concerned with factors associated with economic development, poverty, and inequality. The FARC in particular was motivated by an economic and political agenda that focused upon the underdeveloped, rural areas, as it styled itself as an agrarian peasant movement, with roots dating to the communist-led peasant agitations of the 1920s (Skidmore et al. 2010, 210).

As the Colombian economy evolved and grew, the asymmetry between the rural and the urban areas broadened, and the conflict progressed. As Figures 1 and 2 below indicate, aside from the deep recession of 1999 the Colombian economy grew at respectable rates for much of the previous three decades, despite the internal armed conflicts.

**Figure 1**



Source: Economist Intelligence Unit

Further, especially from 1991 onward, Colombia has increased its integration into the world economy, as demonstrated by the dramatic growth in both export and import volumes over the previous two decades, seen in Figure 2.

**Figure 2**



Source: Economist Intelligence Unit

Despite this sustained growth and increased integration into the global economy, the gains have predominated in the urban zones of Colombia, while the rural zones most dramatically impacted by the conflict have remained impoverished. In 2013 for example, the portion of the Colombian population estimated by the World Bank to be living below the poverty line was 30.6%; however, in urban areas the figure stood at 26.9% of the population and rural areas it rose to 42.8%. In the most remote areas of Colombia where there is very little state presence and control, poverty is rampant and this gap is likely wider still, though reliable figures are difficult to attain for that reason. In addition, the GINI coefficient for Colombia, a common measure of income inequality, was estimated at 54 in 2012, an improvement over previous years but still high enough to make Colombia one of the most unequal countries in the world (World Bank, Data Bank 2015). Many individuals in the remote periphery of Colombia express high levels of cynicism about both the ability and the intention of the state to address rural poverty and inequality (interviews in Quibdó, 16-17 January 2015). Despite a battery of programs by the government, NGOs, IGOs and national aid organizations such as USAID, corruption is still rampant within local bureaucracies and there is a perception among the local populations that funds are being sequestered at higher levels; and economic development programs are not having the intended impact on local communities (Godnick and Klein 2009, 30). The context of economic development and these perceptions are critical to understanding the prospects for peace in Colombia since it is in these peripheral regions that the FARC has its base of operations. In certain parts of the country that have very low levels of state presence and are economically underdeveloped, it is the FARC that

has taken up the mantle of providing basic public goods and which governs in lieu of state authority (interviews in Quibdó, 16-17 January 2015). Therefore, the development dilemma, where two Colombias co-exist in one country, has been both a defining characteristic of the Colombian economy as well as a driver of the conflict. Consequently this dichotomy will need to be a focal point of a post-peace agreement economic development strategy.

### **The Economic Motivations of the Parties**

The prospects for peace hinge on the economic agenda of each of the party to the peace negotiations, as well as what each party stands to gain and lose in a post-agreement context. For the government of Colombia, the economic impact of the conflict has been unbearably high. The government estimates that between 2000 and 2005 the conflict has cost the Colombian economy roughly \$6 billion (Cardenas et al. 2006, 15). Measured over the lifetime of the war this cost is orders of magnitude higher, not only because of the direct economic impact of the conflict, but also because the government has been forced to divert resources away from more productive uses toward fighting armed rebel groups. The conflict, and specifically the cultivation of illicit crops and trade in illicit substances, which became an integral part of FARC funding during the 1980s, led to foreign interventions and assistance programs such as Plan Colombia, a \$7.5 billion U.S. government initiative described by Simón Gaviria, Director of the Department of National Planning in an interview as, “the best intervention of the U.S. since the Marshall Plan” (SAIS Group Meeting, 20 January 2015) The government however, would prefer self-sufficiency and estimates that bringing the conflict to a close will add an additional two percentage points to the GDP growth rate in Colombia, in perpetuity. Achieving this degree of economic growth and self-reliance will be a substantial boon to this middle-income country with its eye on OECD membership.

Much of the economic growth anticipated by the government would come from an improved business and investment climate resulting from greater territorial security throughout the country. There is a security premium that companies operating in the Colombian frontier must consider, which comes in the form of increased expenditures on security details to safeguard personnel and infrastructure, ‘war taxes’ to rebel groups who

control swaths of territory through which operations pass, and ransom payments for captured employees. The Colombian economy is heavily reliant on the production and exportation of commodities such as oil, coal, coffee and minerals, so an increase in foreign direct investment (FDI), which is likely to accompany an improved security environment, is an important benefit that the government is hoping to attract. However, it is in the peripheral regions of the country that a great deal of mineral wealth and oil is located and still relatively inaccessible for development by private companies. Instead these resources are being heavily exploited through illegal mining by the rebel armies and other illegal armed groups. The government is right to assume that an improved security environment would increase investment. In a survey of more than 1,000 businesses in six Colombian cities conducted in 2006 by University of the Andes in Bogotá, three-quarters of those interviewed stated that they would invest in expanding productive capacity, innovation and generating employment if Colombia were at peace (Rettberg 2008). These considerations are at the heart of the Colombian government's economic development agenda and figure significantly into its motivations for negotiating an end to the conflict.

The FARC in contrast is a Marxist-Leninist guerilla organization which conceives of itself as an agrarian peasant movement fighting for the interests of the rural poor. This organizing principle is at the heart of the FARC's economic development agenda and informs its bargaining position at the negotiating table in Havana. Many analysts have mistakenly provided a one-dimensional caricature of the FARC as little more than a criminal gang involved in narco-trafficking and illegal mining. This is a gross oversimplification and if it were the case, peace in Colombia could be achieved by extricating the FARC from the drug trade and illegal mining, and by providing alternative economic opportunities. To conflate the FARC and the narco-traffickers is an attractive and understandable conclusion, as illicit coca trade provided somewhere between \$100 million to \$200 million, or 50 to 60% of the FARC's revenues annually during the 1990s. It is important however not to confuse the means and the ends. While the FARC has taken advantage of illicit economic activities, it has done so to fund its war against the government, reinvesting those revenues, acquiring increasingly sophisticated weaponry, and more than quadrupling its number of armed combatants between 1984 and 2002 (Chernick 2005). Marc Chernick, renowned Colombia expert and Director of the Latin

American Studies Program at Georgetown University, notes that the FARC “is waging a war to take power or, short of that, to force negotiations that will address issues of political, social, and economic reform – particularly related to agrarian reform, rural development, and social participation free of repression and human rights violation” (2005, 201) Thus the current draft agreements that have been concluded in Havana (though not yet binding due to the principle that nothing is decided until everything is decided) include a battery of provisions insisted on by the FARC to close the development gap between the urban and rural zones of Colombia. What is critical, from the FARC’s perspective, for achieving a negotiated settlement, is an integrated development plan which, while not generating the communitarian utopia that its official propaganda advocates, will address their underlying concerns, namely fostering an urban/rural development parity and addressing poverty and inequality in the FARC’s zones of activity.

### **National Development Planning for a Territorial Peace**

In a post-agreement Colombia, the challenge for the government and the National Planning Department, which directs public and economic policy, will be how to promote macro-economic stability and boost economic growth, while working within the framework of a “territorial peace.” Territorialization is a unique feature that distinguishes this peace process from previous attempts and may hold the key to achieving a successful and durable agreement. It implies a structure for economic development planning and therefore places much of the responsibility for the successful implementation of a negotiated peace on the National Planning Department. In Colombia, this concept draws upon the research of conflict and development specialists such as Ashutosh Varshney (2001), whose work on civil society and ethnic conflict was closely studied by the government as it developed its negotiating position. The basis of the territorialization approach is an acknowledgment on the part of the government that poverty and inequality in the peripheral regions of Colombia constitute a pivotal aspect of the conflict that must be addressed in order to achieve a durable solution. The Office of the Colombian High Commissioner for Peace (2014, 16) asserts that even though the government does not accept the argument that there are ‘objective causes’ that legitimize the use of violence,

“it does believe that conditions such as extreme poverty in the countryside, combined with a lack of opportunities and institutions that are weak in regulating public life, have enabled violence to flourish.” Therefore, even though the FARC and the government still disagree about the legitimacy of the armed struggle, the territorial focus of a peace deal that recognizes regional disparities and acknowledges conditions that exacerbate conflict, creates common ground for economic development planning.

In practice, this understanding has been critical to the progress of the negotiations, putting a peace deal within reach. The High Commissioner for Peace, Sergio Jaramillo, explains that this peace agreement aims “to reconstruct the regions which have been most affected by the conflict and by poverty through the implementation of development plans that will transform those territories, guarantee rights and facilitate reconciliation. Action plans will be developed in a participatory manner aimed at fostering regional transformation” (2014, 6). In this sense, the territorial approach to peace represents a ‘zone of possible agreement’ (ZOPA) between the government of Colombia and the FARC. The two parties’ shared view that a comprehensive and integrative approach to development is a fundamental aspect and desired outcome of a peace process bridges a critical gap and can account for the progress that has been made thus far in the negotiations.

Implementing a territorial strategy for economic development requires that the economic priorities established in a peace agreement be incorporated into the national economic development planning. The agreements detail a host of economic development priorities that include rural electrification and internet connectivity, formalization of small and medium land holdings, irrigation infrastructure, subsidies for income generation and improved access to credit, amongst others, which all aim to reduce the difference between urban and rural development in Colombia. The National Development Plan (NDP) for 2014-2018, submitted to Congress for consideration on 6 February 2015, was developed with these priorities in mind. The Director of National Planning, Simón Gaviria, stated in an interview that his department established a rating system when drafting the NDP which classified areas of overlap with the provisional agreements as ‘green,’ those still being negotiated as ‘yellow,’ and areas where the strategies do not overlap as ‘red’ (20 January 2015). The NDP that was submitted to

Congress focuses on tailored development strategies for the six geographic regions of Colombia and its stated objectives of creating a country that has more inclusive economic growth across sectors of the economy and segments of the Colombian population is largely in line with the priorities of the provisional agreements. While the provisional agreements and the National Planning Department are rhetorically aligned, the success of consolidating peace in a post-agreement Colombia will depend on how these stated economic goals will be accomplished in practice.

### **The Barriers to Territorial Economic Development**

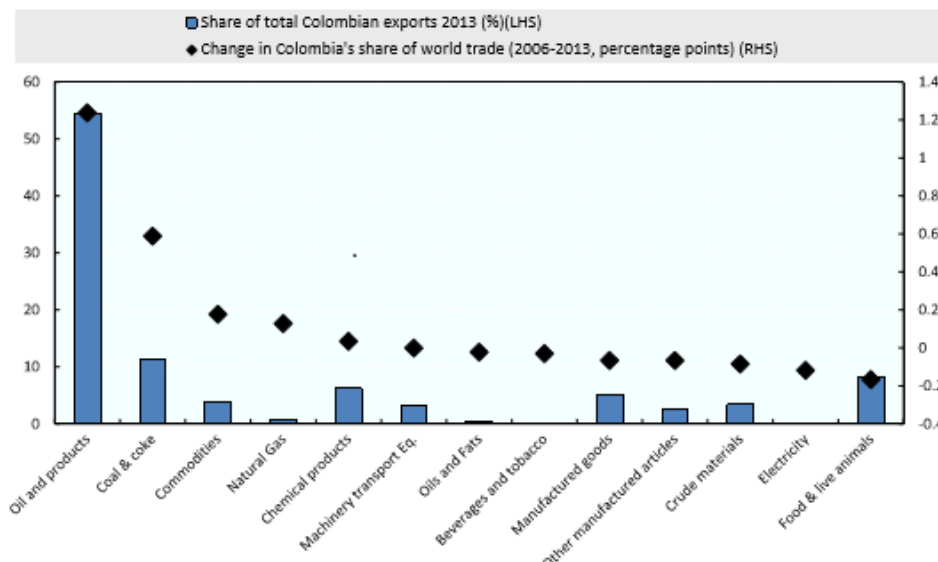
Peace in Colombia now appears to be within reach; however, there are a number of factors that could hinder economic development and jeopardize the territorial approach. One element is the existence of the *bandas criminales (bacrim)*, or criminal groups that proliferated during the government's previous demobilization of paramilitary organizations during the early and mid-2000s. While an agreement has been reached between the FARC and the government to address the cultivation of illicit crops, the demand for cocaine from the United States creates a powerful market incentive for individuals to join narco-traffickers and is a major challenge as the government attempts to provide economic alternatives to demobilized combatants and implement economic development programs.

Most significantly however, the government will need to be wary of the tensions that could arise as it strengthens state capacity, invests in infrastructure, promotes domestic industrial development, and invites foreign investment, especially in the extractive industries. An important component of the provisional agreements is the devolution of decision making authority and local ownership of development processes that are required for an effective and credible territorialization of the national development strategy. In a sense the territorial approach is an implementation of many of the broad rights and responsibilities ostensibly granted by the Colombian constitution of 1991 to local populations in the peripheral areas of the country, including provisions for collective ownership of land by Afro-Colombian and indigenous communities (collected interviews in Quibdó, 16-17 January 2015). In an acknowledgment of these rights, during the formulation of the 2014-2018 NDP the government conducted 23 participatory

meetings in the regions with private sector and civil society organizations in order to make the process more inclusive (interview with Simón Gaviria, 20 January 2015). However, in a series of interviews conducted in Quibdó, participants complained that though they knew of the meetings’ taking place, they were not truly consulted by officials from Bogotá and that meetings were held primarily for show. This highlights an important distinction between the account put forth by the government of the inclusivity of economic development planning, and the impressions of many individuals in the conflict afflicted regions.

In addition, how the government approaches the formalization and development of extractive industries will have an impact on the sustainability of peace because most of Colombia’s untapped oil and mineral wealth is located in the country’s rural zones. The NDP incorporates measures to address illegal mining, which is a substantial component of the FARC’s revenue stream, by focusing on the formalization and legalization of small-scale mining through an expanded title application process. Large-scale, industrial development in the energy sector will also be a priority of the government because, as Figure 3 demonstrates, oil over the past decade has been an important source of Colombia’s export wealth.

**Figure 3**



Source: OECD: Colombia Policy Priorities for Inclusive Development

How the development of the extractive industries sector and investment in this industry is conducted, by both foreign and domestic companies, could prove a contentious issue. The



territorial approach of the peace process, the 1991 constitution, and the language of the 2014-2018 NDP all imply a great deal of autonomy for the direction of economic development planning in the rural regions, and the participants of the interviews conducted in Quibdó expressed reservations about large-scale industrial development projects taking place in their region. Consequently, the government will need to proceed cautiously with industrial development and infrastructure projects so as not to aggravate local communities, which may prove difficult for a country eager to realize the economic dividends of increased security and peace.

As Colombia attempts to implement and institutionalize a territorial peace, the government needs to be aware and acknowledge the very real possibility that its conception of economic development and the vision of the local communities could very likely diverge. How the government and the local communities reconcile these differences will be critical to the durability and success of a peace agreement.

### **Recommendations**

In order to promote economic development in a post-agreement Colombia that supports robust macro-economic growth, mitigates the risk of conflict recidivism and contributes to the consolidation of a sustainable peace, the following recommendations should be considered:

#### To the Government of Colombia:

- **Work with the FARC to develop a mutually acceptable institutional successor to the Colombian Agency for Reintegration (ACR) that also provides programs for non-combatants within conflict-affected communities.** Effective alternative livelihood programs that take into account the skills and ambitions of demobilized combatants should be an important part of the regional economic development planning and must also be available to the broader community in impoverished areas.
- **Increase contact between development planners and target communities and institutionalize forums for community consultation.** The government should evaluate and strengthen their community consultation processes in the formulation and implementation of all aspects of the national development plan as

it pertains to the specific geographic territory occupied by each community. Ensure that these local forums have the final say on the development priorities and projects in their respective regions.

To the FARC:

- **Abide by the will of the local communities with regard to the economic development priorities that they establish.** The FARC must accept the prerogative of individual communities and respect the democratic outcome of economic development planning conducted by those communities.
- **Work with the government to develop the formal institutions of the state in areas that have traditionally been under the control of armed actors, especially related to illegal mining.** This includes working with local communities and local leaders to build the legitimacy and credibility of the state. Specifically, the FARC should work with the state to formalize and legalize the mining operations with which they have been involved through the titling process stipulated in the NDP.

To the International Community:

- **Provide robust financial and technical assistance to the government.** This will include support for both the disarmament, demobilization, and reintegration (DDR) of former FARC members, as well as the economic development programs that target Colombia's most underdeveloped rural areas.
- **Make assistance contingent upon adherence to the agreed upon provisions of a peace agreement.** The government of Colombia will need to rely on financial support from the international community to implement its post-agreement economic development agenda and therefore the international community will have the ability to incentivize compliance with a negotiated agreement, and to assure that the aid and assistance is utilized in a manner in keeping with the desires of local communities and in an environmentally sustainable manner.

## **Part II: The Peace Process**



# **The Havana Peace Process at a Point of No Return**

Emily Zeidler

Of Colombia's fifty years of internal armed conflict, approximately thirty have seen various attempts at negotiating peace. Now, for perhaps the first time, or at least more so than ever before, there is significant optimism and confidence among the Colombian government, the Colombian people and the international community that peace is impending. The current peace process, which began with a series of secret talks before shifting to official negotiations in October 2012, first in Oslo and then continuing in Havana, is distinct from those preceding it in a number of ways. While the conflict itself has transformed over the decades and while the current conditions certainly lend to ripeness for negotiation, the design of the talks, which was very much influenced by the failures of past processes, has greatly contributed to the process' currently perceived likelihood of success. In many ways the Havana peace process is everything the former processes were not and nothing that they were. President Santos has made a conscious effort to not repeat the mistakes of the past and instead lead his nation toward lasting peace. The stakes are high not only for his political legitimacy and legacy, but also for the generations of Colombians who have suffered direct and indirect consequences of conflict for half a century.

Colombia's history and peace/conflict continuum in a large way explain its current situation with respect to potential prospects for peace. Success would arguably not be on the horizon if not for previous attempts at peace and former administrations' partially failed efforts to combat the Revolutionary Armed Forces of Colombia (FARC) and other non-state armed actors. More specifically, Santos might not have known how best to structure the peace process with the FARC if not for first being able to acknowledge and critique the errors of Betancur, Gaviria and Pastrana. Likewise, the FARC might not have agreed to come to the table to negotiate if not for their weakened military position as a result of Plan Colombia and the 'success' of Uribe's aggressive military strategy.

This chapter will explore the peace process itself, looking to both its structure and mechanics, as well as softer issues related to the dynamics of the relationships and

interactions between the parties. It will also identify the international third parties involved and discuss their distinct roles within the negotiations. Finally it will assess the current state of the peace process and offer recommendations for specific relevant actors for this (hopefully) final sprint toward the beginning of lasting peace in Colombia.

### **To Not Repeat the Mistakes of Yesteryear**

A number of lessons learned have been collected over the years and have influenced the current process a great deal. Largely these lessons have related to the process itself, the planning and design of the process and the setting of certain conditions and/or ground rules. Throughout the years, the people of Colombia have wanted peace, and the various administrations have made attempts to make peace possible, but it is interesting to note the particular strategies and tactics that have been employed in these past efforts. Looking to conflict management theory, there are a number of factors that contribute toward making certain peace negotiations more successful than others. Skilled negotiators and mediators have a toolkit to draw on; as each conflict situation is unique, they customize their approach based on relevant contextual factors. What may be well suited to a specific conflict would perhaps derail a peace process in a dissimilar context.

While the most significant reason past processes failed was the conflict's lack of ripeness, demonstrated by perceptions by both the FARC and the Government of Colombia that they could be victorious without seriously committing to peace talks, there were other factors that detracted from potential success in negotiations. While some processes were criticized as too broad, others reached small successes but did not pave the way for comprehensive peace (Chernick 2009, 73). For instance, in the 1984 peace talks initiated by President Betancur, no specific agenda was set and the process began with the prospect for amnesty. While there were aims for large-scale political and social reforms to be addressed in the negotiations, the Peace Commission was comprised of forty members and experienced coordination issues. Though this process, which continued under President Barco, did lead to successful demobilization of the 19 April Movement (M-19), a number of individual and/or partial ceasefires and the creation of the Patriotic Union (Unión Patriótica, or UP), the leftist political party founded by the

FARC, it did not lead to an end of conflict or disintegration of the FARC as an armed group.

The 1990-92 process also proved unsuccessful. President Gaviria initiated a series of dialogues with the FARC and the ELN, covering hundreds of points for discussion. While negotiations began in the Arauca department of Colombia, they were later moved to Caracas, Venezuela and Tlaxcala, Mexico. The parties did not agree to a ceasefire prior to the talks, and ultimately the process was stalled when a conservative politician was kidnapped and murdered; President Samper, Gaviria's successor, could not attain sufficient political will to keep the process going (Dario 2014).

Until 1998, international involvement in Colombia's quest for peace was rather limited, other than the hosting (though not intervening) by Spain, Mexico and Venezuela. President Barco had refused offers of facilitation by the United States and Venezuela, President Samper unsuccessfully tried to engage the United Nations and instead welcomed assistance from the International Committee of the Red Cross (ICRC) and individuals hailing from Central America (Bayer 2013). Though Costa Rica and Guatemala's offers of facilitation and hosting were rejected, eventually good offices were formed to include Spain, Mexico, Costa Rica, Venezuela and then Germany.

However, when Andrés Pastrana took office in 1998, he had already set the stage for negotiations during his electoral campaign and intended to make use of international assistance. In a way, the approach to external involvement in the talks was "the more, the merrier." And while it can be useful to take advantage of assistance offered, the Pastrana peace process instead became crowded and chaotic. To varying degrees, Austria, France, Italy, Norway, Spain, Sweden and Switzerland acted as facilitators (ICG 2012). Additionally, a group of ten friendly states was also allowed to participate on some level: Canada, Cuba, France, Italy, Mexico, Norway, Spain, Sweden, Switzerland and Venezuela (Chernick 2009, 77). The Organization of American States (OAS) had some involvement over the years, though its mandate was vague and it was not involved in the direct conversations largely due to FARC skepticism that the OAS was excessively influenced by the United States. The UN played a coordinating role within the process; Jan Egeland, the Secretary-General's Special Advisor on Colombia, was seen as somewhat successful in navigating the numerous actors and guiding the talks (Bayer

2013). Still, the friendly states were not entirely clear on their specific roles within the process. General planning and strategic oversight was lacking, and eventually the talks became counterproductive, particularly when James Lemoyne took over Egeland's role as UN mediator. Many claimed that Lemoyne exceeded his mandate (Bayer 2013, 72) and pursued his own self-interested agenda too strongly.

In order to develop a sense of mutual trust, President Pastrana established a 42,000 square-kilometer demilitarized zone (DMZ) or *despeje* in El Caguán where the negotiations would take place (Balie 2014). The FARC had repeatedly indicated that any negotiations must take place in Colombia, in a zone free of government, intelligence, police and military forces (Chernick 2009, 79). Thus when the Government of Colombia wanted the zone to be monitored by an international verification team, the FARC rejected these demands. Throughout the talks there were a number of isolated truces or ceasefires negotiated, but the overwhelming conditions were such that fighting continued outside of the El Caguán zone. Ultimately, however, it was evident that both the Government and the FARC were engaging in the peace process for devious reasons, using the timeline of the talks and the ceasefires/zone as opportunities to strengthen their positions and pursue unilateral victory over the adversary. More specifically, the FARC used the zone to regroup, rearm and strengthen militarily; indeed, during the Pastrana peace process the FARC was approaching the height of its strength. The government was also working to restructure the army during this time with the help of U.S.-backed Plan Colombia (Dario 2014). When the FARC hijacked a commercial plane, kidnapped a Colombian and then later a presidential candidate, the Pastrana process unraveled altogether (Balie 2014).

After Pastrana, President Uribe continued with Plan Colombia and pursued aggressive military action against the FARC and other non-state armed groups. While effective in weakening the FARC over time, Uribe's administration did not consider entering into negotiations. Instead, using "War on Terror" discourse, it cast the guerrillas as terrorists and rejected the notion of striking a deal with them (Dario 2014).

### **A 'Principled' Peace Process**

Though he did not campaign on a platform centered around a peace process, Santos began pursuing peace through secret, exploratory talks very soon after taking office in



2010. Taking into consideration previous efforts at making peace in Colombia, President Santos was very careful not to make the same mistakes as his predecessors. Fully cognizant that peace had become an elusive concept for Colombians, he knew that if he were to contribute to the growing number of peace processes, he would need to do something different to ensure that his attempt would not fail. In truth, another failed process would weaken public morale and confidence in the government. So in an attempt to bolster his own reputation and legitimacy, as well as pave the road for peace, Santos designed a process and set certain conditions he believed would lead to successful negotiation of a peace agreement.

The current, ongoing peace process between the Government of Colombia and FARC is one of “principles,” using language from Fisher and Ury’s *Getting to Yes* (1981). Santos was clear about certain guiding principles or conditions that would direct the process and offer some sort of structure or overarching framework. Having consulted with a number of advisors, including former Israeli diplomat Shlomo Ben-Ami and American academic William Ury, Santos prioritized the following: first negotiate the agenda in secret, and then continue with uninterrupted talks; nothing is agreed until everything is agreed; and negotiate in the midst of conflict. The first point relates the importance of evaluating commitment of the parties and developing a certain level of mutual trust. While the FARC had previously used negotiations for devious reasons related to recruitment and rearmament, if they would be able to respect rules of confidentiality during a secret pre-negotiation phase, they would demonstrate commitment to peace broadly and the peace process with the government more specifically. Having the talks go uninterrupted and last for only a ‘reasonable amount of time’ and not indefinitely also worked to keep the parties committed to a focused process. President Santos noted that the ‘nothing is agreed until everything is agreed’ principle is also critical, as each specific agenda point may be contentious and/or difficult to accept but the overall package of peace will be something people would find acceptable and ultimately beneficial for all (SAIS Group meeting with President Santos, 19 January 2015). Finally the last point directly relates to the failings of past processes. As ceasefires were abused in the past by both parties to advance their position in the conflict, rejecting the notion of a ceasefire altogether would eliminate the risk that such events would take

place again. The government's approach was therefore to negotiate as if there were no conflict, and to continue fighting as if there were no peace process. As the FARC have been weakened and some of its top leaders killed, the government's military strength stands as an advantage. To continue aggressive military pressure makes it difficult for the FARC to pursue any devious agenda and also ensures that President Santos will not be viewed as naïve or too trusting of FARC to not repeat old tactics (SAIS Group meeting with President Santos, 19 January 2015).

In addition to the above, a number of other factors were prioritized for the current peace process. Expanding on the rounds of secret, exploratory talks noted above, choice of location was taken seriously. Especially due to the media's active role in Colombia, as well as the failed processes that previously remained domestic, it was decided to leave Colombia to escape public attention and interference. The Government of Colombia and the FARC initially met on the Colombian-Venezuelan border in March 2011 for a round of secret, exploratory talks to gauge both parties' interest and commitment to a way out of conflict and the notion of peace (Alsema 2015). In these first talks, tensions were high as strong personalities in opposition contributed to a general feeling of mistrust. However these exploratory talks resulted in agreement to continue secret talks in Oslo within the next year to decide on the agenda and a framework agreement for any further peace.

While the pre-negotiation phase in both Venezuela and Oslo was quite challenging and intense, it successfully set the stage for what followed in Havana. It was noted that Oslo was an ideal location for the secret talks as it was quite far from Colombia and cold during the winter months when the negotiations were taking place; media was kept away and the existence and content of the talks was kept confidential. In Oslo, both sides had small delegations of four to five members. The parties discussed the objectives of the talks and the specific issues to the extent of what would be included in a framework agreement and which issues would be left aside. Disarmament, Demobilization and Reintegration (DDR) proved to be a dramatic sticking point which even led to a temporary breakdown of talks. This comes as little surprise as some have stated that the FARC would not consider a process focusing on DDR so long as it still enjoyed an "unhurting" stalemate in military terms (Chernick 2009, 76). While DDR tends to be a sensitive issue in many peace negotiations, as combatants are reluctant to

give up arms due to their psychological and economic significance, ultimately the FARC, in their weakened position, agreed to discussing the concept of laying down weapons as opposed to disarmament per se.

Though the FARC had previously pushed a maximalist agenda, looking to make significant changes in every part of the government, they were eventually able to agree with the Government of Colombia on a framework agreement covering five substantial points. Many have noted the achievement of secretly negotiating the agenda in Oslo. While past peace processes were somewhat chaotic and lacking in clear direction, by the time the two parties moved to official talks in Havana in February 2012, increasing their delegations to ten members each, the air had been cleared and both were ready to negotiate details and language of a peace agreement. Indeed, Havana has been considered a safe space, facilitating frank, open exchange of ideas. Interactions between the two delegations had been icy; at first the delegation from the Government of Colombia was instructed not to socialize with the FARC negotiators and instead maintain a sense of diplomatic distance, keeping in mind perceptions of the FARC as terrorists who have committed atrocities in the country for many decades. On the other side, one of the lead FARC negotiators was one of the strongest opponents of the government; this appointment was risky though also strategic. If this FARC member could find the negotiated peace acceptable, it was presumed the rest of the FARC could also be convinced of its acceptability.

As time progressed, tensions eased and unfriendly relations grew more civil. Though serious and solemn, the atmosphere in Havana also proved to be relaxed. At the table, the negotiation teams discussed the details of the five substantive agenda points, which were land reform, political participation, illicit drugs, rights of the victims and the end of conflict, as well as a sixth point regarding implementation of the peace agreement. However more informally, groups from the delegations (3+3) would go for dinner to discuss other issues more candidly. For certain issues, a maximum of two advisors or specialists would come to Havana to meet with the delegations and offer perspective. For the topic of victims, six delegations of a total of 60 victims came to Havana to share their narratives. It is important to note that this was the first time such a peace process has brought victims to the table in this way. Setting an historical precedent, President Santos

indicated that victims' first-hand involvement was crucial given the vast number of peoples affected either directly or indirectly during Colombia's drawn-out conflict. Highlighting victims strives to legitimize the process and connect the negotiations to the conflict and suffering.

Finally, the private nature of the current peace process is noteworthy and has contributed to the progress and success of the talks. As noted, the first two rounds of secret talks, in Venezuela and Oslo respectively, were particularly useful in setting the agenda and paving the way for productive conversations in Havana. However, even in Havana where the negotiations are official and of public knowledge, information and media coverage on the substance has been restricted, contributing to reduced interference. The fact that the process has been exclusively outside Colombia has helped with keeping things confidential. While public access has been restricted, the delegations have used secret backchannels to enhance their understanding of what is taking place in Havana. Government officials in Bogotá have direct lines of communication with the FARC to keep abreast of discussions and perspectives of the other side.

Perhaps the most important decision President Santos made in reference to the peace process was the role of international involvement. Using the past as guidance, there was a clear decision-making process regarding which actors would be acceptable to participate in the process and which would be deliberately excluded. As this issue is quite central to the design and success of the peace process, the next section will discuss it at length.

### **Internationalization of Peace and the Calculus of Third-Party Involvement**

A defining characteristic of the Havana peace process has been the limited though strategic use of international third parties. Especially when recalling the free-for-all mentality during Pastrana's peace talks, President Santos was wary in accepting offers from the international community to get involved. Instead, he indicated that he would call upon certain third parties if and when he needed to, but until that time, he would not engage with the international community. Again looking to the Pastrana process, which was overrun with external actors with limited direction and/or understanding of their role, and who were led by a UN mediator who was pushing his own agenda, President Santos

was careful to handle this issue differently. Santos aimed to reject over-internationalization of the conflict/peace and rather make the current process more nationally focused: a small, discreet Colombian process. It was to be a Colombian process for Colombians, not to get sidetracked by international actors' ulterior motives.

That being said, there is international engagement in the Havana peace process that has proved to be incredibly valuable. It has been largely restricted to avoid collaboration and coordination challenges that plague so many multiparty mediation efforts (Vuković 2012). The four primary third parties have been Norway, Cuba, Venezuela and Chile. Norway and Cuba are the lead international actors, serving as guarantors to the process. Norway was chosen for the role based on its expertise, good track record in such activities and as it had longstanding involvement in the past attempts at peace in Colombia. Over the years, this small state has worked to provide yearly workshops for the Colombian military leadership to engage in talks with civil society. Thus, given its international reputation in the field of conflict resolution and peacebuilding, its historical presence in-country as well as its political and logistic capacity and access to resources, Norway is a key player in the Havana peace process. It is largely responsible for the infrastructure, design and development of the talks, as well as its financing. It also hosted the negotiation teams in Oslo for the second series of secret talks as well as for the commencement of the official talks in early 2012.

Cuba, as the host of the peace negotiations for the past three years, is also a guarantor of the process and has acted as a key player in the talks. Cuba is arguably the only country where the FARC would feel comfortable to be engaged in negotiations (ICG 2012, 31). Due to shared political histories and grievances, the FARC sees Cuba as an acceptable third party; indeed, Cuba was partially influential in bringing the FARC to the table to enter into negotiations. Many have noted that the Cubans have been excellent hosts, creating a comfortable environment for the parties. Given the location and ease of access, Cuban politicians have interacted with the FARC negotiating team, building a constructive relationship that has been helpful to the process overall.

As formal guarantors to the process, Cuba and Norway work as light facilitators. Considering past mediation efforts that went awry, there has been a conscious effort to treat the current process as direct negotiations between the parties rather than one

dominated by third-party mediation. Thinking in the framework of international mediation literature, it would likely be argued that instead there have been degrees of facilitation and formulation, though they have been intentionally restricted and somewhat minimal. Specifically, Cuba and Norway sit at the negotiation table for all meetings but do not interfere. As silent witnesses, they contribute to a solemn and sober environment, and only engage in discussions if major problems or disagreements escalate to become heated or emotional. Taking their roles seriously, Norway and Cuba have worked well together and have been invaluable third parties. With the help of the ICRC, they were particularly helpful in getting the negotiations back on track when they were temporarily disrupted due to the FARC kidnapping of an army general in November 2014.

In addition to Cuba and Norway, Venezuela and Chile act as accompanying parties to the peace process. President Chávez had been extremely influential in initially encouraging FARC to participate in peace talks with the Government of Colombia, and in turn the FARC wanted Venezuela to play a role in the ongoing negotiations. The FARC saw Venezuela as allies and sympathizers to their situation; thus they joined as an accompanier to the process. To counterbalance this move, the Government of Colombia later decided to ask Chile to act as an accompanying party to the process. While Colombia made this decision to gain support for its cause, it also aimed to improve regional relations with neighbors. Chile was likewise trying to carve out a leadership role for itself in the region; if Chile could assist with a successful peace process, it would be beneficial for both sides. Additionally, the Government of Colombia has been asking the Chileans for advice regarding their military downsizing exercise after the fall of the military dictatorship, suggesting possible information exchange and partnership. Chile and Venezuela primarily act as observers; they intervene in discussions even less than Norway and Cuba, though Venezuela did prove helpful in aiding in logistics for the talks.

With Norway, Cuba, Venezuela and Chile acting as the primary international third-parties involved in the Havana peace process, it is interesting to note who is not participating and who is participating but to a lesser degree. Brazil, for example, is not at the table despite its regional importance and interest in aiding with the process; this is largely due to mistrust of their intentions. The United States, though a close friend of Colombia, has also not been engaged with the peace talks until recently. President Santos

might have been downplaying Colombia's relationship with the U.S. in order to appease FARC and public opinion, though it would also be reasonable to expect that the U.S. would be a large contributor to the post-conflict effort. However in February 2015, President Obama declared that the U.S. would send a special envoy to assist in the peace process, Bernard "Bernie" Aronson, a veteran diplomat who has been involved in other peace efforts including Nicaragua and El Salvador. He indicated that the U.S. "will not take a place at the negotiating table, but we can push, prod, cajole, and clarify and help wherever we can" (Wroughton 2015).

In contrast to the Pastrana process, the UN has not played a very active role in the peace effort. The UN does not sit at the table and has not been directly involved in the talks. Its primary role has been to organize a series of forums across the country to engage civil society and present their perspectives on the different aspects of the peace process to the negotiating parties. It has accomplished this with the help of the National University, and has sent reports from the forums to the delegations in Havana so that they are kept informed of public opinion. The UN and the National University then partnered with the Catholic Church in order to select the delegations of victims and to travel with them to Havana. While the UN and other international actors may play a role in the post-conflict implementation of peace and verification, this has not yet been decided. Regional organizations, including the OAS and Union of South American Nations (Unión de Naciones Suramericanas, or UNASUR), have given their blessing to the peace talks, demonstrating support from a distance but no active engagement in the processes (Bayer 2013, 79). Other foreign states have taken a similar stance; while they support peace in Colombia, they are not taking an active participatory role. This was confirmed during President Santos' recent tour of Europe, though more active involvement and donor contributions may be needed in the post-agreement phase. Such need may pose issues as international involvement was previously rejected, and now may be sought after. Finally, in the current momentum of the peace process, there has been additional international attention directed toward Colombia. The U.S. decision to get involved demonstrates this, as does recent support to the peace process by Miss Universe 2015, a Colombian national, and Pope Francis.

## **Is it Enough?**

The negotiations in Havana have so far produced agreements on three of five agenda points, including land reform, ending the drug trade and the future ability of the FARC to participate in electoral politics; what remains are the nuts-and-bolts of ending the conflict in terms of disarmament and demobilization, along with reparations for the victims and pending charges against FARC commanders and government officers accused of war crimes (Miroff 2014). Many have acknowledged the significant progress realized as well as the current momentum of the talks. At this stage, it seems that the peace process has reached a point of no return. The conflict itself has demonstrated a certain ripeness (Zartman 1985); the FARC has been weakened militarily and President Santos wants to turn to a development agenda. In his proceeding with negotiations, he will likely produce a deal that the FARC should find acceptable, or at least more acceptable than perhaps one a different administration might offer. Both sides seem to be tired of fighting and ready for peace. Though the Colombian military is currently stronger than the FARC, it is not capable of defeating them with ease; thus both sides see advantage to negotiating and increasingly realize they need each other to make peace a reality. Sergio Jaramillo, the Colombian government's high commissioner for peace, warns that "this is our last chance. This is the last generation of Farc that is both military and political, the last of Farc as a university-educated political movement with Marxist politics we disagree with, but they are at least politics. The generation coming up behind them know only jungle and war" (Vulliamy 2015). Thus, despite some continuing differences, there is hope that the current delegations and the current conditions will allow the peace process to successfully conclude in the near future.

There has begun a visible demonstration of de-escalation of conflict. While the Government of Colombia has consistently argued that it would not engage in a bilateral ceasefire during the peace negotiations (due to events of the past), it has more or less been observing one since the FARC announced their unilateral ceasefire in December 2014. Since then, and in months preceding, aside from the November 2014 kidnapping, both sides have refrained from excessive uses of force. As the push toward peace has grown significant momentum, the progress in Havana has been echoed by progress on the battleground. In a way this goes against the principles President Santos laid out from the



very beginning; however, in a way all of the principles have been violated to a certain extent. The point of negotiating during the midst of conflict has recently been relaxed, given the government's informal decision not to engage in ongoing conflict, tacitly accepting the FARC's proposal of a bilateral ceasefire. Similarly, the talks were not to go uninterrupted, but this was violated during the temporary break when the army general was kidnapped by FARC members in November 2014 in Chocó. The principle indicating that 'nothing is agreed until everything is agreed' was also put into question as first the FARC and then the Government of Colombia published the draft agreements on the first three agenda points. The recent straying from set 'principles' does not necessarily challenge the legitimacy of the process, but rather suggests that the parties feel increasing trust toward one another and that this revised approach might be better suited toward finally negotiating peace. Despite these questions, it seems evident that government of Colombia, the FARC and the Colombian people are ready for peace.

Yet are desires for peace enough? Is momentum great enough that peace will be settled in the very near future? The spirit of the talks has been positive, secrecy and backchannels have proved useful and there has been widespread support for peace, both domestically and internationally. There is a push by the government to complete the talks very shortly and wrap up the process in a number of months, which may or may not be a realistic timeline depending on how negotiations on the last few agenda points go. From our meetings in Bogotá, it seemed clear that this final push and condensed remaining timeline was dictated by the need to have the people of Colombia vote in a referendum to accept or reject the proposed peace agreement; it is proposed that such a referendum would take place in October 2015 alongside the regional and municipal-level elections. While accomplishing this goal within the desired timeframe would allow for the next two years of President Santos' term to be devoted to actual implementation of the peace (if the agreement is accepted by the Colombian population), it also may rush the remaining points along too much, which could result in a messy peace agreement that does not fully address the critical issues.

However, a referendum is not the only option being discussed for the ratification and formal adoption of any peace accord finalized in Havana. Though President Santos has from the beginning noted that he would put whatever is agreed to in Havana to a

referendum for popular vote, and continues to stand by this, others are questioning the need and feasibility of such action. A referendum would incorporate text into the constitution, providing political legitimacy and public backing to the peace accord, though would also take around eight months to execute, as both the Congress and Constitutional Court need to be involved (Noticias de América Latina y el Caribe 2015). This timeline, as well as discussions over whether a referendum would require voting article by article, have produced some skepticism. Both Uribistas and FARC commanders are instead pushing for a constituent assembly, which would effectively change the constitution. If agreement could be reached using this mechanism, it would suggest political consensus regarding the ‘new country’ but would also potentially reopen the negotiations and allow the process to drag on even further. While a referendum and constituent assembly are the most widely discussed options for seeking the Colombian population’s opinion on peace, other mechanisms have also been considered. Consultation, for example, permits the people to ask authorities to take decisions based on public opinion. This option is speedy, as it only requires a concept from Congress before the people vote, and would also lend some legitimacy to the agreements, but would not result in a peace agreement taking immediate legal effect (Noticias de América Latina y el Caribe 2015). The seventh ballot is an ad hoc method for the people to express their will voluntarily; though it is logistically simple and mass participation would effectively demonstrate the views of the population, it has no legal effect and might not contribute sufficient political legitimacy. A plebiscite and powers to the President or a “Congresito” have also been discussed. A plebiscite allows the people to judge decisions related to the President’s competence and would offer political legitimacy, though would not have any legal effect. Finally, giving powers to the President or a “Congresito” to implement the peace agreement would serve as alternative to the above options. Colombians would only need to vote on one item: either that the transitional articles 12 and 13 of the Constitution are reinstated, giving power to the President, or that a “Congresito” would be formed and could possibly change the terms of the agreement (Noticias de América Latina y el Caribe 2015).

Though the Prosecutor General, Eduardo Montealegre, has indicated that ratification of a peace agreement is not required beyond whatever both parties agree and

sign to in Havana, President Santos and his supporters insist that gaining support of the Colombian people is imperative. Public backing of the agreement would demonstrate political legitimacy of the peace process and the agreement, and would maintain a democratic spirit of the peace process being wholly Colombian and for the Colombian people. Both negotiating teams agree that some form of public polling is an essential step in achieving stable and lasting peace (*Semana* 2015). Though it would be a shame if the population did not endorse what is finally agreed to after years of difficult negotiations, it is important that the future of Colombia is acceptable not only to those in power at the table in Havana, but also to those who will see the impact of the implementation of peace.

Considering the immediate way forward, there are several things to watch. Though the peace process seems to be at a point of no return, the final points are not easy to discuss and may require significant time, effort and compromise from the two parties. While both the Government of Colombia and the FARC claim to be speaking on behalf of the people, it will be interesting to see what the people of Colombia really think and if they will see any negotiated agreement as satisfactory. “The government and the guerillas have the historic responsibility to strike a deal, but only strong social and political ownership of that deal can guarantee that it leads to the lasting peace that has been elusive for so long” (International Crisis Group 2012, i). While signing a peace accord is an important first step, it does not signify immediate transition to peace; peace in Colombia will be a much lengthier and involved process that will take years if not decades to effectively implement and verify, addressing more of the root causes that lent to over fifty years of conflict.

## **Recommendations**

### To the Government of Colombia:

- Despite the urgent desire for peace, **do not rush the final stages of negotiation in attempts to get an agreement signed**, out the door and ready for implementation immediately. Though maintaining momentum is certainly important, it is also important that any peace deal reflect what is truly needed and satisfactory for both the Government of Colombia and members of the FARC.

- **Engage with the ELN in working toward negotiating a peace deal.** While a peace agreement with the FARC will truly be an accomplishment, to make peace in Colombia comprehensive and to eliminate conflict from the country, all relevant actors need to agree to making peace a priority.
- **Strategically engage with the international community.** While it was important to not over-internationalize the conflict or the attempts at peace, international engagement will be crucial for the post-conflict implementation and verification phases. Increased support will only further legitimize the road toward peace in Colombia.
- **Begin to plan for the post-agreement phase.** Implementation of peace will require improved institutions in Bogotá and in the regions, as well as significant resources, both financial and otherwise.
- **Use a simple, one-question referendum to seek public approval** for the peace agreement as previously indicated. A negotiated peace agreement will propose a package deal for peace, and to pursue another method of selling peace to the Colombian population might risk the tremendous progress both negotiating parties have made.

To the FARC:

- **Remember the course of negotiations of the past three or more years during these final stages of the peace process.** While there will be a push to wrap up the process shortly and get an agreement signed, it is both important to continue to negotiate for what is reasonable and acceptable for FARC members and also keeping in mind the compromises that are necessary on both sides to consummate the final peace agreement.
- **Develop a plan for FARC's role during the implementation of peace,** especially with regard to opportunities for ex-combatants and de-mining, and participation in the local, regional and/or national political processes.

To the International Third Parties Participating in the Peace Process:

- **Continue to support the delegations from both sides of the conflict** and work with them to find common ground and final solutions during the remaining talks. Intervene as needed with a bias toward peace and a mutually acceptable agreement.
- **Be prepared to give substantial and financial assistance in the demanding implementation phase.** Though a signed peace agreement is a necessary first step in achieving peace in Colombia, there will be much more work to be done in the post-agreement phase of implementation of peace. Colombia will benefit from international expertise, planning and organizational support, as well as resources.
- **Develop plans for potential assistance in monitoring and verifying peace** in Colombia. Though the parties have demonstrated commitment to peace, and to their contribution to implementing peace, the international community will prove valuable in ceasefire monitoring and also evaluation of implementation progress.



# **The Peace Process: Domestic Obstacles and Opportunities**

Mohamed Raouda

For the past fifty years the Colombian narrative has been dominated by the conflict between the government and the FARC, a peasant guerilla movement with a Marxist-Leninist leaning ideology. The conflict has claimed more than 220,000 lives, 80% of them civilians, with shared responsibility between the government and the guerilla forces (Aljazeera 25 July 2014). Similarly, more than seven million people have registered with the government's Victim's Unit: the vast majority having been internally displaced by the violence. Our travels through the country led us to meetings with a variety of Colombians, ranging from victims of the conflict, to President Juan Santos. While the conflict has evolved to involve the international community, its roots are fundamentally Colombian; with tangible problems facing marginalized communities outside of Bogotá. President Santos' efforts to engage in historic peace talks are aimed at addressing these domestic issues and ending the conflict. These efforts, however, are not without opposition. Achieving a lasting peace will require the President to balance a political narrative that continues to engage the FARC in negotiations while ensuring that public opinion does not turn in favor of his opponents. A combination of opportunities and obstacles, therefore, pose the greatest challenge to the peace process in Colombia and leveraging those opportunities will require a brilliant display of domestic political maneuvering.

## **Opportunities for Peace**

Political leaders in Colombia consistently referred to Professor Zartman's theory of ripeness to describe the environment behind the negotiations with the FARC. The theory concentrates on the parties' perception of a mutually hurting stalemate – a situation in which neither side perceives that it can win. The second condition for ripeness is the notion of a "Way Out" where parties may not have a specific solution in mind, but have a sense that a negotiated solution is possible (Zartman 2000). The situation in Colombia, however, provides us with a new lens in which to approach the theory of ripeness that may present a more "progressive" view.

In a discussion with our delegation, President Santos highlighted two domestic outcomes needed for the negotiations: military superiority and incentive for peace. Plan Colombia, initiated and funded by the United States, provided the Uribe government between 2002 and 2010 with the advanced military capabilities needed to gain the upper hand against the FARC. Uribe's hardline military policies, which earned him enormous popularity in Colombia, were a huge success in weakening the FARC's military capabilities and forcing them to retreat deep into Colombia's jungles. When Santos was elected President, Uribe expected him to continue his military policies, but Santos opted for a different path towards ending the conflict. He established a condition for ripe negotiations by giving the FARC a way out, even in the face of an eventual, potentially costly, government military success. Traditional international relations theory may lead us to believe that the negotiation environment is not ripe if one side maintains a military advantage. This, however, has proven to be untrue as Santos has risked his political career and legacy for a peaceful end to the war. The government emphasizes the difficulty of launching a full offensive into the jungle to eliminate the FARC, and regardless of the validity, this rhetoric benefits their political agenda. It leads the public, justly, to believe that accepting a peace is the best course of action. This does not mean, however, that if the peace negotiations were to fall apart that the Colombian army would not plan for a full scale military victory.

Drawbacks to a military invasion are numerous: it would further alienate FARC supporters, cost the government both money and lives, and prevent the government from pursuing sensible economic development policies. Certainly, therefore, there are incentives for the government to strike a deal. Defeating the remaining 6,000 guerilla forces could take ten more years (a liberal estimate), and halting the violence now will provide a great boon to the Colombian economy. These drawbacks and incentives, however, have always existed, so we have learned to expect warring parties to defeat one another and impose their own terms if they have a military advantage. While Zartman's theory calls for a 'mutually hurting stalemate,' the Colombian case presents us with a new framework for an opportunity at peace: a 'mutually hurting victory' – where one side has a clear military advantage but chooses peace in order to avoid further costly violence and pursue an economic development policy. Ripeness can originate from one party's



military superiority combined with a willingness to negotiate in an honest effort to end the conflict and avoid further violence.

While escalation of the conflict would eventually bring victory for the government, Santos has given the FARC a “Way Out,” opening the door to peace. These negotiations, therefore, are the FARC’s best opportunity to strike a deal that may give them a political opportunity in a post conflict Colombia. This remains the hope of the FARC since military progress is stymied by the government. Entering into negotiations, Santos’ military advantage gave the government the opportunity to set the agenda and test the willingness of the FARC to negotiate. Given the success of the negotiations thus far, there appears to be genuine interest in reaching an agreement as the FARC must believe that it has a platform to fight its political battles. Simultaneously, the Santos government will secure a key political victory and strike a blow to Uribe’s popularity, particularly outside of Bogotá, if it can deliver on the promise of peace.

The negotiations comprise six domestic political challenges: land reform, political participation, illicit drugs, rights of the victims, disarmament, and implementation (BBC, June 7<sup>th</sup> 2014). The first three points have already been agreed upon and the most challenging three points remain. It is in the interest of both negotiating parties to reach a peace agreement as soon as possible. President Santos has promised an agreement by May, but may not be able to deliver one until October. The longer it takes to reach an agreement the stronger the opposition’s narrative becomes and the less likely a peace process will succeed. Uribe’s narrative, however, does not entirely aim to ‘spoil’ the process. Instead it serves as a reminder to the FARC that failed negotiations are likely to bring Uribe to power, which will effectively end the FARC’s chance at a political role in Colombia.

The drivers of opportunity in domestic politics center on two main conditions: government military superiority and a willingness to negotiate from both parties. As long as these factors remain true, negotiations with the FARC will continue and an end to the oldest conflict in Latin America will remain in sight. In our meetings with various delegations of Colombians in Bogotá we came to understand that the conflict has no immediate role in the everyday life of citizens in Bogotá. Elections, however, have polarized the population around this issue, and Santos’ vision for peace won him the

presidency. It is curious that more immediate factors such as the economy or social services did not play the critical role in the campaign that the peace process did. This may indicate the populations' willingness to end the war, and support a leader with a vision to capitalize on these opportunities for peace.

### **Obstacles to Peace**

Former President Uribe's opposition to Santos has been successful in dividing the country almost evenly between supporters of the negotiations and Uribe's more hardline and militaristic policy. Three major arguments perpetuated by the Uribe camp have undermined support for President Santos' negotiations: transparency of the negotiation process, justice for the victims, and an opening for the FARC's political power. Santos defends the negotiation's secrecy as necessary because of Uribe's ability to manipulate public opinion and raise extensive criticism against his peace process. Uribe's followers (Uribistas) have used Santos' negotiation policy that "nothing is agreed until everything is agreed" to question how much the government has conceded to the FARC. Raising skepticism about the process, the Uribistas have pressured the government to publically address the details of the peace process and assure the population that they should have nothing to fear. Similarly, Uribistas have pointed to the fact that the peace process should be a national process that involves the Colombian people and gives transparency to the negotiations so that the people are more informed as to the trajectory of the dialogue. The government has countered by saying that Santos' re-election is an endorsement of his strategy and the trust that the Colombian people have placed in his leadership. Similarly, the government has favored a secret process because presenting the peace process as a complete package is more likely to be adopted by the Colombian people as the 'price of peace' during a promised national referendum.

The second argument perpetuated by the Uribistas is the lack of justice given to the victims under the current negotiation structure. While the M-19 managed to obtain pardons, demobilize, and assume a political role in the country, the Uribistas have argued that the FARC does not deserve the same treatment. History, they argue, is 'progressive' and the role of the FARC in committing 'crimes against humanity' should be punished according to international and domestic law. The lack of jail time for FARC leadership

would be an injustice to the Colombian people and a violation of the law. The government has countered by claiming that the FARC's actions, for the most part, do not constitute crimes against humanity and that the theory of 'progressive' negotiations is unrealistic and will lead the FARC away from the negotiation table. The Uribistas have accepted a reduced sentence for the FARC leadership but anything short of jail time will not be accepted by the Colombian people. This remains one of the largest points of contention within the peace process.

Lastly, the Uribistas have attacked President Santos for strengthening the political and military hand of the FARC. Uribistas have accused Santos of providing the FARC a political leg to stand on because the group can now claim to have forced the government to pay attention to land reforms when they were the government's responsibility all along. Similarly, Uribe argues that the introduction of a unilateral cease fire on the part of the FARC has led to an unacknowledged bilateral cease fire, which in turn gives the FARC the opportunity to regroup militarily. Uribe has pushed the notion that the government's negotiation path has undone the military efforts his government achieved four years ago and this has led to an escalation in violence from the FARC. The government has responded by saying that there is no cease fire and that the President has pursued the FARC militarily during negotiations and will continue to do so until a peace agreement is finalized. Furthermore, the government denies that the FARC will be able to regain what it has lost given its present weakness and relegation to isolated areas.

The core complaints raised by the Uribe camp must be synthesized to understand their domestic political strategy, which poses a direct threat to the negotiation process. While the Uribistas raise important concerns that pressure the government to pursue a desired outcome, their mischaracterization of the President's strategy is damaging to the outcome of negotiations. Despite the coherency of their overall message, the Uribistas have pursued a joint strategy of clever politics and misrepresentation that aims to attract people to their overall message while weakening the President's position by inserting confusion into the public discourse. This can be seen on former President Uribe's very active twitter page that claims, for example, that President Santos favors: "The political leadership of the kidnapers and the handing over of the country to the FARC." (*The Economist*, 1 November 2014). Ultimately, the Uribistas are placing their political stock

in defeating Santos' framework for peace when it comes to a referendum by labeling it as 'too high a price' for the Colombian people. However, Prosecutor General Eduardo Montealegre announced that, in judicial terms, there was no need for the referendum to validate agreements negotiated between the government and the FARC (Wojciak, 26 January 2015). According to the head of the judiciary's interpretation of the Colombian constitution, all powers related to decision making in the peace process lie with the President. Despite President Santos' renewed expression of support for the referendum, many have seen this as a domestic political move to strengthen the hand of the executive and bypass a referendum if the government cannot deliver a winning agreement. The pressure Uribistas have placed on the President to reveal aspects of the negotiation and provide transparency to the process appear to be in the interest of the Colombian people but ultimately provide Uribe and his supporters with more material to criticize and draw out the details of the negotiations before a full agreement is finalized. As a result, Uribe's success in drawing public support away from the negotiation framework puts the entire peace process at risk of being rejected by the public – defeating years of historic negotiations. This self-defeating behavior (as Mearsheimer reminds us) can only be the work of warped domestic politics (Mearsheimer 2001).

## **Conclusion**

The conditions in Colombia present themselves as an opportunity for a renewed narrative of peace. By implementing the suggested recommendations the government will take serious steps towards finalizing a peace agreement with the FARC that is implemented responsibly and honorably. This war is fundamentally a Colombian issue and it must be resolved by a national referendum where there is agreement to abide and accept the terms of peace. These historic negotiations have brought Colombia close to ending the longest existing conflict in Latin America. The obstacles to peace are defined by the Uribistas counter narrative to the peace process, while the opportunities for peace are categorized by the determination of the parties to reach an agreement. These opportunities can prevail in securing a lasting peace, and a new chapter in Colombian domestic politics lies on the horizon.

## **Recommendations – Overcoming Obstacles and Capitalizing on Opportunities**

### Government:

- **Improve transparency of negotiations wherever possible.** The President is correct when he says that selling war is more popular than selling peace. When taken individually, some of the items being negotiated in the peace process are particularly unpopular. Especially difficult to negotiate is the role of the FARC in a post war Colombia. The President must continue to keep the true details of the negotiations a secret without giving in to public pressure, but provide transparency when it does not threaten the negotiation process. Balancing these domestic political factors will be crucial towards selling the peace deal when it comes to a referendum.
- **Clarify transitional justice regarding the FARC.** The government should find middle ground between a progressive outcome that factors in the role of the FARC in crimes against humanity while still engaging the FARC at the negotiation table. This will require a combination of military might and political maneuvering. The FARC leadership should come to terms with the fact that those accused of committing major crimes must be tried and, if convicted, face jail time for their crimes, and the government should pressure them to accept this punishment as inevitable by reminding the FARC that they are fighting a losing battle. Politically, however, the government should back the FARC's demands to become politically involved if their leadership agrees to serve in jail if convicted in an appropriate judicial process. As a democratic country, if the FARC can manage to form a political party that is democratically elected then they should be allowed to serve in the government as happened with the M-19. If the FARC leadership threatens to leave the negotiation table, the government should open back channel communications with lower FARC leadership and circumvent the current leadership to preserve the talks and ensure that the senior leadership either remains exiled from Colombia or serves out a sentence.
- **Recognize the urgency of negotiations.** The government needs to scale up its time line for reaching a deal with the FARC or risk public support swinging in Uribe's favor. To do this it needs to exert stronger political and military pressure

on the guerilla group. Negotiations should have concrete and tangible outcomes with the constant reminder that every day an agreement is not reached is another missed opportunity. Despite the unilateral cease fire, the government should pursue a dual military objective: exert a military presence in FARC held territories as a constant reminder of the government's military superiority and begin to rebuild ties with local communities. Pressing the FARC to sign an agreement this year should be a core pillar of Santos' policy.

- **Limiting the FARC's capabilities.** In his final words to our delegation, President Santos recounted that he did not want his legacy to be that of a naïve President who allowed the FARC to grow at the expense of the state. While he may have meant this from a military stance, weakening the FARC will mean establishing government control over the most remote Colombian lands, particularly those with strong ties to the FARC. Establishing short- and long-term government services that support these communities will begin the process of rebuilding trust in the state and weaken the FARC's capabilities to recruit and maintain a base of popular support. By providing services and establishing its presence the government can contain the FARC and even weaken its political power in the post conflict environment.
- **Proceed to the national referendum.** The Prosecutor General's remarks should not persuade the President from recanting on the promise to hold a national referendum. Politically, avoiding such a public promise by the President could drastically damage the credibility of the peace process and lend support to the Uribe's narrative. The President should stick by his promise of holding a national referendum and continue to fight domestically and ensure that the population is accurately informed about the peace proposal.
- **Maintaining a way out for the FARC.** The Santos government needs to engage in smart politics and balance negotiations with the FARC alongside public opinion. Given the investment placed into these negotiations, the government cannot afford to see the FARC walk away from the table. The last three items of the agenda are the most crucial to the FARC because they constitute their final and most tangible power: their future and their weapons. Disarming the FARC

and ending the violence is the immediate goal of the government, but ensuring that the country does not relapse into violence is equally important. **The government should ensure that any deals reached between the government and the guerrilla group is honored**, meaning that years after laying down their arms no cases should be reopened against them and any punishment served will ensure that the matter is closed permanently.

- **Implementation in the post-FARC era.** The challenge for the FARC with these negotiations is that they require the government to keep their word after the group has surrendered its weapons and halted its operations. The importance of ensuring compliance is crucial to bringing the remaining guerrilla movements such as the National Liberation Army (ELN) into negotiations. Members of FARC who choose not to demobilize may opt to join other anti-government movements and any hope of bringing them to the table requires that the government uphold any bargains it strikes with the FARC. Similarly, **the parties should agree on specific indicators and objectives regarding a demobilization process that allows the FARC to feel more willing to sign an agreement and draw similar groups to the table.**
- **The role of the military.** Just as the FARC must answer for their crimes, so should those found responsible within the military apparatus. This is a far more delicate process but is equally important if the peace agreement is to be taken seriously domestically and in the eyes of the international community. **The military should support an open and transparent process for those identified as having committed crimes against the population.** Similarly, the military should understand that in a post war era their role in society will change. They will go from fighting the FARC to helping them reintegrate into the community, keeping the peace, and supporting the enforcement of the law in some of the most remote lands in Colombia. The role of the military in peacebuilding is crucial and transforming the military apparatus to be ready for these challenges is critical to the success of the implementation phase.





# Potential Spoilers of the Colombian Peace Process

Min Kyung Yoo

After over two years of negotiations, Colombia is at one of the most promising moments in ending its half-century long conflict with the FARC. In order for the two warring parties to reach a comprehensive agreement and peacefully end the conflict, the peace talks must be shielded from groups and individuals who try to undermine the peace process. The so-called spoilers can be classified into three categories based on their goals: a limited spoiler who has very specific goals, a total spoiler who demands total power over a situation, and a greedy spoiler whose goals expand or contract in relation to costs and benefits (Stedman 1997). Limited spoilers and greedy spoilers can be co-opted into the peace process by accommodating their limited demands and calibrating their incentives and cost-benefit calculations. However, as the total spoiler unwaveringly opposes the peace settlement under all circumstances, it must either be defeated, or the peace process must proceed without it.

The Colombian peace process is vulnerable to all three types of spoilers. Many individuals and groups in Colombia do not see the benefits of the peaceful resolution of conflict, and actively try to undermine the peace negotiations. Among those who support ending the war, differences in opinion on how to go about handling the peace process threaten to disrupt negotiations.

This chapter identifies potential spoilers of the Colombian peace process, examining each actor's roles in conflict and peace negotiations, as well as the motivations and incentives to sabotage peace. Finally, a set of recommendations are provided for respective actors to manage spoilers and safeguard peace.

## **Uribe vs. Santos: The Politicized Peace**

One of the biggest challenges to the peace process is the fierce opposition from the Colombian political right led by Álvaro Uribe, the country's president from 2002 to 2010. A charismatic hardliner who is remembered and credited by the public for strengthening national security to an unprecedented level, Uribe left office in August 2010 with an approval rating of 72% (Romero 2012) and continues to enjoy

unconditional support from his ardent political followers who uphold his rightist policies. Uribe officially entered a political war against Santos in January 2013 when he created the right-wing party Centro Democrático and successfully ran for senate that year. His political party came in second only behind Santos' Social Party of National Unity, placing Uribistas directly into the influential legislative branch and becoming the biggest hurdle to the peace process.

Uribe's opposition to the peace process comes from his perception of President Santos' political betrayal – initiating dialogue with the FARC instead of fighting against the group. During his tenure as president, Uribe took a tougher line against guerrillas, paramilitaries, and drug traffickers. His “democratic security” policies, which expanded Colombia's security force and launched intensive security operations against guerrilla groups, significantly reduced the number of crimes, kidnappings, and terrorist attacks. President Santos, then defense minister, played an instrumental role in implementing “democratic security” policies. In 2010, Santos was elected as the president of Colombia with the political backing of Uribe, which was critical in achieving victory.

Soon after his inauguration, in which President Santos pledged to maintain Uribe's strong security policy, the amicable relationship deteriorated. At the expense of strengthening security, Uribe severed Colombia's diplomatic relations with neighboring countries, in particular Ecuador and Venezuela, who were allegedly shielding FARC camps and leaders. However, as part of laying the groundwork for possible peace talks with the FARC, Santos neutralized relations with Venezuela – a country that is politically and ideologically closer to the guerrilla group and therefore capable of steering them toward the negotiating table. He also passed laws that offered reparations and restitution of land to victims of violence, and reduced criminal penalties for guerrillas who signed a peace deal. The declaration of the beginning of the peace talks in October 2012 signaled a political separation of Santos from Uribe, as well as the emergence of the biggest hurdle for the Santos administration.

Uribistas are most vocally and unanimously opposed to granting impunity to the FARC for war crimes. Just as Uribe had frequently mentioned in his speeches and tweets, Senator Iván Duque said during the SAIS meeting that the members of Centro Democrático “do not oppose peace, but oppose impunity” (23 January 2015). Senator

Duque expressed his intention to vote down the referendum that offers impunity, because combatants who committed crimes against humanity must be imprisoned and Colombia should establish a culture of the rule of law. Similarly, citing that 85% of the Colombian population rejects impunity for those who committed crimes, Centro Democrático Senator Alfred Rangel criticized the Santos administration for granting impunity to the FARC and thereby repeating the same errors made during the previously failed peace talks (SAIS Group Meeting, 21 January 2015).

Despite their fierce rejection of impunity for war crimes, Uribistas are aware of the need to make concessions regarding the duration of imprisonment. During his interview with the World Policy Institute in November 2014, Uribe said that the Centro Democrático is willing to “give amnesty, pardons, and political eligibility for those who are involved in the base of FARC. But for the kingpins, we accept to shorten prison sentences, but we cannot accept impunity, nor can we accept for those involved in atrocities political eligibility” (Randol 2014). During the SAIS meeting, Senator Duque reiterated the position that the FARC members who did not commit crimes against humanity may run for public office, but those who did must serve time in jail (SAIS Group Meeting, 23 January 2015). He added that his political party may potentially agree with the Santos administration on the substantial reduction of jail time. Senator Rangel said that war criminals should spend at least eight years in jail, explain clearly what had happened, and show remorse (SAIS Group Meeting, 21 January 2015).

Fidel Cano Correa, the editor of *El Espectador*, expressed concern during a SAIS meeting over the poor communication strategy of the Santos administration (22 January 2015). Unlike Uribistas, who effectively engage in demagoguery with the public and propagate outlandish claims through social media, official websites, and public speech, Cano argues that the Santos administration has failed to adequately educate and inform the public about the peace process and its implications for their lives. Former President of Colombia César Gaviria also stressed that the public skepticism is the biggest challenge that President Santos has to overcome (21 January 2015). During the SAIS meeting, President Santos acknowledged his underestimation of negative propaganda, and the need to communicate, persuade, and sell the peace process and its benefits to the public (19 January 2015).

Given that breaking down the current peace process and politically defeating Santos have become his main political objectives, Uribe is likely to remain steadfast in his opposition. The 2014 presidential election confirmed Uribe's political influence as well as the divided political sentiment and public opinion in Colombia. The election turned into a de facto referendum on the peace process between President Santos and Óscar Iván Zuluaga, Uribe's nominee who campaigned for imposing stringent requirements on the negotiations with FARC. The election went to the second round, and Santos barely won by 51%, defeating the Uribista only by 6%. While the victory of Santos can be seen as a public endorsement for the ongoing peace process, it also shows the polarization of the Colombian population on the issue and the challenges for him to fight against the powerful opposition. Therefore, how President Santos manages the political opposition remains critical for bringing peace to Colombia.

## **FARC**

Since the beginning of the peace process, the FARC leaders stayed committed to ending conflict and signing a peace agreement. In addition to reaching partial agreements with the government on a number of issues, the guerrillas made an unprecedented move by declaring a unilateral and indefinite ceasefire. This year, the FARC leadership promised to cease recruiting children younger than 17 and discharge its fighters under the age of 15. Additionally, it agreed to work alongside the Colombian military to remove the landmines in rural areas. In November 2014, President Santos suspended the peace process after General Rubén Darío Alzate was kidnapped, but the FARC's swift release of him and two other hostages quickly revived negotiations.

Despite gestures of commitment and cooperation, the FARC has factions in its midst that are able to sabotage the peace process at any time. Since the discussions on transitional justice began last summer, the FARC leaders have been demanding full amnesty, claiming that no peace process in the world ended with combatants in prison. They further insist that "an arrangement contemplating even a single day in jail for any guerrilla member is not an option" (Xinhua News Agency 2015). However, President Santos has stood firm that there cannot be peace with impunity, and the Colombian public is likely to reject any amnesty that would allow rebel leaders to escape justice. As

the Colombian government and the FARC are negotiating under the principle of ‘nothing is agreed until everything is agreed,’ the FARC leadership’s immutable preferences over impunity may rupture the peace process.

In addition to the issue of impunity, the negative impact of physical distance between high-level commanders and the rest of the guerrillas on communication and organizational discipline should not be neglected. A member of Foro Interétnico Solidaridad, a Quibdó-based civil society organization, raised concern that the FARC leadership in Havana and commanders in Chocó may have different perspectives on the peace process and its future (SAIS Group Meeting, 17 January 2015). Mid or lower-level commanders of regional divisions may not have accurate or recent information about the peace process and they may not agree with what their superiors are negotiating in Havana. In fact, when the 34<sup>th</sup> division of FARC kidnapped the Colombian general in November 2014, the FARC leadership in Havana had to fly to Colombia to meet with the division leaders to persuade them (SAIS Group Meeting, 17 January 2015).

Overall, the FARC has preserved its leftist ideology throughout the conflict. Hence, the more radical combatants who have different ideas on the negotiation process may break with organizational discipline at any given time, reorganizing themselves under new illegal armed groups to continue their struggle. In the post-agreement environment, difficulties in reintegrating, renouncing lucrative sources of income, and sustaining their livelihoods may all induce the guerrillas to pick up their arms again and join other illegal armed groups. The FARC must acknowledge that it can become spoilers of the peace process and take responsibility for controlling its own rogue actors. The government should prevent the spoiler problems by providing efficient reintegration programs and taking control over illicit economic activities.

### **Paramilitary Groups and *Bacrim***

Paramilitary groups emerged in the 1960s as local self-defense forces to protect themselves from the leftist guerrilla groups. While they positioned themselves as a necessary counter to the leftist guerrilla groups, they victimized ordinary Colombians, displaced indigenous communities from their land, and kidnapped political figures. The paramilitaries expanded in numbers, grew outside of government control, and diversified

their revenue streams by engaging in drug trade, oil trapping, and extortions. Furthermore, their infiltration into regional and national politics exacerbated Colombia's corruption, insecurity, and weak governance.

Criminal bands or *bacrim*, the Spanish acronym for *bandas criminales*, have their roots in demobilized guerrilla groups and paramilitaries. The term is used to describe a vast array of different criminal groups and enterprises – essentially any criminal structure not linked to the leftist groups. Having a presence in 130 municipalities in 15 provinces, the gangs are involved in all kinds of illicit behaviors with extreme violence. While the government differentiates paramilitaries from *bacrim*, most civilians consider these two groups to be the same due to their deep involvement in illicit economy and threat to security.

Paramilitaries and *bacrim* do not play any role in the peace process, and will probably continue to remain uninvolved in the near future. The fundamental motive for paramilitaries and *bacrim* is making a profit from drug trafficking, extortion, and illegal mining. Unlike the leftist groups, they do not have an ideological bent, a long-standing grievance or any apparent political agenda that they demand from the government. Therefore, they are not interested in talking to the government or participating in the ongoing peace process. In a sense, the demobilization and reintegration of the FARC into the society is in the interest of paramilitaries and *bacrim*, as they would have opportunities to take over the illicit business and land that were once held by FARC and thereby increase their fortune.

That said, paramilitaries and *bacrim* may actively disturb post-agreement Colombia. Should the government and the FARC sign a peace agreement, many post-conflict development plans, such as land restitution and counter-drug measures, will directly hurt the gains of these illegal groups. For instance, as a part of the rural development plan, the government will redistribute the land and help internally displaced Colombians return to their home. In order to do so, the government will need to take over the stolen and abandoned land that was illegally taken over by paramilitaries and *bacrim*. In the past, displaced communities seeking restitution of their lands have been subject to repeated violence, threats, and intimidation. Between 2005 and 2011, an estimated 50 leaders involved in these efforts have been assassinated by paramilitaries or *bacrim*.

(Human Rights Watch 2011). These groups will not give up their land easily and will increase their hostility and violence against both the security forces and the civilians. Similarly, paramilitaries and *bacrim* will conduct fierce military operations to protect their coca plantations, cocaine refineries, palm oil reserves, and other sources of profit.

## **ELN**

Another major actor in Colombia's half century of conflict is the National Liberation Army (ELN), the second-largest leftist guerrilla group in the country. Having been established with Marxist roots in the same decade as the FARC, the ELN maintains its stronghold in the northeastern war front in the region from the middle Magdalena valley to the Venezuelan border. Such a deployment of its force corresponds to the group's strategy of influencing the Colombian oil industry, which is concentrated in the region.

Despite its ongoing armed struggles with the government and generating profit through kidnapping, extortion and sabotage, the ELN is not likely to spoil the current peace talks between the government and the FARC. A majority of speakers, ranging from politicians to representatives of civil society groups, unanimously commented that the ELN recognizes its weakness and inability to achieve victory, and as such, will try to take advantage of the current momentum created by the government and the FARC. In fact, the government and the ELN have been engaged in exploratory talks to discuss terms of official negotiations. The Catholic Church is involved in the mediation and negotiation processes, and the leader of ELN announced in January 2015 that the group is considering calling a unilateral ceasefire. Many speakers from Chocó and Bogotá alike voiced the belief that negotiations with the ELN will be more "manageable," because it is "a terrorist [organization] without military power" that is driven more by leftist ideology, less militaristic and less involved in illicit economy compared to the FARC (SAIS Group Meetings, 16-24 January 2015).

While the likelihood of the ELN destroying the current peace process is low, the peace process that does not involve the ELN will be incomplete. In fact, the ELN has potential to disrupt the implementation of the agreement in two ways. First, the group may fill in the vacuum created by disarmed and demobilized FARC, thereby strengthening its position and making future negotiation more challenging. Second, as

mentioned above, the possibility of fragmented FARC guerrillas joining the ELN cannot be neglected, given that ELN and the FARC share some similarities. Senator Iván Cepeda commented in a meeting with the SAIS Group that successful peace talks with the ELN will make Colombia's post-conflict transition much more efficient (24 January 2015).

### **Recommendations**

With the negotiations between the government and the FARC reaching what many speakers and analysts call “the point of no return,” Colombia's armed conflict may end in the foreseeable future. Despite such optimism, Colombia's peace process is vulnerable to a number of individuals and groups who do not see the utility in peace. In order to minimize the actions of spoilers and safeguard the peace process, the following recommendations are made to respective actors of the peace process and the conflict.

#### The Santos Administration:

- **Develop effective communication strategy to increase public support.** The government needs to educate and promote the peace process, its benefits, and implications to the public. The government needs to reduce skepticism and fear toward the FARC, as well as increase public confidence in the government, the peace process, and the post-negotiation environment.
- **Increase state presence and promote good governance in all parts of Colombia.** The government needs to address the corruption in regional governments and terminate their strong ties with paramilitary groups and organized crime. The government should **promote regional development plans**, provide basic needs, and create job opportunities so that soon-to-be demobilized FARC members and the vulnerable population are not lured into illegal, non-sustainable economic activities and armed groups.
- **Maintain strong security forces** to counter existing paramilitaries and *bacrim*, as well as to defeat potential splinter groups from FARC. Security forces need to tackle illegal land mining, drug trafficking, arms sales, as well as take over their illegally controlled land.
- **Continue engaging in conversation with the ELN and explore options to end**



**conflict peacefully.** The government should consider **developing parallel talks with the ELN on a similar agenda**, since many of the demands of the ELN are similar to those of the FARC. A successful negotiation with the guerrilla group will allow convergence of post-conflict stabilization and reconstruction policies, making the transition and development processes more efficient.

- **Discuss and negotiate with Uribistas the types and terms of punishment for war criminals that they find appropriate and acceptable.** Senators of Centro Democrático have publicly expressed their intentions to consider reducing punishment for war criminals. Engaging in dialogue with Uribistas will help the government better understand their position and ideas on the transitional justice framework. The government may be able to win over relatively moderate Uribistas by negotiating with them and potentially incorporating their demands in the final peace agreement.

#### Government Negotiators in Havana:

- **Explore options for a transitional justice framework that balances the demands of Uribistas, the public, and the FARC.** The formula that does not hold the FARC accountable for war crimes will only fuel political and public opposition, as well as increase the risk of a final peace agreement being voted down in a referendum. At the same time, pressing for punitive prison sentences for war crimes will not help the government reach any agreement with the FARC. Therefore, the government negotiators should explore transitional justice mechanisms that bring the FARC to justice, and yet enable the guerrilla group to withdraw with some dignity. (See Ryan Ball's chapter on transitional justice).
- **Devise comprehensive demobilization and reintegration programs.** Members of the FARC will eventually need to forgo illegal sources of profit, which generate higher income than the alternatives that would be presented to them. Hence, effective and sustainable demobilization and reintegration programs are necessary to prevent the demobilized combatants from falling back into the illicit economy and organize into criminal groups.

#### FARC Leaders and Negotiators in Havana:

- **Sell the peace process to regional commanders, members, and constituents.**  
The leadership should communicate with regional units to ensure that they are informed about, agree with, and will follow what has been and will be decided in Havana. Such effective communication and common understanding of the peace process will further reduce the occurrence of isolated activities, such as the kidnapping of the Colombian General in November 2014, and fragmentation of the group.
- **Accept the fact that a full amnesty is untenable and move negotiations forward by exploring transitional justice structure that can be accepted by both FARC constituents and the Colombian public.** Given the fierce domestic opposition to impunity and the Rome Statute of the International Criminal Court, the FARC cannot attain complete impunity for war crimes. Instead of insisting on amnesty and jeopardizing the peace process, FARC leaders should show pragmatism, embracing the reality, safeguarding what they have gained in the past three years of negotiations, and searching for the best alternative to a total impunity that the Colombian public can accept.

#### Former President Uribe and Members of Centro Democrático:

- **Stay firm in their support for justice, but be accommodating with their position.** Members of Centro Democrático have clearly stated their support for justice and willingness to reduce jail time for war criminals. However, they have yet to provide details of their proposal, including how much, and for what types of crimes, they would consider lowering jail time. Members of Centro Democrático should **elaborate on their position of acceptable and appropriate levels and types of punishment for war criminals.** Enunciating their demands and their rationale may help them deliver their position to the government and the FARC. Their ideas and solutions may be discussed during the negotiations and reflected in the final agreement.

# **Gender Equality and the Role of Women in the Peace Process**

Shauna Aron

UN Security Council Resolution (UNSCR) 1325 (2000) brought the disproportionate impact of conflict on women to the forefront of discussion, and, for the first time ever, placed emphasis on the need for women's engagement in conflict resolution and peacebuilding. However, little has changed in the fourteen years since the adoption of the resolution. There continues to be a lack of a real presence of women occupying senior peacemaking positions and prominent political roles in the negotiation process on a global scale.

Yet, the Colombian government has complied with international human rights standards and is taking an active role in promoting gender equality via national legislation. They approved the following three political and judicial actions that provide the legal framework to empower women in an environment of armed conflict. In March 2013, the government launched the National Policy on Gender Equality Plan to guarantee a life free of violence, a national framework to create sustainable actions based on peacebuilding, cultural transformation and women's participation in decision-making. Second, the 2011 Law on Victims and Land Restitution is one of most advanced instruments to grant judicial, social and economic measures for victims of conflict, and a large majority of conflict-affected victims are women. Finally, the Violence Against Women Law 1257 established both national and local councils for victims, including provisions against sexual violence and support for community and institutional networks to protect victims (Londoño 2013). The legislation exists on paper; however, other factors such as funding, capacity, proper planning and monitoring, and social discrimination, prevent gender equality from being a reality in Colombia. The real gap is between legislation and the implementation of gender equality policies on the ground, and this disparity requires further investigation.

A disproportionate burden of the conflict in Colombia is placed on women and thus their experience demands greater attention. A gendered analysis of the conflict, including the current peace negotiations and recommendations for reparations and post-agreement remedies, is needed in order to ensure that women are not further excluded

from accessing benefits. A failure to do so will preserve the existing unequal structures, reflecting and reinforcing women's marginalization in society. The following sections will describe the experience of women in Colombia, analyze the main drivers of conflict in Colombia, and offer a critique of current conflict management strategies to address these obstacles. The final section will outline policy strategies for all the actors and stakeholders engaged in the peace process and offer recommendations for moving forward.

### **Gender Dynamics and Conflict in Colombia**

More than 50 years of internal conflict has had a devastating impact on civilians, with serious ramifications for women. At a 2013 UN Conference on Women's Action for Peace in Colombia, Rose Salamanca, senior adviser to and former executive director of Colombia's Association of Interdisciplinary Work, stated that of the 220,000 people that have been killed during this conflict, 81.5% of those victims were civilians, and approximately five million people have been displaced with 84% being women and children.

Additionally, incidents of gender-based violence in Colombia are high but underreported. While there are obstacles to collecting accurate data regarding cases of violence against women, trends show that violence against women increases during conflict. In 2011, the government sponsored a survey that revealed 48% of displaced women reported domestic violence, and 9% reported crimes of rape by a person who is not their partner (Human Rights Watch 2012). Reported rates of domestic and sexual violence are higher in the context of conflict and displacement, thus indicating greater vulnerability and security risks among displaced women. For many of these women and young girls, their hardships are compounded by the trauma of violence, which is then further amplified by their lack of political inclusion, access to health and legal support, in addition to ongoing security threats.

Legislative measures were taken to address gender-based violence, such as reforms to the 2008 Violence against Women Law to address domestic violence and were strengthened by the 2011 Seguridad Ciudadana Public Safety Law. Additionally, the Violence Against Women Law (1257) includes sexual violence in the definition of

violence against women and now requires the government to create awareness programs to prevent sexual violence (Social Institution and Gender Index [SIGI] 2014). Yet, despite progressive reforms, conviction rates are low and impunity for rape is high, particularly against women who have been displaced. The consensus among victims, government officials, and civil society is that “while the law is good, implementation is failing” (Oliver 2014). To exemplify this sentiment, an international forum on sexual violence hosted by the Norwegian Refugee Council and *El Tiempo* Newspaper in Bogotá disclosed that 90,000 cases of sexual violence were reported during the 50-year conflict, while only 10% of the perpetrators have been convicted (Oliver 2014). Given that millions of women and girls remain internally displaced, women activists and civil society organizations are concerned about their continued vulnerability and security in an environment where impunity prevents justice for crimes of sexual violence.

However, women should not be viewed solely as victims, but rather understood as possessing varying and multiple roles within the context of conflict and peace. Women have been active agents in the guerrilla groups and in the government military, at times being both agents and victims of the conflict. The roles of both men and women are not easily classified and should be understood as such. For instance, the FARC claim that their organization consists of 40% women and that their values emphasize equal treatment within their ranks (International Crisis Group 2014). While these claims regarding gender equality within the FARC ranks are controversial, the stereotype that women are solely victims overlooks the fact that they are taking up arms. Some female members of guerrilla movements have experienced varying forms of violence as well, such as forced recruitment, abduction, forced abortions and sexual violence. Thus the role of women in the conflict is complicated because they can be both perpetrators and victims of armed conflict. A more complete analysis of gender dynamics during conflict compels us to view women as more than solely victims lacking agency or conversely as “fully free actors,” but instead as agents engaged in the “difficult task of social navigation” (Thiedon and Penicie 2011, 21).

Experiences of women during the conflict also vary within the ‘women for peace’ movement. In Colombia, there are numerous women’s groups active at the national, regional and local level such as the National Confluence of Networks, the Organización

Femenina Popular, la Ruta Pacifica de las Mujeres, Red Nacional de Mujeres and Iniciativa de Mujeres por la Paz. These groups, among many others, illustrate the diversity of political orientation, age, race, religion, geography and methodology that exists within the women's peace movement, even though they all work to promote gender equality (Rojas and Bouvier 2009, 207-208). No other groups working for peace have been as effective as the women in linking the transformation of gender roles in the private sphere to the public sphere, advancing the role of women as political leaders, and creating space for women to voice their concerns on peace and reconciliation as agents of change (Rojas 2009, 222-223). However, due to years of ongoing conflict between the Colombian government and rebel groups, the women's movement has been restricted by threats of kidnapping and violence.

This brief analysis of gender dynamics in Colombia reveals several persistent trends. First, legislation in Colombia is progressive and complies with international standards; however, it is lacking in planning, implementation and monitoring. Second, a weak judicial system and rampant impunity for crimes of sexual violence amplifies the security threat to women and girls, especially in conflict zones. Finally, the experiences of women in conflict are varied. While there are sectors of civil society that promote and embrace gender equality, there still appears to be the persistence of the low social status accorded to women in society, especially among marginalized communities, which hinders progress. These root causes of conflict will be further analyzed in the following section.

### **Drivers of Conflict**

Limited political inclusion and marginalization of minority communities are the root causes of the ongoing conflict in Colombia, as discussed in Morrison's chapter. Women are marginalized at every level of society, and inequality is a structural source of conflict; however, other contributing factors, such as the lack of state presence and monopoly over violence, ambiguity over legal land titles, weak enforcement of the judicial system, and widespread corruption are 'opportunity dynamics' which allow for, and even encourage, the continuation of violence.

### Political Participation

Gender inequality is prevalent in Colombian political life. In the Inter-Parliamentary Union international ranking of women's political participation in parliaments, Colombia shared 111<sup>th</sup> place with the Republic of Congo and Armenia in 2009 (IDEA 2009). It was the lowest-ranking Latin American country in the survey. Since then, Colombia has implemented quotas and legislative reforms to address gender inequality in the political realm at the national and sub-national levels. For instance, Law 1495 introduced a 30% minimum gender quota for candidate lists for publically-elected offices, and additionally, the law provides funding to political parties according to the proportion with which they elect women, as an incentive to promote gender equality (SIGI 2015). As a direct result of the gender quota in public elections, the participation of female candidates has notably increased – from under 20% in the 2007 elections, to more than 35% in the 2011 elections (Quota Project, 2014). In the Inter-Parliamentary Union (IPU)'s international ranking of women in parliament in 2014, Colombia has improved its ranking and currently shares 72<sup>nd</sup> place with Saudi Arabia, with 19.9% women in the House of Representatives and 22.5% women in the Senate (Women in Parliaments, 2014). In regards to equal representation of women, while there are noticeable reforms in legislation, the continent's oldest democracy still faces major challenges.

Women's groups in civil society have been active in promoting gender equality in Colombia, reflecting the value of Track II diplomacy in peace negotiations. There are hundreds of organizations and more than 16 networks of women who work on implementing and advocating for peace initiatives across the country and bringing women's voices to the forefront. For instance, Magda Alberto, representative of Mujeres por la Paz, explained how women organized a National Summit of Women for peace to bring the concerns and voices of women to the forefront; this meeting included 450 women from diverse backgrounds, ages and ethnicities from 32 departments across Colombia (Lopez 2014). At the summit, women discussed the six points of the peace agenda and focused primarily on the implementation of the accords. One significant achievement of this summit was the appointment of Nigieria Rentería as a member of the government's negotiating team. Prior to the summit, there were no female chief negotiators. Magda Alberto stated that, "Although women at the table – like Nigieria – do

not represent civil society as a whole, the appointment of women negotiators assures us that both actors will hear our points of view and take them into account” (Lopez 2014). While initially there was a lack of gender awareness by both parties at the negotiating table, this trend shifted due to pressure from women civil society groups and the international community.

Equal participation of women is crucial at the highest level of the peace negotiations, emphasizing the significance of women’s engagement in Track I diplomacy. Gender equality is necessary at the negotiating table not solely as a symbolic gesture, but also as a show of commitment to reform gender inequalities embedded within Colombian institutions and which, if neglected, threaten to persist after the conflict subsides. While UNSCR 1325 requires gender equality in all efforts to ensure peace and security, in reality this is not implemented, and historically women have only represented 8% of negotiating teams (Sanchez 2012). Women historically have been excluded from peace agreements and national rebuilding efforts; thus their priority concerns and burdens carried during conflict are often ignored. At the beginning of the peace negotiations between the Colombian government and the FARC in 2012, no women were included at the highest level of the negotiations; however, four women were invited to the second tier of talks.<sup>7</sup> Peace remains a realm for men, as has been reflected in the previous peace processes in Colombia. However, this time women’s groups lobbied heavily, with support from the international community, to bring women to the forefront of the negotiations. Father Francisco de Roux, founder of the Development and Peace in the Middle Magdalena, explained how women’s roles in the negotiations evolved, and since August 2014 women represent 40% of those at the negotiation table, both on behalf of the FARC and the Colombian government (2014).

Another important development has been the creation of a gender subcommission that is tasked with integrating the voices of women and gender perspectives in all of the accords reached at the table. Last year, Nigieria Rentería stated that the commission “seeks to guarantee inclusion, social equity, and bring us closer to an accord that

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<sup>7</sup> This includes two insurgent female combatants from the FARC and two officers from Government forces, one from the Ministry of Defense and one from the Office of the Presidency, who were invited to the second tier talks in 2012.



represents the interests of men and women” (2014). The subcommission will include five members elected by the government delegation and five from the FARC; both parties are committed to integrating women’s rights into the peace agreement and have shown a commitment to promoting gender equality (Bouvier 2014). Progress towards gender equality in the political realm, such as the creation of a gender subcommission and representation at the negotiating table are significant “not just for the inclusion of the peace-building strategies but for their future inclusion in the domestic political and legal order itself” (Thiedon and Penicie 2011, 25). Political participation must be equal with regards to gender because peace is built by transformation of the living conditions of everyone who has been historically excluded from the political process.

### Inequality and Marginalization

Gender inequality and lack of access to basic resources are compounded by the years of internal conflict and displacement. Women heads of households represent nearly half of the 4.9-5.5 million displaced peoples (UNHCR, 2014). In 2007, the Ombudsman Office conducted surveys in four major cities, revealing that 18% of women were displaced as a direct result of sexual violence, and, once displaced, suffer from lack of adequate shelter, access to sustainable livelihoods, and compensations for their land (Refugees International 2012).

International organizations, such as the UN World Food Program, have been central at responding to the humanitarian crisis by implementing the following programs, which have a gender focus imbedded in the design: 1) cash vouchers and local purchases assisting small farmers and women’s groups to sell their products on the market, 2) ‘food for work’ or ‘food for training’ programs that focus on providing gender-based violence training to both men and women and 3) emergency relief and recovery to victims of displacement, particularly to women and children (Obando, 2015). From the government side, the Law on Victims and Land Restitution is a legislative attempt to address this humanitarian crisis and offers a progressive organizing framework for achieving its goals. However, both the humanitarian response from the Colombian government and international organizations fail to address the vast majority of their needs and respond to the scale of the humanitarian crisis with adequate gender sensitivity and awareness.

As mentioned in Morrison's chapter on discrimination against marginalized peoples in Colombia, women in these communities experience multiple forms of discrimination. In 2009, a report by Oxfam found that, "Afro-Colombians and indigenous women and girls face the greatest vulnerability to sexual violence given the triple discrimination they endure due to their gender, ethnicity and the poverty in which they generally live" (Patterson 2013). In an interview with Piedad Córdoba, Colombian politician and human rights activist, she described the equality conditions for women in Colombia by the following indicators: women earn less, participate in politics less, trafficking of women and gender-based violence has increased in recent years. Gender inequality is magnified in marginalized communities located in rural areas (SAIS Group Meeting 23 January 2015).

This is particularly relevant in the discussion of land rights. One of the main consequences of the internal armed conflict is land abandonment after forced displacement, land grabbing and dispossession, and renewed land concentration. Women make up a majority of these victims and persons requesting reparations under the 2005 Justice and Peace Law. Donny Meertens, expert on land rights in Colombia, wrote, "displaced women have been more vulnerable to violent land seizures and they face greater security risks than men when attempting to reclaim their land" (Meertens and Zambrano 2010, 189). In the past decade, there has been progress in women's legal access to land, specifically with respect to the current law on land reform (1994). In an interview with Donny Meertens (November 2014), she outlined the two most notable reforms regarding women's rights and land restitution: 1) restoring land rights to couples and 2) 'special reserves' and land titles for women heads of households and collective women's groups. However, there are limitations in practice. The current law on land reform initiated the implementation of restoring land rights to couples – they must first locate large landowners who are willing to sell pieces of their land and then they can apply for a government subsidy. However, it has been implemented on a low scale and some women have been deceived and not afforded their land title. Furthermore, one limitation of joint titling is that it restricts individual rights to women in land ownership if the couple splits (except in cases of domestic violence, which poses many judicial obstacles and the final ruling is dependent on the justice and transitional process).

Moreover, insecurity is still a predominant threat among displaced women who have a low desire to return home. The second aspect of this legal reform, incorporating a ‘special reserve’ for women who are in vulnerable conditions to women heads of households and collective groups of women associations also poses challenges in implementation. Beneficiaries are still obligated to pay 30% of the land value, often finding themselves in debt. Furthermore, women who purchase collective property often lack agrarian skills training and financial literacy to improve their situation.

### Security, DDR and Victims Reparations

Women and children have suffered the most from ongoing internal conflict. Between 2001 and 2009, a study was conducted revealing that 489,687 women were victims of sexual violence; thus every hour on average six girls and women were victims of rape, sexual slavery, abuse, and exploitation (Sanchez and Line 2012). In response to conflict related violence, Congress passed the 2011 Victims and Land Restitution Law recognizing that women “have the right to a life without violence and for victims of violence to make claims for compensation.” However, a report by Oxfam was released the same year showing that between 2001 and 2009, “almost half a million women living in municipalities where armed groups were present were victims of sexual violence” (SIGI 2015). In Colombia, while the state does have a stronghold in major cities, it does not enforce security and rule of law in all regions of the country, particularly in rural and remote areas with limited access. In the absence of the state, guerrilla and armed groups have maintained the monopoly over violence and law enforcement. The government will face challenges implementing the Victims Law in regions where they do not maintain the monopoly of violence or rule of law, and, have not done so for many years prior, if ever. Furthermore, widespread impunity for crimes of sexual violence does not instill confidence among women and girls residing in conflict zones.

Victim’s rights and reparations are central to the current peace process and have included women’s voices through the victim’s delegation mechanism. The Colombian government and the FARC invited five victims’ delegations to the negotiations in Havana, to provide a space for victims of FARC, government and paramilitary attacks to testify and contribute to the discussion regarding victim’s reparations. The majority of

participants invited to testify in Havana were women, reflecting the heavy burden they have suffered during the conflict. While incorporating victim's perspectives and gender sensitivities in the peace agenda is a positive contribution, other potential concerns arise. For instance, the victim's identities were publicized. Future truth commissions should consider sufficient provisions for ensuring the privacy, anonymity and security of witnesses. Specifically, truth commissions should adopt gender sensitive approaches in the design, such as allowing women to testify before women commissioners, require that commissioners undergo gender-sensitivity training, and allowing testimonies to remain private or anonymous (Theidon and Penicie 2011, 26).

There will be other challenges in the post-conflict scenario that should be taken into consideration and incorporated in the current peace agreement. First and foremost, "the dividends of peace are not shared equally in part because gender regimes forged or exacerbated in conflict settings can persist after hostilities abate" (Theidon and Penicie 2011, 24). Violence against women and girls often increases in post-conflict situations due to the "domestication of violence," whereby actors no longer engaged in conflict turn to aggression and frustration inside the home. Furthermore, reparations and development policies that do not include a gendered perspective tend to exclude women from accessing benefits and prioritizing reparations, which perpetuates inequality and poverty. For instance, women perceive a range of injustices and assign a unique interpretation and hierarchy of harms – economic discrimination and the loss of a loved one may take priority over sexual violence. Experiences of women are varied, and thus the participation of women from diverse backgrounds, varying in age, religion, ethnicity, political orientation and geographic location, are crucial in discussions. Building a national consensus that is inclusive of women is necessary to achieve a widely supported peace agreement. The inability to do so would reflect a more grave situation, beyond lack of adequate policy, revealing the existence of attitudes that perpetuate gender inequality in Colombia and relegate women to a second tier of importance.

## **Recommendations**

### All Actors:

- **Include women in crucial decision-making roles** (including political positions, the negotiation table and to prominent positions in civil society). Excluding women from crucial decision-making positions reinforces their marginalization in society. Gender inequality left unaddressed will persist post-agreement and fail to address the structural discrimination. Engaging women from the beginning will better inform current decisions and policies to address existing gender disparities.
- **Incorporate a gender perspective into any planned national action** (including the peace agreement, legislation and development plans). Gender mainstreaming is a strategy for making women's as well as men's concerns and experiences an integral dimension of the design, implementation, monitoring and evaluation of policies and programs in political, economic and societal spheres so that women and men can benefit equally. The goal should be to achieve gender equality.

### Civil Society and Women's Groups:

- **Coordinate support for a clear list of priorities within women's groups and networks.** Fragmentation within the women's peace movement weakens the overall ability to achieve gender equality.
- **Generate greater national and local support through council meetings, focus groups and national summits.** Continue to push for greater political representation at the highest level, within parliament and at the negotiating table in Havana, Cuba.
- **Incorporate men and boys in advocacy and education for gender equality.**
- **Create regional development proposals, incorporating clear gender mainstreaming policies** that can advise the national government on best practices given the needs of different communities.

### Government:

- **Commit to maintaining gender equality in the negotiations** at highest levels of decision-making to ensure balanced engagement throughout the peace process.

- **Incorporate proposals by the gender-subcommittee and women’s forums on each item on the peace agenda** and in the national development plans.
- **Focus on reducing the “culture of impunity” for gender-based violence** through the strengthening of national and local institutions.
- **Incorporate the input from women’s groups and marginalized communities** in drafting territorial development plans.
- **Prioritize reparations for women**, especially victims of displacement and sexual violence, using international and regional sources of funding. Avoid promising compensation packages that cannot be fulfilled or guaranteed.
- **Reform the Victims’ Law and Land Restitution Law** as needed to adapt to obstacles and gender sensitivities that arise during implementation.

Military, Police and FARC:

- **Provide gender-based violence training and gender sensitive education** to military and FARC members to better protect women.
- **Instill accountability for officers who violate these laws** and commit crimes against women and girls.
- **Prepare police to respond to increases in domestic violence post-conflict** and identify gender-sensitive processes to effectively address needs; offer training and ongoing support to demobilized FARC members regarding alternative ways to handle stress and frustration.

International Community:

- **Provide gender-based training to international peacekeeping forces** and create accountability measures to ensure that peacekeepers do not violate those whom they were sent to protect.
- **Multilaterals and NGOs – Focus on coordination, rather than duplication;** use a gender marker in all development programs and coordinate among other agencies doing similar work to ensure unified gender-mainstreaming initiatives.
- **Ensure gender equality in humanitarian and peacebuilding missions** to reflect the international standards of gender equality and UNSCR 1325

- **Focus on financially funding priorities of women** in the post-agreement development plan.





**Part III: Key Issues in the Peace Negotiations: Land, Security  
and Political Participation**



# Comprehensive Rural Reform

Jay Totte

The vast difference between the urban centers and the rural periphery tells a tale of two Colombias. Five decades of conflict perpetrated by guerrilla groups, paramilitary organizations, the Armed Forces, and criminal networks, combined with state neglect and multiple failed agrarian reforms, have left the countryside far behind the cities on most development indicators. Violence in the rural areas has meant widespread displacement, land concentration, and the inability to efficiently and effectively reconstitute land for victims. With nearly half of the land being owned by just 1% of the population, explained by a rural GINI coefficient of 0.85, Colombia has one of the most unequal countrysides in the world (SMO 2011).

The present inequality between the peasantry and landowning elite in the rural areas is a legacy of the Spanish colonial system, which has been perpetuated by the active role of the state in protecting and promoting the interests of the commercial farm estates (Thomson 2011, 351). The marginalization and injustices the peasants have suffered at the hands of the state and rural elite created the motivation for the founding of the Revolutionary Armed Forces of Colombia (FARC), thus identifying the “rural question” as a root cause of the conflict. Not surprisingly, when the General Accord from the pre-negotiations was signed in August 2012, the leading point on the agenda was Comprehensive Rural Reform (*Reforma Rural Integral*) (CRR).

The following chapter explores the birth of the “rural question” and its subsequent journey, through the history of the countryside, to the negotiating table in Havana, and to a possible implementation after the signing of a peace deal and endorsement in a referendum.

## History of the Colombian Countryside

The agrarian structure in Colombia, which has long been a principal catalyst for violence in the country, is rooted in the colonial *hacienda* system, whereby the Spanish Crown alone granted large estates to local European-descended elites. After independence in 1810 and throughout the 19<sup>th</sup> century, the government sold large plots of public,

uncultivated terrain, known as *baldíos*, in order to cover state debts and to encourage rural development. During the mid- to late-1800s, the emerging coffee export market fueled the extension of the agricultural frontier, facilitated by Law 61 of 1874, which incentivized the rich to buy as much land as they could, inevitably creating tension with the peasant farmers who had settled on frontier land without a formal title (Godoy 2014). Law 48 of 1882 recognized this dilemma, determining that those who live and work on a given *baldío* were “to be considered as possessors of good faith and could not be deprived of the possession of land” (Godoy 2014). Nonetheless, the landed elite exploited their economic resources and political connections to circumnavigate the laws and concentrate land into *latifundios*, or large estates, on which the peasantry worked as field laborers.

The integration of the Colombian agricultural sector into the global market in the early 20<sup>th</sup> century, which saw the value of exports and imports more than quadruple, played a key role in further destabilizing the agrarian structure (Thomson 2011, 333). Large foreign companies, such as the United Fruit Company, amassed tens of thousands of hectares of land through government concessions, violent dispossession of peasant settlers, and the appropriation of property lost as a result of defaults on credit provided by the same companies (Thomson 2011, 334).

During the 1920s, the agrarian conflict grew more intense. As land values appreciated, the landowners tried to extend their territorial control by usurping territory from the peasantry. In response, peasants formed ‘self-defense’ communities in order to protect themselves from the landlords’ militias. Additionally, they established agrarian unions and peasant leagues to demand better wages and working conditions on the *latifundios* (Thomson 2011, 334).

In 1934, López Pumarejo was elected president, the first from the Liberal Party after nearly 50 years of Conservative Party rule, and two years later passed what is considered to be the first agrarian reform, Law 200 of 1936. The objective of the law was to modernize the agrarian sector and encourage production by guaranteeing ownership to those who made use of the land; however, the result was further chaos as landlords violently expelled tenants and squatters seeking land claims and then relied on corrupt judges to deny their attempts at judicial recourse (Thomson 2011, 334-5).

In 1946, Mariano Ospina Pérez of the Conservative Party won the presidency at a moment of intense political rivalry, especially in the countryside. Then, when Jorge Eliécer Gaitán – a rapidly rising Liberal candidate famous for unifying urban laborers and rural peasants with populist and reformist rhetoric – was assassinated on 9 April 1948, it caused massive urban riots known as the *Bogotazo* that killed thousands and instigated Colombia's civil war. The 1948-1958 period known as *La Violencia* saw partisan violence spread throughout the country; in the rural areas, the violence transformed into class warfare (Velez 2013). *La Violencia* ended with the formation of the “National Front,” a Conservative/Liberal coalition government; however, the violence in the countryside between the landowner militias and peasant resistance communities did not subside (Parsons 2015).

Recognizing that much of the country's social and economic problems were tied to the unequal agrarian structures, the new government under Liberal president Alberto Lleras Camargo (the first in a cycle of rotating presidents) created the INCORA (Colombian Institute for Agrarian Reform), with Law 135 of 1960, to administer the later 1961 Agrarian Social Reform Law which sought to redistribute land to promote greater equality. In the end, the landowning class persuaded the government to distribute the untitled *baldíos* instead of intervening on already owned property. Moreover, INCORA granted land claims to large landholders and focused programs for productivity gains on the commercial estates over the small holders, thus exacerbating the problem (Thomson 2011, 336-7).

Meanwhile, under the National Front, the peasant resistance communities lost the official backing of the Liberal Party and became regarded as rural bandits. In order to distinguish themselves from looters and better face the attacks from the government military and private militias, the resistance communities consolidated and presented their struggle as an “organized form of territorial resistance supported by poor peasants and settlers” (Reyes Posada 2009, 28). It was in this context that in 1964 the FARC and the National Liberation Army (ELN) were formed with the support of the Communist Party.

On Independence Day in 1964, the FARC launched its armed movement by declaring the “Agrarian Program of the Guerrillas:”

We, campesinos from southern Tolima, Huila, Cauca, and Valle along the ridge of the Central Cordillera, are the nerve of a revolutionary movement that first formed in 1948. Against us has been arrayed the force of the large landed estates, cattle ranches, big business, the political bosses from the official parties and the merchants of violence. We are the victims of blood and fire that have been practiced by the oligarchy. Against us, they have unleashed during 16 years, four wars. One beginning in 1948, the other in 1954, another in 1962 and another in 1964, when the high military command launched Operation Marquetalia.... We are revolutionaries that fight to change the regime.... We fight for an Agrarian Policy that hands over the land of the latifundio to the campesinos... (FARC-EP 1964, translation Chernick 2009)

The manifesto laid out an eight-point program for rural reform. To complement the “free handover of land to the peasants,” the declaration called for the provision of technical assistance, infrastructure, tools, and animals to make the land more productive; rural programs to free the peasantry from hunger, illiteracy, and illness; the provision of formal land titles; as well as the protection of the indigenous communities (FARC-EP 1964). In response the founding of the FARC and ELN, paramilitary groups were introduced in the mid-1960s, first as part of a counterinsurgency initiative under the direction of U.S. officials (Thomson 2011, 336).

Liberal President Carlos Lleras Restrepo came to power in 1966 hoping to expand INCORA’s work, but found all of his attempts at agrarian reform “diluted into meaningless bureaucratic gestures” (Thomson 2011, 338). In response he created the ANUC (National Association of Users of State Agricultural Services) so that peasants could focus their agrarian struggles through political structures. However, the subsequent two governments under Presidents Misael Pastrana Borrero and López Michelsen in the 1970s implemented policies of state terror, repression, and “agrarian counter-reform,” ultimately leading to the disintegration of the ANUC. The disillusionment with the failure of the ANUC and the repressive and violent responses to its pacific political resistance strongly contributed to the growth of the armed struggle (Thomson 2011, 339).

The economic decline of the 1980s, coupled with the decreasing profitability of Colombian staple crops, saw a rapid shift to the cultivation of marijuana and coca. The illegal cultivation spread widely due to the large numbers of impoverished peasants living on agricultural frontier lands – far from the reach of the state – after having been pushed there by land-grabbing elites. The illegal drug trade in Colombia not only transformed the nature of the armed conflict, but perpetuated the “agrarian counter-reform” as the narcobourgeoisie and new elite acquired large plots of land through a new process of violent usurpation and land concentration (Thomson 2011, 341).

In 1994, President César Gaviria passed Law 160 as a new effort at land reform. The law allowed for the purchase of plots of land, through a market-based negotiated approach, for those families with less than the standard quantity. The measure did little to address inequality. Paramilitary groups forced the sale of land from its owners and speculation drove prices higher than normal, sometimes above the land’s productive value, making the agrarian bourgeoisie the main beneficiaries (Thomson 2011, 342-3).

A decade later, President Álvaro Uribe attempted to transform the agricultural sector into “the engine of national development” with his own rural reform. He replaced the INCORA with the INCODER (Colombian Institute of Rural Development), which selected beneficiaries based on the productive potential of the planned use of the land. However, it was at this same time, between 2002 and 2009, that the majority of the country’s displacement occurred at the hands of the paramilitary and criminal groups (Thomson 2011, 344). To address this, President Jose Manuel Santos launched Law 1448 of 2011, known as the “Victims and Land Restitution Law,” a year before the formal commencement of negotiations with the FARC.

### **The “Rural Question” in Previous Peace Negotiations**

Although the immediate objectives of the FARC have evolved with the changing circumstances of the conflict, the principal goal of “regime change,” in order to address the inequality in the periphery, has remained at the core of the group’s identity. For this reason, it became an integral part of the agenda in the first major peace process attempted with the FARC under President Belisario Betancur from 1984 to 1987. During the process the FARC considered agrarian reform the signature issue that would help them

win a rural constituency as a democratic movement in the political opening offered them. Unfortunately, the talks collapsed without any substantive agreement and a “dirty war” was waged against the members of the FARC’s political party, Patriotic Union (Unión Patriótica). In the second effort at peace negotiations with the FARC under President Gaviria between 1991 and 1992, the issue of agrarian reform was not directly present in the agenda. This process met a similar fate as talks broke down and the country returned to war. In the year following the Gaviria talks, at the height of the narco-trafficking period, the FARC held their 8<sup>th</sup> National Conference where they echoed the “Agrarian Program of the Guerrillas” of 1964, renewing their call for rural reform. In the third effort at negotiations with the FARC under President Andrés Pastrana, the topic of agrarian policies was on the agenda; however, the talks broke down before discussion commenced on the item (Chernick 2009, 77).

### ***Comprehensive Rural Reform, the Government/FARC Draft Agreement***

The current peace negotiations under President Santos are the fourth major attempt at negotiations with the FARC. The lead item on the agenda, Comprehensive Rural Reform, was negotiated in Havana for a total of six months before a provisional agreement was reached on 26 May 2014. The draft was made public on 24 September 2014 in an effort to give transparency to a process that will need to pass a national referendum.

The provisional agreement is divided into three sections: 1) access and use of land, 2) development programs with a territorial focus, and 3) the national plans for comprehensive rural reform. Under the topic of “access and use of land,” the plan envisions the creation of a Land Fund to ensure the free distribution of land to peasants without land or with an insufficient amount. The Land Fund will consist of plots expropriated by the government in the case of illegal acquisition or concentration, land that is “improperly utilized,” and donated land. The plan will further promote access by giving subsidies and credits for the purchase of plots. Additionally, the government will launch a “massive formalization campaign” to provide land titles to small landowners, guarantee restitution for the victims of forced displacement, create efficient mechanisms



for solving conflicts regarding the use and ownership of land plots, and impose a progressive system of property taxes.

The second element of the document details a “territorial approach” to reducing the inequality between the rural and urban areas, by transforming the rural structure through a series of development programs, which endeavor to construct peace through local community participation at the grassroots level. The draft points out that the National Development Plan will mirror the priorities and goals set at the local level.

The third aspect, the National Plan for Comprehensive Rural Reform, foresees a series of development initiatives in the countryside that can be classified into four general categories: 1) infrastructural growth for roadways, irrigation systems, electricity, and internet connectivity; 2) social development programs to address health, education, housing, and the eradication of poverty; 3) stimuli for increased agriculture and livestock production through technical assistance, subsidies and credits, marketing, labor laws, etc.; and 4) a system to guarantee food security and food sovereignty. Certain concrete programs mentioned include: increasing the rural population’s access to university education, the financing of warehouses to improve the national food system and facilitate the transport of products to market, creating seed banks in rural areas, instituting campaigns to end child labor, and establishing mobile labor inspection units to ensure employers are not abusing their employees (Bedoya 2014).

Again, the document released governing CRR is a provisional agreement. One of the principal premises of the negotiations is that “nothing is agreed until everything is agreed,” meaning the plans described above will not be implemented unless all five substantive agenda items are agreed on and the five agreements are approved in a national referendum voted on by the population. The draft CRR agreement has many signs of being a work-in-progress. Areas of disagreement requiring further discussion are marked with “ \* *Pendiente...*,” signifying a pending issue, which is described in italics under a heading. Where details have yet to be agreed upon, “XXX” is in place of actual numbers. For example, regarding the document’s main proposal of creating a Land Fund: “... [T]he National Government will create a Land Fund for the free distribution of land. The Land Fund will distribute (XXX) millions of hectares, in a period of (XXX) years...” According to Sergio Jaramillo, the High Commissioner for Peace and member

of the government's negotiating team, these are last minute details that will not be defined until each side fully understands the arrangements or concessions made on other aspects of the five point agenda (Jaramillo 2015). These and the italicized pending discussions points remain to be addressed as part of the 'sixth agenda point' before bringing the agreements to a referendum.

### **Implementing the Comprehensive Rural Reform**

The agreement unmistakably addresses the historical grievances of rural Colombians, namely access to land and land restitution, improved infrastructure and the provision of public goods in the countryside, as well as poverty reduction programs; however, the "elephant in the room" is funding (Bedoya 2014). The final point of the draft agreement reads, "The Government commits itself to ensuring the financing of all of the protocols found in this document." Considering the breadth of the programs envisioned for its "structural transformation of the countryside" and the extent of need, a large question looms regarding whether such vision can sincerely be executed. On paper, proposing formal roads, electricity, internet connection, etc. is a simple task; however, the practical delivery of such infrastructure, considering Colombia's extensive territory and contrasting geography, will require a large amount of resources. The Government has already recognized this dilemma and in November of 2014 President Santos went on a European tour to advocate for a "Marshall Plan" for post-conflict Colombia, in the event a peace deal is signed. Santos returned "satisfied," however, without any new firm commitments of funding (Alsema 2014). While it is still early to expect foreign governments to make financial promises for the post-conflict stage, many question the Colombian government's own political and economic will to apply the necessary resources.

### **Critiques of the Comprehensive Rural Reform**

Regarding the three draft agreements released in September of 2014, former President Álvaro Uribe's party, the Democratic Center (Centro Democrático), released 68 critiques. Nearly half of these critiques addressed the draft CRR. The following are the main criticisms: first of all, beginning on the draft's first page, the two sides lay out two

different visions and justifications for the same document. Second, the beneficiaries defined in the agreement are not only peasants, but “workers with agrarian vocation who are without land or with insufficient land.” With such an ambiguous definition, the reach of the agreement is nearly unlimited and might lead to the same problems encountered by previous attempts at reform. Third, the plan envisions breaking up large farm estates, which contradicts the modern concept of agricultural development, where large investments on extensive plantations help the land reach its productive potential. Fourth, the Peasant Reserve Zones (Zonas de Reserva Campesina) established in Protocol 1.10 will allow the FARC to govern autonomous zones that will allow them to build a political coalition and continue illicit activities. Fifth, in not one protocol within the 21 pages of the document does the FARC commit itself to hand over the nearly one million hectares it is believed to have expropriated from the peasants, nor is there any promise from the FARC to provide economic reparations to the thousands of peasant families that have been displaced, kidnapped, and extorted from (Centro Democrático 2014).

But the overarching critique is that in the negotiations the Executive Branch of the Government and the FARC have taken on the role of legislating for the country. Instead of elected representatives in Parliament determining the immediate future of the countryside, the process allows the two sides perhaps most responsible for the injustices suffered in the rural areas to determine its future.

### **“Territorial Peace” versus “Modernizing Colombia”**

Central to the discussion of the viability of implementing the Comprehensive Rural Reform is the intellectual debate surrounding the concept of “territorial peace” and the discordant, polar alternative proposed by the recent “James Robinson debate.”

In March 2014 at a conference at Harvard University, Sergio Jaramillo spoke of the concept of “territorial peace,” which is the grander vision for the entire peace process. For Jaramillo, peace will not come to Colombia by simply signing a peace agreement, rather it must be constructed “territorially” through the strengthening of institutions that will guarantee rights and provide public goods and services in the periphery. The Colombian state has long governed from an urban perspective and neglected the rural areas; “territorial peace” calls for it to decentralize its governing model by extending the

hand of the state to the grassroots level. There, it will seek the participation of the local community to bridge the development gap between the city and countryside, ultimately constructing a lasting peace community by community throughout the country (Jaramillo 2014). For Jaramillo,

“Comprehensive Rural Reform is not just a 1960s style agrarian reform of simply redistributing land...you redistribute land, but do it in the framework of rural development programs that will provide public goods so that the land is useful and productive and you can include the small farmer in the economic life of the country and stabilize those regions.”

He acknowledges that the CRR programs are ambitious and may take a decade to implement, but believes they are the only way to transform the conditions of the periphery and reverse the effects of the violence suffered there.

An idea that contrasts the “territorial peace approach” of the negotiations, and that triggered a national debate in Colombia, was presented by Harvard Professor James Robinson (2014) in a controversial editorial in *El Espectador* entitled “How to modernize Colombia?” Robinson’s principal argument is that Colombia is not going to develop by promoting land restitution as the solution to the agrarian problem. For him, agrarian reform is by nature ‘zero-sum’ since restitution means land is taken from one to give to another, a situation that perpetuates conflict. On the other hand, education is ‘positive-sum’ as one’s education does not threaten another’s. Thus instead of investing resources to implement the CRR, the funds would be better utilized investing in education in urban areas. For Robinson, the future of the country is in the urban areas where there are public services, better schools, progressive politics, and all around better opportunities, and not in the rural areas where farmers practice subsistence farming and contend with the perpetrators of violence. He mentions that many societies have resolved their rural problem by ignoring it, including England and the south of the United States. He believes that “territorial peace” is a noble idea, but considering Colombia’s history of failed rural reform, has doubts about the Government’s will to implement (Robinson 2014).

The widespread and sustained public debate catalyzed by Robinson's editorial left little doubt that the country sees rural reform as essential to cease the violence and supports "territorial peace" over 'benign neglect.'

### **Analyzing the "Rural Question"**

It is evident that the CRR draft confronts the aspects of the "rural question" which represent long time root causes of the conflict. Clearly the CRR's development programs address poverty, inequality, and land restitution; however, doubts remain over the Government's will, public approval, and feasibility. The FARC has never said it will hand in its weapons; rather, it has accepted that it will not use them (*dejar de usar*) once the government has fulfilled all of its promises. This poses the question of what might happen if the referendum does not endorse all agreements or if, for example, a few years down the line the government has not implemented some aspects of the CRR.

The reasons to doubt a successful implementation of the CRR are the weakness of the state, the threat posed by illicit activities and criminal groups (*bacrim*), the lack of resources, absence of government will, and corruption. It is this basket of reasons that was responsible for the persistent failure of agrarian reforms throughout history, and the same reason that will challenge future efforts. The weak state and its institutions will struggle to guarantee law and order in the defying geography of the countryside where the armed groups reside. The high value of loans required to finance the agreements will raise questions about whether the money could not be better spent in sectors with more economic growth potential. And the clientelistic roots of the *latifundio* and systematic corruption in local politics will challenge sustainability.

On the other hand, the reasons to expect a successful implementation of the CRR are the world's attention, a likely independent observation body, increased foreign aid and loans, stronger political representation for the rural areas, and FARC political pressure. Jaramillo has emphasized the opportunity that the peace process presents to finally bridge the urban-rural development gap. In doing so, the country would likely collect an economic growth dividend for peace in the countryside, in the same way it did post-Plan Colombia for stability in the cities. Also, in a post-conflict setting, the FARC will compete with other political parties for political representation in the rural

communities. In the same way that “The Agrarian Program of the Guerillas,” which was well incorporated into the CRR, represents the core issue of the guerrilla group, the CRR will likely represent the core issue for the FARC as a political party. Thus, the life of the FARC as a political body will be tied to the implementation of the agreement; therefore, progress will be followed closely both domestically and internationally.

Whether the CRR agreement will be fully implemented is at this point uncertain, as such might require 10 to 20 years, according to Jaramillo and Uribe, respectively. However, what is probable is that following the peace process there will be a fierce political debate about the CRR and the opportunity cost of the resources dedicated to it. As demonstrated by the Robinson debate, there will always be a compelling alternative to move funding to the cities. Nevertheless, in the short run, the widely held beliefs that “the conflict will not be stopped without addressing the rural question” (Berdegué and Ocampo 2014) or that “social justice for the current victims cannot be offset by development efforts concentrated on the next generation,” (Villegas 2014) will likely win over. After a few years, when equipped with a better understanding of how effective the CRR is proving to be – and as the threat of the FARC rearming subsides – the decision to fund restitution for the insecure condition of subsistence farming might be less socially appealing than, for example, funding urban housing and job training for the same peasant.

### **Recommendations**

- **The Government must strengthen the police and military presence in the rural areas, especially in the target communities for the CRR programs.** Given the numerous lucrative, illicit activities in the countryside (e.g., narco-trafficking, illegal gold mining, petrol smuggling, kidnapping, extortion, etc.) it is unrealistic to think that the demobilization of the FARC will cease such practices. Rather it is likely that criminal groups will fill the void left by the FARC, much as what happened following the Paramilitary demobilization in 2005. As long as the countryside remains the “Wild West,” devoid of law and order, no land restitution or development program will have any success. Thus the first step to implementing the CRR will be to improve the security presence in the rural areas.

- **The implementation of the CRR must be integrated with the implementation of the Illicit Drugs agreement.** The success of the two is interdependent. It will be impossible to guarantee peace in the countryside if peasants cultivate illicit crops and are integrated in the narco-trafficking supply chain; in the same way that voluntary crop substitution will only work if there is a viable, profitable alternative, which is the basis of the CRR programs.
- **The victims should be given the option to apply CRR-related reparations in urban areas.** Many of the country's victims of forced displacement fled to towns and cities and learned an alternative way to make a living besides farming. For these victims, land restitution, which compels them to return to the precarious lifestyle inherent of small scale or subsistence farming, might make little sense. For this reason, during the implementation phase of the CRR, victims (and even rural farmers affected by the violence) who are entitled to land restitution, credits or subsidies should also be provided the option to apply their reparations to an urban setting, perhaps in the form of urban housing, education, or job training. Allowing victims to make the choice about their future will be crucial to the development of both rural and urban communities.
- **The international community should help the Colombian Government with the financial support necessary to implement the CRR.** The international community must heed Colombia's need for development assistance in order for it to implement the "territorial approach" necessary for sustainable peace. An investment in the countryside will earn returns when the Government gains control of the lucrative natural resources currently being mined illegally in the countryside and when the cessation of violence and extortion leads to productivity gains.





# **Paving the Road Together: Lessons Learned to Break the Cycle of Violence in Colombia**

Joshua Levkowitz

A Colombian adage says: “The guerrilla fears roads and cement most of all.” To the guerrilla, roads threaten his control and ideology by bringing with them the Colombian state. Yet, as of early 2015, Colombia nears a final peace accord with the Revolutionary Armed Forces of Colombia (FARC). Such a ‘peace dividend’ could stabilize and develop the territorial margins of Colombia – reversing the guerrilla’s fear of development. Neither the Colombian government nor the FARC can end the conflict alone. In the past, both sides have tried this and failed. Only through working together can the cycle of violence end in Colombia.

This past August, a working group began exploring the “end of the conflict,” the last of the five substantive points from the Havana agenda. Many of these issues are more commonly known as Disarmament, Demobilization, and Reintegration (DDR), yet the FARC rejects such language. DDR’s connotation tarnishes their political ideology and insinuates surrender to the state. Although President Juan Manuel Santos hopes for a peace agreement before the 25 October local elections, negotiations on ending the conflict may still destabilize the entire agenda. In fact, talks broke down during the pre-negotiation stage over the FARC’s particular hostility toward demobilization. The Havana peace delegation likely planned to address this issue last in current negotiations, hoping mutual trust cultivated during earlier stages of the negotiations could bolster the discussions on DDR.

Other points on the Havana agenda can ease the FARC’s transition to civilian life. Agreements on agrarian development, political participation, and cooperation on eradicating illicit drug cultivation through crop substitution all offer alternatives to warfare for the FARC’s members, incentivizing them to join the DDR process. This report will first summarize the existing literature on DDR and then briefly review the origins of the FARC and its past negotiations with the state. Following these sections, the

report will seek to analyze the current Santos-FARC negotiations on “end of the conflict” and conclude by offering recommendations to ensure a sustainable DDR process.

### **What is DDR?**

DDR refers to the removal of weapons, the return of combatants, and their reinsertion into productive civilian life. According to the UN, the objective of the DDR process is to contribute to security and stability in post-conflict environments so that recovery and development can begin. DDR operations normally occur in post-conflict contexts where problems of trust and credibility persist between the state and the armed group(s). In most cases, the state does not have the capacity to implement DDR measures themselves (Giustozzi 2012, 12). Colombia, unlike many other post-conflict countries, can mobilize resources on its own.

The DDR process too often is seen as an end in itself rather than a means, or a symbol, to transition from war to peace. The term has different interpretations by different actors involved in negotiations. Security actors, such as the Colombian military, take a minimalist approach, viewing the process as a way to prevent the onset of renewed conflict and a way to contain potential spoilers. This ‘security first approach’ prioritizes the DD while disregarding the R-Phase. Conversely, non-state actors, such as the FARC, may take a maximalist perspective, merging DDR into a wider state building process.

Although the primary responsibility for DDR programs rests with national actors, a third-party, such as the UN or a country with DDR experience, can provide support through information on the history and principles behind the process so that the negotiating parties may take account of competing perspectives. Policymakers focused on short-term achievements will inadvertently create the largest gap between long-term promises and reality of a settlement. The language of the DDR agreement must be clear so as to reduce the risk of any misunderstanding in a post-conflict settlement. Ultimately, the reintegration of former combatants represents not only a challenge, but also an opportunity for the state to break the cycle of violence.

### **The FARC, Guns, and Attempts at Peace**

The FARC arose out of a lack of security and responsiveness to demobilized liberal guerrilla fighters in the 1950s. Its origins can be traced to the end of Colombia's civil war, known as *La Violencia* (1948-1958), when the Colombian military targeted rural Communist enclaves. Unlike other contemporary Latin American guerrilla organizations, the FARC was founded by peasants and originally led by peasants (Wickham-Crowley 1992, 145). The group's support structures came predominately from Colombia's countryside, where state institutions had trouble establishing an effective presence. An initial defense of peasants' interests evolved into a political agenda, where armed struggle was used as a means to seize national power. The psychology of the FARC has become that of an insurgent group, with weapons playing an essential role in their political struggle. The group's income generation through organized criminal activities in the 1980s contributed greatly to the conflict's longevity. The FARC's current security concerns and the government guarantees required for the group to participate in a legitimate DDR process are a direct response to the group's violent past.

The FARC has engaged in two previous negotiations with the Colombian government. Understanding President Belisario Betancur's attempt to negotiate a solution in 1982 is crucial to the success of "end of the conflict" in the current Santos-FARC peace talks. Betancur declared widespread amnesty for guerrillas as a confidence-building measure when initiating the process. La Uribe municipality in the central department of Mesa became a demilitarized area and the designated meeting place for the Central Command of the FARC and a 40-member Peace Commission (Suarez 2013, 824). The Uribe Accord was signed in the town of La Uribe on March 28, 1984, establishing a bilateral ceasefire. As part of a democratization program, the FARC launched the Patriotic Union (UP) as its political wing. However, the Uribe Accord did not include room for a national endorsement of the political settlement of the conflict. Further, the subsequent administration under President Virgilio Barco failed to advance the Uribe Accord, leading to the deterioration of the ceasefire. Paramilitaries and death squads killed approximately 3000 unarmed members of the UP. The lack of security for disarmed FARC members deepened mistrust in Colombia's security forces, radicalizing the FARC's military doctrine ever since. The current FARC leadership negotiating in

Havana has not forgotten the systematic extermination of the UP. Drawing upon the failure of the Betancur-FARC accord, the success of the current talks will hinge on the Santos administration's ability to uphold political guarantees for demobilized FARC members.

Ten million citizens reintroduced a policy of peace talks in the October 1997 Mandate for Peace when they voted in a referendum to end the fighting (Isacson 2014). The second major peace process occurred a year later between 1999-2002 under the Government of President Andrés Pastrana. Negotiations with the FARC began while the military confrontation continued, apart from a demilitarized meeting zone (DMZ) of 42,000 square kilometers. In May 1999, Pastrana personally went to the DMZ to speak with Manuel Marulanda, then leader of the FARC, to develop the start of formal negotiations. However, large business groups and traditional power holders rejected the existence of the large demilitarized zone which acted as *both* a space for dialogue and a strategic territory for the FARC to regroup and strengthen. Moreover, the prolonged nature of the talks in the middle of war, without tangible results, deepened public frustrations. The FARC used this area to organize operations, hold kidnapped victims, and perform industrial-scale coca production. Consequently, the Colombian Army felt demoralized, and from this experience, critics now argue that peace talks must occur outside of the country. Though Pastrana brought the international community into the peace process, his big-tent approach created even more divisions during the negotiations (Beittel 2014). For example, the UN Special Envoy, James Lemoyne, made public statements that were perceived as in support of the FARC (Sriram and Vermester 2003, 259). In an effort not to repeat the same inadvertent internationalization of the peace process, Santos has taken a more minimalist approach toward the international community, emphasizing a 'Colombian process for Colombians.'

### **“End the Conflict”**

The Colombian public has witnessed their government and the FARC fail to transition from war to peace, and instead continue to reenter into a cycle of violence. But the Santos government now has thirty years of talks and failure with the FARC from which to draw lessons. As this report is written, the negotiators are discussing several components to

end the conflict: a “definitive bilateral ceasefire and end of hostilities,” “leaving behind weapons,” “reincorporation of FARC into civilian life,” and “security guarantees.”

#### Definitive Bilateral Ceasefire and End of Hostilities

The ceasefire will be a crucial confidence builder to begin the post-conflict transition. But, as the conflict mainly affects remote areas of the country, verification on whether the FARC ceased attacks and harassment against civilians will be almost impossible. Further, the FARC’s operations are in the same areas of the Ejército de Liberación Nacional (ELN) and other armed groups. The FARC will continue to face security threats because the military cannot completely differentiate between the FARC and other active groups.

The FARC now has little trust in the government. Both sides must de-escalate the conflict to build mutual confidence in abiding by the agreement. President Santos’ January 2015 announcement to broach the possibility of a bilateral ceasefire is a positive step. The FARC could take advantage of such a ceasefire to regroup and recover, but the benefits seem to outweigh the risks. The private sector, particularly in rural areas, would have a more stable operational environment. More importantly, a bilateral ceasefire would foster mutual trust to convince the FARC to disarm, reduce the possibility of derailing the negotiations from ongoing military operations, and create the necessary momentum to build up public support for the talks. In order to mitigate local conflict, either the military could withdraw from zones with a FARC presence or the FARC could initiate a cantonment process. The former is unlikely because of the FARC’s dispersion and the public stigma against the DMZ under the failed Pastrana negotiations.

Cantonment offers the best option for a stable transition. Since concentration of guerrilla forces would reduce the FARC’s mobility, the negotiators could agree on the designation of several large assembly points. Secondly, an internationally led observer mission should be invited to verify that *both* the FARC and the military comply with the ceasefire. This civilian-led international third party could play a crucial role in monitoring and verification. The FARC perceive the Organization of American States as a lackey of the United States and associate the organization with its failure to verify the demobilization of the paramilitary during Uribe’s administration. Rather, the European Union or the UN represents a neutral third party that has adequate technical know-how

and support. This move is also necessary to pave the way for the FARC to completely concentrate their troops for the next stage of disarmament and demobilization.

### Leaving Weapons Behind

Disarmament consists of the “collection, control, and elimination of small arms, ammunition, explosives, and light and heavy weapons from the combatants, and depending upon the circumstances, the civilian population” (Theidon 2009, 70). Problems typically include fighters concealing their best weapons. Contrary to Colombia’s prior experience in disarming paramilitary groups, the FARC’s leadership has emphasized that they will not engage in a public handover of their weapons. Symbolism aside, the government negotiators seek to ensure that the FARC does not have unilateral access to its weapons after signing an agreement. To incentivize the FARC to give up access to their weapons, an international third party can monitor that the weapons are collected and secured. There should also be a joint monitoring committee comprised of both FARC members and government officials to settle disarmament issues as they arise.

Armed groups are formally disbanded during the demobilization stage. Generally, this stage involves the “concentration, quartering, and management of former combatants” (Theidon 2009, 82). As mentioned in the previous section, cantonment offers the most appropriate option for FARC demobilization as it offers basic necessities and counseling. Although FARC demobilization will likely be done collectively, there should also be an individual option for those combatants who prefer to go through alternative structures.

### Reincorporation of FARC into Civilian Life

Successful absorption into civilian society is considered the most integral yet difficult part of the DDR process. Such reincorporation requires reinsertion of FARC combatants in the short-term and a robust medium- to long-term reintegration process. Resources ought to be allocated beforehand for combatants to immediately receive financial and material assistance to satisfy their own and their family’s basic needs. Beyond this, a reintegration program needs to send demobilized persons back to civilian life to break the

cycle of violence. Colombia is not starting from zero and it can build upon its past experience and existing institutions aimed at reintegration of ex-combatants.

Since 2002, Colombia has reintegrated over 55,000 armed group members (Isacson 2014). The results have been mixed, but there has been a great deal of progress since the first years. The government can utilize existing institutions, such as the Colombian Agency for Reintegration (ACR), which have run sophisticated reintegration programs. Established in 2010, the ACR first emerged to coordinate the peaceful reintegration of paramilitaries (International Crisis Group 2014). A total of 2,489 demobilized Colombians completed their reintegration process in 2013, almost three times the number who did so in the previous year. Alejandro Eder, the agency's former director, argues that reintegration will only be successful if it is done on an individual basis. Since each person has different aspirations, only through an individualized process can a former combatant commit to a personal development plan.

FARC negotiators remain hostile toward the ACR and demand control over the reintegration process, arguing for a communal solution that keeps members together. This approach *would* help avoid a rapid dissolution of the group's structure, which has plagued previous reintegration processes both inside and outside of Colombia. However, some members will likely want to break their connection with the FARC once an agreement is in place. Thus, a collective approach to reintegration can be agreed upon in Havana, but an ACR-led individual reintegration program should be made available for those who break links with the FARC. An information campaign will allow combatants to be aware of the available choices for reintegration (International Crisis Group 2014).

Incorporating the FARC's fighters into Colombian society will focus on rural areas because the members' skill sets seem most appropriate in agricultural production. President Santos has also welcomed the FARC's participation in alternative development programs, some of which aim to reduce illicit coca cultivation. The FARC has expressed interest in promoting rural development. Such a program could promote economic livelihoods linked to the preservation of natural resources or the protection of the environment. Forest wardens, agro-forestry producers, tourist guides and other professions connected to ecotourism are all potential fields for ex-FARC members. Specifically, the Forest Warden Families Program, implemented in 2003, has contributed

to capacity building while benefitting the broader community through education and public health (Kamminga 2013). The FARC's participation in a program based on this model could also gain wider international support in promoting reforestation initiatives, linked to the international market for carbon credits.

Urban reintegration opportunities should also be made available, and encouraged, for ex-combatants. Yet each ex-combatant has different aspirations; therefore, a variety of options need to be available for each person to commit to the process. Between October 2013 and October 2014, 54% of surveyed demobilized combatants said they would prefer to live in urban settings (Eder 2015). This may reflect several aspects including greater opportunity available in cities or a personal desire to avoid stigmatization once returning back home. Although the FARC's secretariat seeks collective territories that offer a level of autonomy, reintegration efforts need to tap into institutions, both old and new, to offer former combatants both rural and urban opportunities to move past a culture of violence. With the Havana talks' emphasis on a "territorial peace" – or local peacebuilding – reintegration efforts should not be a 'one size fits all' approach. Rather, economic opportunities will depend on the specific region to break the habit of violence from the ground up.

#### Challenge of Mid-Level Commanders

Preventing mid-level FARC commanders from opting out of the DDR process will be a major challenge in breaking the cycle of violence. The most senior FARC members will likely stay demobilized as they either enter into politics or simply retire, living off laundered money. Alternatively, rank-and-file foot soldiers will have great mobility in economic terms and can take advantage of the educational and vocational opportunities of the reintegration program. However, mid-level commanders, particularly those involved in the FARC's illegal income sources, pose the highest chance of recidivism to former areas of operations, reviving old groups and followers, and generating renewed violence.

During the 2003-2006 demobilization of the paramilitaries, mid-level commanders used their knowledge and criminal connections to remobilize and return to criminality, contributing to the emergence of *bandas criminales* (International Crisis



Group 2014). With skills worth millions of dollars in criminal processes, mid-level commanders in the FARC could use their connections and operational knowledge to regenerate illicit enterprises. The peace accords must include incentives for mid-level commanders to remain part of a DDR process and addresses their significant status loss. Greater resources will be required for special police units dealing with drug-related crime in territories with lucrative trafficking prospects. The government will also have to improve the security and governance in zones where illicit sources are most profitable. Unique employment opportunities can provide an appropriate salary and level of prestige, ranging from supervising private mining operations to managing infrastructure development projects.

Colombia's national government recently announced its aim to free the country of landmines by 2021. This effort to eradicate landmines will likely take decades because maps demarcating the location of mines do not exist. On 7 March 2015, the FARC and the Colombian government agreed to begin a pilot program for removing land mines as a measure to deescalate the confrontation (Acosta 2015). FARC members will demobilize and work with and provide information to the Colombian army battalion that specializes in removing mines. Former mid-level commanders could potentially help supervise and lead local demining efforts. This program would improve the conditions of life for hundreds of thousands of Colombians and provide a meaningful employment opportunity for mid-level commanders – a giant step toward making peace.

### **Security Guarantees**

Deputy Commander of the Police Department of Chocó, Lieutenant Colonel Giovanny Buitrago Beltrán, stated, “When peace comes, crime escalates,” referencing post-war transitions in El Salvador and former Yugoslav republics. Cantonment will diminish the FARC's control over territories – the same territories the Colombian government has traditionally had a weak presence. Armed groups may move in to fill these power vacuums, targeting ex-combatants and local communities alike. Splinter groups of the FARC may also deem former guerrilla as traitors and target those participating in the DDR process. Corrupt local administrators, former guerillas, individual drug networks, and local *bacrim* could all make common cause and take advantage of “territorial peace”

at the expense of government control. An effort to fill territorial governance vacuums will require clarity on military and police roles. The government should plan ahead to stabilize these areas by empowering a civilian rural police force. Although the Colombian Defense Ministry's budget will be under great pressure to shrink after a peace accord, the role of the Colombian National Police should actually expand to combat drug trafficking and organized crime. It should be removed from the Defense Ministry's control and professionalized so police authorities can build complex cases against criminal networks. Police reforms should focus on community policing and conflict resolution techniques. The current policy of police rotation to different locations should also be reviewed; although it helps reduce criminal infiltration of the police, periodic rotation obstructs the police's ability to develop community relations and build trust. The government presence entering the area should be overwhelmingly civilian. Simply deploying soldiers will not improve state governance issues in historically ungoverned areas.

## **Conclusion**

Peace is more difficult than war, but the negotiators in Havana have the potential to turn the page on half a century of violence in Colombia. The FARC's leadership seems committed to a political transition and the reintegration of its members. The government's experience in reintegrating former combatants has given the process a running start. Colombians, nevertheless, should be wary that even with an agreement, the cycle of violence would likely continue because the negotiations do not remove all actors and drivers of violence. DDR alone cannot create a more secure and stable country.

Rather, DDR can catalyze a change in national attitudes. The challenge to not just President Santos, but to all of Colombian society, is to protect the lives of combatants who choose to demobilize and reintegrate. A security guarantee would allay the fears of guerrillas so that they are willing to permanently give up their weapons. President Santos' March 2015 decision to send five top military commanders to Havana can help negotiate the definite end of violence. Just as the Salvadorian peace process was enriched by the participation of the military, such officials who have been involved in the war are critical to transitioning the country toward peace. The international community's resources and expertise should go into forming a verification commission to monitor compliance with

agreed-upon DDR processes. The preparation for a post-conflict Colombia must begin immediately to ensure that international and national support is mobilized to begin the moment an accord is signed.

## **Recommendations**

### To the Colombian Government:

- **Reduce the proliferation of firearms.** Firearm ownership is very common in Colombia and has the potential to destabilize the country's transition to peace. The Colombian National Police should conduct a cash-back program to reduce private gun ownership and stabilize rural areas.
- **Declare a ceasefire with the FARC and install a monitoring program.** This measure will de-escalate the conflict and spark public faith in the final stages of the peace talks.
- **Increase the resources for the ACR.** Make sure that the ACR has adequate means to support guerillas that choose to demobilize individually.

### To the Negotiating Parties:

- **Bring communities affected by conflict into the discussion.** During the collective demobilization of the AUC (2003-2006), local communities did not understand why those who had committed atrocities were now being rewarded. The Colombian government should hold meetings to assess present concerns and gauge how willing communities are to accept ex-combatants into their communities.
- **Bring the UN and countries that have DDR experience into the negotiations as advisors.** Managing DDR processes – including verification, monitoring, weapons' registry, and psychiatric help for ex-combatants – requires practical experience and support. President Santos is rightfully wary of former President Pastrana's 'big-tent approach,' but UN advisors should be brought in during the negotiations to ensure that the DDR process is coherent and robust enough for a long-term reintegration program. Both officials and ex-combatants of countries

that have successfully undergone a DDR process can provide insight and lessons learned to both negotiation teams.

To International Sponsors:

- **Advise the Colombian military on security sector reform.** Chile transitioned from a military to civilian government in the 1980s. With the FARC weakened, although not yet defeated, Chile can advise the Colombian military on the need for greater democratic oversight and the impact of military activities on civilians, particularly indigenous communities and Afro-Colombians.
- **Begin mobilizing resources.** Although Colombia will pay the lion's share of the DDR program, resources necessary for long-term support through a joint implementation committee and development package should be mobilized before a final agreement.

# Political Participation

Keri Zolman

“In order to achieve a solid peace, it is necessary to broaden, deepen, modernize and fortify our democracy, in order to make it more vigorous, participatory, pluralist, and transparent.”

– Humberto de la Calle, Government of Colombia Lead Negotiator  
Declaración De Humberto De La Calle, 6 November 2013

“These are real, positive advances toward a final agreement and in particular toward a scenario where the link between politics and weapons is broken forever.”

– Juan Manuel Santos, President of Colombia  
Address, 6 November 2013

## **Drivers of the Conflict: Issues of Political Participation**

### Political History

The Colombian political system is characterized by state weakness and structural inequality. These elements have created barriers to political participation for socially marginalized segments of Colombian society – primarily the indigenous and Afro-Colombian populations living in the rural peripheries of the country. A history of stripping the political ownership of these populations and denying them equal access to land and resources has bred disaffection with the state. With an historical lack of state presence and legitimacy, both political and non-political armed actors have emerged throughout the nearly 60-year-long conflict to create parallel structures that “directly [challenge] the authority and monopoly of violence of the Colombian state” (Gillin 2015).

After more than a decade of political violence between 1948 and 1958, *La Violencia* ended with a power-sharing agreement between Colombia’s Liberal and Conservative parties. By excluding Colombia’s peasant guerillas and agreeing to

alternate control of the executive office, the agreement severely constrained electoral politics in Colombia for nearly two decades. By the 1960s, this political exclusion pushed the communist militants and peasant self-defense forces to found the Revolutionary Armed Forces of Colombia (FARC), while students, leftist intellectuals, and radicals adhering to liberation theology went on to found the National Liberation Army (ELN). In response to these groups taking up arms against the government, the congress legalized local self-defense organizations, allowing for the formation of right-wing paramilitaries to combat the left-wing guerillas.

In 1984, a potential turning point was reached with the *Acuerdos de La Uribe* or Ceasefire and Truce Agreements between the Belisario Betancur government and the FARC. Through the creation of the Patriotic Union (UP) political party, the talks successfully offered a means for a coalition of leftist groups to enter the political system. In 1986, the UP did surprisingly well in the local and national elections. Rather than viewing the results as a testament to the strength of Colombian democracy, right wing forces felt threatened and launched a dirty war in which thousands of UP members and political leaders were systematically assassinated. Again forced out of mainstream politics, the FARC regrouped and re-claimed the use of violence as its primary means of furthering its political agenda against what it has deemed an illegitimate, terrorist state.

As a result of the central government's inability to re-establish state authority in rebel-held territory, the Colombian military – as well as local economic elites who wanted to secure their interests – provided arms to paramilitary groups between the 1970s and end of the 1990s. Although the individual paramilitaries were not officially sanctioned by the state, they were also not held accountable for illegal warfare tactics and human rights abuses. In effect, paramilitaries were a means to further the state's military ends while allowing the government to dodge issues of culpability. This was a faulty political calculus, as the military's tacit approval of the paramilitaries was not unknown to the general public. Moreover, the paramilitaries' use of illegal tactics against both rebels and civilians not only bred insecurity and fueled the conflict but also further undermined the state's legitimacy, particularly in FARC-held territories (Lopez 2011). Eventually, the rebel forces and paramilitaries both entered the drug trade, further blurring the lines between political and criminal agenda.

By 2000, the government had launched Plan Colombia, a military aid initiative with the United States that significantly boosted Colombia's intelligence gathering capacity. The initiative was largely deemed successful in weakening the rebels, which paved the way to the demobilization of the largest right-wing paramilitary, the United Self-Defense Forces of Colombia (AUC). However, in 2008, allegations emerged that hundreds of civilians, passed off as rebels, were murdered in order to inflate the program's success rate by as much as 40%. Known as the "false positives" scandal, the revelation sent shockwaves through the country and seriously damaged the public's trust in the central government. Trials for extrajudicial executions and collusion between the government and the paramilitary groups continue to this day (Gutiérrez 2013, 2).

### Corruption and "Parapolitics"

Political or grand corruption takes places at all levels of government in Colombia. In 2006, the "parapolitics" scandal revealed ties between since-demobilized AUC members and more than 11,000 politicians, public officials, and business leaders. Despite the scale of the scandal, only about 100 former or sitting parliamentarians and 15 governors have been investigated. Further, only a little more than half of them have ultimately been convicted on charges of corruption (Gillin 2015). With weak mechanisms for legal recourse, impunity remains widespread throughout the country. In 2010, it was estimated that as many as a third of local government officials and parliamentarians had ties to criminal elements (Gutiérrez 2013, 4). Two of the last four presidents, Ernesto Samper and Álvaro Uribe, have also been investigated for political misconduct and abuse of power.

For this reason, although Colombia is a longstanding electoral democracy, its elections are typically marred by irregularities. In spite of two relatively effective and independent electoral monitoring agencies, the Rapid Response Unit for Electoral Transparency and the Commission for Coordination and Follow-up of Electoral Processes, voter fraud, vote buying, intimidation, and opaque campaign financing practices, which aids money laundering, remain pervasive. While the National Electoral Council also attempts to tackle these issues, most recently investigating 120 governor and mayoral candidates for spotty disclosure of financial campaign support, such

undertakings merely address the symptoms rather than the root causes of electoral fraud and, more broadly, political corruption (Gillin 2015).

The International Crisis Group (ICG) noted the continued prevalence of these ties when it reported that “illegal armed groups [sought] to consolidate and expand their holds over local governments...” through the 2011 governorship, mayoral, departmental assembly and municipal council elections (Gillin. 2015). Despite a decades-long history of paramilitaries, guerillas, and narco-traffickers pursuing state capture, the Colombian government has only recently been able to devise consolidated measures to disrupt the criminal elements embedded in the Colombian political system. Yet, despite the Government of Colombia enacting the Anti-corruption Act of 2011 and creating the Anti-corruption Office within the presidency, Colombia continues to be plagued by corruption at all levels of the state apparatus, ranking 94 out of 175 countries/territories in Transparency International’s (TI) 2014 Corruption Perception Index (Corruption). According to the latest TI Global Corruption Barometer (2013), a staggering 81% of Colombian citizens view political parties as corrupt or extremely corrupt; the legislature as well as public officials and civil servants follow closely behind at 79% and 70% respectively. Nearly 60% of the country also believes that corruption has gotten worse in the past three years (Colombia 2013).

Issues of pervasive corruption and judicial weakness have created an enabling environment for political repression and constrained freedom of expression. Even though freedom of speech is legally guaranteed, journalists continue to suffer harassment by politicians, public officials, and security forces as well as attacks by armed groups. Over the past twenty years, despite a protection program under the auspices of the Ministry of the Interior and Justice, as well as an alert system, dozens of journalists have been assassinated with near impunity. Many journalists receive threats and are forced to either relocate or undertake extreme security measures, including traveling via armored vehicle and with security guards. Such conditions create an environment of self-censorship, particularly at the regional level, and places further limits on the public’s participation in politics (Gutiérrez 2013, 7). Despite legal guarantees for freedom of association and a push by President Santos for better relations with and increased protections for civil society, paramilitary attacks on activists are on the rise (Gutiérrez 2013, 8).



Amongst the incidents that threatened the lives and work of journalists, Reporters Without Borders (RWB) reported in 2014 that *Los Urabeños*, a paramilitary group, and *Los Rastrojos*, a criminal gang, separately launched brazen campaigns against numerous journalists and other public figures. *Los Rastrojos*, for example, circulated a hit list of 24 journalists, political leaders, and activists on a leaflet in the city of Montería. The leaflet threatened that those named will “pay the price” if they “continue with [their] political, pro-union, pacifist, leftist proselytizing against [*Los Rastrojos*],” stressing how the criminal organization’s “patience has its limits” (RWB 2014).

So far, there is little indication that the threat to journalists will decrease in the coming years. Within the first three months of 2015, there have already been at least two assassinations of journalists, allegedly targeted because of their reporting on corruption. On 14 February 2015, Luis Carlos Peralta Cuéllar, owner and director of the Linda Stereo radio station and a long-time reporter on corruption, was assassinated. In a press release denouncing the murder, Irina Bokova, Director-General of the UN Educational, Scientific and Cultural Organization (UNESCO) declared that “[p]ress freedom is one of the pillars of democracy and good governance.” And as such, “[j]ournalists must be able to exercise their profession without fearing for their lives” (UNESCO). The killing of reporter Edgar Quintero three weeks later on 2 March 2015, was yet another blow against Colombia’s democracy. Ten years earlier, Quintero and eight other journalists from the city of Palmira reported that they had been repeatedly harassed by then-mayor, Miguel Motoa Kuri, primarily due to their coverage of alleged corruption within the municipal government.

These examples emphasize how, in practical terms, legal guarantees to freedom of expression ultimately amount to superficial commitments because of Colombia’s weak judicial system and the deep entrenchment of criminal elements throughout society. Engaging in public discourse, whether as part of the media or as an activist, carries the continued threat of bodily harm. As such, out of 180 countries, Colombia ranked at 126 in the 2014 RWB Press Freedom Index, with little sign that significant improvement will be made in the near year.

### Cumulative Effects on the Conflict

As ICG (2011) succinctly put it, the “[d]eeply entrenched connections between criminal and political actors are a major obstacle to conflict resolution in Colombia.” In general, Colombia’s political system has long been beholden to irregular influence from outside actors set on securing their interests. Decades of corruption, violence, and protection of elite interests have created an inhospitable environment for full democratic participation. As outlined above, acts of political oppression, fuelled by these criminal connections and state weakness, have served to only worsen the civil conflict. By snuffing out opposition voices, ever-deepening political insecurity has incrementally deprived the Colombian political system of credibility throughout its history as a democracy. The ramifications of this elite-driven political system has meant a lack of attention and presence of state institutions in poorer regions of the country, yielding a long list of grievances, the emergence of various non-state actors interested in challenging the authority of the government, and areas of the country with vulnerable populations that support the rebel groups. The lack of robust democratic processes, typically used for resolving political conflict non-violently, has meant that a “Way Out” of the conflict was limited to means of violence for both the government and the rebels.

Though the FARC and government view the current political negotiations as credible, fostering buy-in from other stakeholders, particularly traditional elites, remains a challenge. State weakness continues to enable corruption, and local powers invested in the status quo are sure to exploit this. As Fidel Cano Correa, editor of liberal newspaper, *El Espectador*, notes, “the idea that once the conflict is not there, everything will work... local powers won’t let this happen... they’re not going to leave their power very easily” (SAIS Group Meeting with Fidel Cano Correa, 22 January 2015).

### **Analysis of the Conflict Management Tools Applied**

Due to decades-long hostility and numerous aborted peace processes, building trust between the state and the FARC is essential for the current talks to be successful. Given the history of [often violent] political exclusion within Colombian politics, there is a need to credibly set the expectations that there will be an inclusive political system after the negotiations.

## The Role of Regional Actors and Context

### *Effect on the Conflict*

Under former President Uribe, relations with neighboring Venezuela and Ecuador were generally tense and sometimes outright hostile over issues of border control and rebel safe havens. Early in his administration, however, President Santos pushed for the normalization of relations with these two neighbors. In doing so, he signaled political openness and new beginnings. The move led to greater border control and fewer places for the FARC to seek safe harbor, greatly weakening the group and pushing them towards peace talks. Further, in structuring the negotiations, the government smartly moved to include Venezuela as a key actor. President Santos referred to former president of Venezuela, Hugo Chávez, as “absolutely important in convincing the FARC in being involved in the peace process” (SAIS Group Meeting with Juan Manuel Santos, 19 January 2015). Venezuela’s involvement signaled to the FARC that the government was serious about negotiating a peaceful settlement to the conflict and gave reassurance for the FARC to have an outside ally. For President Santos, who has announced his interest in building a legacy of peace, attempting peace talks with the FARC in a context of war fatigue and muted fears of the communist bogeyman is politically savvy as well as economically and socially responsible. Altogether, these pull factors created a mutually enticing opportunity for peace negotiations.

### *Effect on the Negotiations*

There continues to be a disproportionately loud minority of conservative political leaders, including former president Uribe, who warn against the FARC entering the political sphere. In spite of claims that the FARC could take hold of the presidency in less than a decade, turning Colombia into a “Castroista” state, the specter of communism no longer has the effect it once did (SAIS Group Meeting with Marta Lucia Ramirez, 23 January 2015; Meeting with Alfred Rangel Senator, 21 January 2015). Since the Cold War, there have been numerous successful peace processes throughout Central America. There have also been many examples of leftist groups, including those in Venezuela, Uruguay, Chile, Argentina, and Ecuador, which have denounced violence and successfully pushed for social and political change from within the political system. A similar example of success

also comes from within Colombia, where the 19th of April Movement (M-19) successfully demobilized and entered mainstream politics during the 1980s. As Sergio Guarín León, Manager of the Post-conflict and Peace Building Program at the Foundation on Ideas for Peace, states, these regional developments show that it is possible to sustainably demobilize and reintegrate rebel groups into mainstream politics (SAIS Group Meeting, 22 January 2015). In turn, this yields two, mutually reinforcing effects: a wider political environment that is hospitable to talks in general and, for the FARC and the government, increased credibility in the negotiations at hand.

### The Role of the International Community

In April 2013, leading up to the negotiations on the terms of political participation—the second point of six on the negotiations agenda—the United Nations and Colombia’s *Universidad Nacional* organized the Forum on Political Participation. The forum, which drew representatives from a cross-section of social movements, political parties and associations, civil society, academics, and the media, yielded a list of recommendations on how to promote wider political participation in Colombia. These recommendations were then sent to the talks in May 2013 as negotiators turned to the issue of political participation.

With “enormous support for the peace process and recognition of the necessity...to transform the guerillas into a political movement and...the necessity of strengthening the Colombian democracy,” (Ohlsen 2013, 1) these local proposals likely gave the FARC – a group that has been labeled as a terrorist organization by international actors including the U.S. – a sense of both international and domestic validation. As a result, the FARC may have used the proposal recommendations to strengthen its political position on certain issues or within the general dynamics of the talks; and the show of international support for broader political participation may have also been an additional reassurance that a “Way Out” of the conflict does exist.

### The Role of Trust

By July 2013, the negotiations on political participation were well under way. As a show of good faith, the National Electoral Council (CNE) reinstated the legal status of the UP

as a political party. In its explanation, the CNE cited the “extermination of [the UP’s] leaders, candidates and elected representatives, as well as many of its members” that created “unequal conditions” for participation in the 2002 elections (Gómez 2013, 2). Its admission of not only political violence against the UP and the biases of the wider political system, but of its own error, are quite symbolically important. The tangible step towards inclusive politics emphasizes the possibility of a new era of state interaction with the FARC, giving greater credibility to the government as a negotiator. Moreover, by taking such a concrete step toward political inclusion, reinforcing the tangible possibility of a “Way Out” through political competition, the talks also become far more credible.

### The Role of the Public

#### *Peace Process Design*

Though the government and some international actors have touted the above-mentioned efforts for inclusion, the overall level of public awareness and participation in the talks have been relatively lacking. Inclusion of civil society and other actors has taken place within a highly curated series of one-off efforts, far removed from the venue of formal diplomacy. Though possibly correcting for mistakes in conduct by previous peace processes, where inclusionary efforts taken to the extreme meant confusion, delay, and ultimately a breakdown in negotiations, the current talks have perhaps over-corrected. According to the Commission for Living, Justice, and Life, the group presented a social development proposal to local and national level governments with no response (SAIS Group Meeting, 16 January 2015). Though one of the public forums focused on rural reform, this example highlights that without Track Two or informal negotiations, there are nearly no means for the public to communicate issues and needs as well as apply pressure on its own terms as negotiations take place. As a result, the talks reflect and will possibly perpetuate Colombia’s broader elite-driven political system.

This is also troubling, given the findings of Michael Weintraub of *The Washington Post*’s Monkey Cage Blog when analyzing the results of the first round of the 2014 presidential election, where the question of peace negotiations was central to both candidates’ campaign platforms. Weintraub found that in areas historically inflicted with a high number of attacks by the FARC per year from 1988 to 2010, support for

Santos, who campaigned in favor of the talks, dropped by about 10 percentage points in comparison with areas with relatively few attacks during that time period. The reverse correlation was found in analyzing the electoral results of opposition candidate, Óscar Iván Zuluaga Escobar. These tendencies were also found to hold true for attacks by paramilitaries. Santos ultimately won the presidency in the second round run-off. However, as most of the FARC attacks in the past decade have taken place in peripheral parts of the country, these findings reveal some of the layers of complexity in courting buy-in from the public.

High Commissioner for Peace and Chief Government Negotiator in the Havana Peace Negotiation Sergio Jaramillo Caro stressed the importance of “build[ing] trust between citizens and functionaries” (SAIS Group Meeting, 23 January 2015). In describing the two extremes in designing a peace negotiation – on one end, a territorial peace concept that emphasizes incorporating the greatest amount of citizen participation possible and, on the other, the technocrat approach that views participation as a problem – Jaramillo stated that there has to be an intermediate way to meet the need of citizen participation in the current talks or the government is not going to build state legitimacy. This seems to be the case, as Fidel Cano Correa criticized the negotiations for its lack of connection with citizens, specifically in terms of efforts to inform or educate people on what the process is and what it means for Colombians (SAIS Group Meeting, 22 January 2015). As a result, Cano points out, a number of Colombians feel threatened by the process. By continuing to ignore these issues, the government will likely alienate the Colombian public, especially those in marginalized regions; squander the opportunity to promote a robust democracy; and severely limit the possibility for a sustainable peace.

### *Referendum*

The Colombian government is in a race against time to complete the peace talks. Fundamentally, there is a risk to continue negotiations for too long, because they become less effective as time wears on. Despite claims by President Santos that Colombia will have a final agreement by May 2015, the current process has already demonstrated that this is an unrealistic timeline. Although it was originally thought that the peace process would take only two years to complete, it is now going on more than double that amount

of time (SAIS Group Meeting with Fernando Cepeda Ulloa, 18 January 2015). The election cycle is adding an additional pressure to the negotiations. Because the government is anticipating a referendum vote on the final peace agreement – a “showdown” for those who do and do not support it – it must carry the referendum out in conjunction with a routine election (SAIS Group Meeting with Sergio Guarín León, 22 January 2015). Political participation would otherwise be too low, yielding legally binding but far from meaningful results. The referendum is currently slated for the 28 October 2015 local elections though it is unlikely the talks will make this deadline (SAIS Group Meeting with Sandra Borda, 22 January 2015).

### Partial Agreement Provisions and Guarantees

On a backdrop of increasingly vitriolic rhetoric by former president Uribe and other negotiations naysayers, rising political violence, and a legacy of political genocide, the guarantee of security is central to the issue of political participation. With the opening up of the political arena to new opposition groups and movements after a signed peace agreement, the partial agreement on political participation rightly requires that the “rights and guarantees for the exercise of political opposition activities be granted ... under equal conditions and with the pledge of safety” (Gómez 2013, 2).

The draft on political participation outlines a number of proposals for promoting a less elite-driven, more inclusive political system that takes into account the traditionally weak state presence and history of social marginalization throughout the country. As part of the partial agreement, the parties agreed on the creation of both national and territorially based Councils for Reconciliation and Coexistence as well as citizen monitoring and accountability mechanisms. The plan also calls for the strengthening of Territorial Planning Councils. Altogether, this decentralization of decision-making processes is set to yield greater citizen engagement; more contextually appropriate approaches to development and the implementation of the peace accord; and increased transparency and accountability within the realm of public management. On a macro level, this will likely foster greater state legitimacy and yield a post-war peace that is far more sustainable than if it were only centrally directed.

The draft accord also sets out a number of institutional changes to foster political

pluralism. In particular, it guarantees support for the creation of political parties and social movements, particularly those transitioning from social organizations to movements and from movements to parties. It also outlines a number of measures to promote greater transparency and citizen participation in electoral processes, calling for special attention to areas of greatest need. The parties also agreed to the creation of yet-to-be-demarcated Special Transitory Congressional Districts for Peace. These districts would receive additional seats within the House of Representatives that, during the post-war transition period, would guarantee representation of the interests of those most affected by state marginalization and the conflict (Borrador Conjunto 2013). As Dr. Virginia M. Bouvier, Senior Advisor for Latin America Programs at the U.S. Institute for Peace, comments, “creating extra representation for those who have been neglected by the state and have suffered the impact of the conflict seems to be a creative and appropriate form of reparation” (Bouvier 2013). Though ethnic minorities and women have been uniquely affected by the conflict and the exclusionary nature of the political system, arguably warranting special provisions to guarantee greater political participation and representation, no provisions are outlined in the draft accord. However, once the final peace agreement is signed, a Mission of Experts is expected to conduct a comprehensive evaluation of Colombia’s electoral system and outline concrete recommendations for incorporating best practices and meeting international standards (Borrador Conjunto 2013). It is therefore possible that steps to ensure the greater inclusion of women and ethnic minorities in the political system will be undertaken at this juncture.

## **Recommendations**

### Government of Colombia:

- **Extend state services and consolidate the rule of law in historically marginalized communities** through guarantees for greater government decentralization.
- **Prepare for implementation of the final peace agreement now** by promoting stakeholder buy-in through civic outreach and education on the [likely] terms of the agreement, using various communication platforms, including the internet, SMS, traditional media outlets, and community forums.



- **Ensure that the current and newly formed transparency and accountability mechanisms in state institutions have the necessary resources** to fully function at all levels. Special focus should be given to education on corruption and how to avoid inappropriate practices, especially in government contracting.
- **Clearly outline measures for deciding which demobilized rebels may run in elections.**
- **Launch a communications campaign that builds confidence in the peace process**, dispelling misperceptions meant to derail the current talks by the political opposition.
- **Review electoral reforms**, including the lowering of the electoral threshold and the reconfiguration of the electoral system from majoritarian to a mixed member plurality system, **to promote wider political participation.**

Donor Community:

- **Require all aid recipients to respect human rights** and hold no ties with criminal organizations. Strengthen measures for reviewing compliance.
- **Increase assistance for democracy and governance**, including anti-corruption, rule-of-law, electoral, and civil society capacity building programming, ensuring that at least half of the total aid package is devoted to these issues.
- **Promote institutional change by amplifying local level initiatives** through ongoing capacity building training opportunities and direct grant making.
- **Earmark funds for political capacity-building** specifically for women, youth, and ethnic minorities.



**Part IV: Key Issues in the Peace Negotiations:  
Transitional Justice**



# **Transitional Justice:**

## **Retribution, Restoration and Self-Determination**

Ryan Ball

The issue of transitional justice is two-fold: both how to faithfully serve the interests of the victims and how to develop an acceptable and rigorous enough punishment scheme for those who victimized them. This report will seek to address the latter question. In the Colombian peace process, a significant point of tension lies with the competing interests of peace and justice, for any outcome that grossly favors one over the other will be unlikely to succeed (Zartman and Kremenyuk, 2005). From the government perspective, a negotiated agreement must clearly delineate the appropriate justice process for those who violated Colombian criminal law as well as international humanitarian law. But in order to be successful, an agreement needs to also provide the necessary incentives for FARC members to lay down their arms and peacefully rejoin society. Particularly important to the FARC is their desire to avoid significant jail time, a position that puts them at great odds with certain segments of the Colombian population that have invested significant energy towards combating them. In addition, this may go against international legal norms that have gained more strength in the wake of multiple atrocities perpetrated against civilian populations throughout the world. Therefore, the government negotiators face a high-wire balancing act wherein those compromises they make in regards to justice will be heavily scrutinized by the public, the military, political opponents and the international community.

### **Context**

These negotiations exist within a multilayered context that has witnessed decades of unsuccessful attempts at ending the conflict and as such, a very beleaguered Colombian population. Even in cases of ceasefires, such as with the *La Uribe* agreement or the failed peace process of 1998-2002, Colombian society continued to stew in a pit of violence. Human rights violations amassed and largely went unaddressed, with the FARC, stage agents and numerous other actors all perpetrating crimes against humanity. As defined by

the International Criminal Court (ICC), crimes against humanity include a variety of acts, from murder to deportation to kidnappings, committed as part of a widespread or systematic attack directed against a civilian population. Very little of this widespread illegality and brutality was met with judicial repercussions, and the concept of rule of law in Colombia became deeply eroded. Furthermore, the Colombian government proved wildly inconsistent in its strategy towards establishing a legal framework, at various times offering FARC amnesty, trying its members in absentia, and threatening them with extradition, while conversely failing to comprehensively investigate the majority of the Unión Patriótica killings or prosecute those involved in the “*falsos positivos*” scandal. The 2005 Justice and Peace Law (JPL), drafted in an effort to demobilize the paramilitaries, represented an important first step towards erasing these past mistakes. But it too has proven vulnerable to bureaucratic and judicial inertia, resulting in only 14 individuals receiving a final sentence in the eight years following its implementation (International Crisis Group 2013). In addition, the cases of those paramilitary leaders extradited to the U.S. remain sealed, preventing the public from hearing confessions made and learning whether they negotiated a more lenient sentence (Janisch et al. 2010). The totality of these factors have resulted in a legacy of incompetence that has given way to a general public antipathy for the institutions of justice and skepticism for the concepts of impunity and amnesty, wherein guerillas, paramilitaries and government forces alike have largely escaped criminal liability if not prosecution altogether.

Nonetheless, the past decade or so has seen Colombia making great strides in economic development and social progress, gaining an overall sense of momentum never before seen in its history. Residents of the prosperous urban centers are eager to embrace their promising future, put behind the scars of the past, and address those remaining societal ills that continue to plague them, such as crime and economic inequality (SAIS Group Meeting with Simón Gaviria, 20 January 2015). The countryside is a more complicated story, significantly lagging behind in development and still trapped in the above-mentioned cycle of violence. However, even though the wounds are fresh and the number of victims growing, much of the rural population does not wish to devote significant energy towards dwelling on the wrongs committed against them and figuring out methods of punishment for evildoers. Instead, they possess a strong desire to shed

their current situation and focus on implementing necessary reforms that will safeguard against future victimization (SAIS Group Meeting with Comisión Vida Justicia y Paz, 16-17 January 2015). Many civil society organizations formed in the countryside advocate for actions that will both address the root causes of the conflict and bring closure to their current chapter, such as a truth and reconciliation process. Therefore, while Colombia is certainly challenged to move from a state of injustice to justice, for many Colombians the emphasis of the peace process should be placed on the transition part of transitional justice. The integrity of the rule of law must be given its due consideration, but the future should not be held hostage to the ghosts of the past.

## **Forms of Justice**

### Retrospective Justice

As described by Jeremy Webber (2012), there are three different perspectives on the use of justice that pertain to the concept of transitional justice. To begin with, “retrospective justice,” which bears similarity to the ideas of retributive justice. Both are tied to a transactional process, wherein an act committed bears certain consequences as determined by the rule of law. In cases of injury or harm committed against others, an individual or group of individuals will be made to pay compensation as a civil remedy and suffer punitive actions as a criminal remedy. The emphasis is placed on addressing the wrongs of the past with an eye towards preventing future criminal actions by way of making the potential costs of harming others discernible. In Colombia, the question of how much retributive justice to apply to the FARC is paramount. The most commonly debated point of contention is where to draw the line between political crimes and crimes against humanity. This is particularly relevant because in redressing instances of the former, which involves FARC members inciting rebellion against the state, amnesty is completely on the table. In fact, amnesty for political crimes is practically a necessary condition to achieve a peace agreement. In cases of crimes against humanity however, the government is much more restricted in its ability to grant leeway towards those found to be perpetrators. Law 1592, the Legal Framework for Peace, passed by Congress in 2012, enlists the use of the phrase “most responsible” to discern who should meet the qualifications of crimes against humanity, placing the onus on decision-makers for the

actions taken by the larger group as well as those directly responsible for the most atrocious crimes. Those identified as most responsible will then be prosecuted in a full trial and may face up to 40 years in prison, though reduced sentencing is possible if certain conditions are met.

While not yet knowing the extent to which these conventions will be applied to the FARC, significant hurdles loom in tackling retributive justice. The Office of the Prosecutor within the ICC has monitored the situation in Colombia since 2004, and after concluding a visit there, released an Interim Report in November 2012. The report states that the Office believes that it is reasonable to conclude that both the FARC and the Colombian military have perpetrated a significant amount of crimes against humanity as well as war crimes, with those that took place starting in late 2009 falling under the jurisdiction of the ICC. Thus, it may be difficult to disentangle just how many FARC members have participated in crimes against humanity. In particular, the courts may have trouble sorting out those who participated in kidnapping and child recruitment, two very widespread practices that involve multiple degrees of culpability. Efforts to do so could prove overwhelming to the judicial system, especially if it becomes bogged down in trying thousands of former FARC members. Similarly, there exists the difficult question of applying justice towards those who were forcibly recruited to join the FARC as children (SAIS Group Meeting with Jared Kotler, 21 January 2015).

Another factor lies with the role of the ICC itself. While the report states that the ICC does not currently identify a lack of willingness or ability on the part of the government to prosecute, the threat of ICC intervention looms above the government if at any point the necessary criminal proceedings fail to materialize. Furthermore, the Inter-American Court of Human Rights (IACHR) could also intervene, though the presentation of a case before the Court is considered a measure of last resort. Finally, an additional challenge lies with accommodating FARC expectations that state actors will be submitted to the same judicial oversight, with many among the Colombian armed forces resistant to the idea of being placed on an equal level as the FARC. However, an agreement that ducks the responsibility of establishing the proper means to examine the role of the state is also likely to be greeted with more intense scrutiny and skepticism.



Seizing upon the narrative of the importance of rule of law is the significant political opposition formed towards the peace process, most visibly represented by the Uribistas, a group of political allies led by former President Uribe. Uribistas have expressed their belief that an agreement must include jail time for certain members of the FARC and point to the fact that eight members of the Secretariat have already been convicted of crimes against humanity in absentia (SAIS Group Meeting with Iván Duque, 23 January 2015). The risk posed by making this type of stipulation prior to negotiations is that the FARC adamantly opposes any jail time, leaving no room for a zone of possible agreement (ZOPA) and undermining the future prospects of peace talks. Although the Colombian Constitutional Court has ruled that those who have committed grave concerns cannot be granted impunity, the next two forms of justice introduce the potential flexibility needed for compromise while still avoiding the prospect of outright amnesty or impunity.

#### Prospective Justice

The second form of justice is titled “prospective justice,” and it incorporates a more forward-thinking approach seeking to “arrange relations within the society so that each party is treated appropriately from here on” (Webber, 2012, 103). The focus shifts from punitive actions to taking steps to ensure that all parties are better able to co-exist and society becomes more equal and able to meet the demands of all. This yields similar results to the use of restorative justice, which searches for solutions that will mend a shattered community and restore the previous social balance. The greatest tool in the conflict management arsenal towards achieving prospective justice is truth commissions. First, the truth commission will seek to establish a forum that allows victims to share their stories and begin to create a collective narrative that gives proper breath to all that has occurred. In turn, the parties responsible can choose to acknowledge the nature of their crimes, reveal answers to the mysteries of lingering questions, such as what happened to those who disappeared, and ultimately ask for forgiveness from their victims. By engaging faithfully in this process, criminals may receive lighter punishment and be allowed to participate in a reconciliation process to facilitate their reintegration into communities that may otherwise be hostile to their presence.

Prospective justice speaks to the idea that a peace process needs to incorporate steps that go beyond securing an end to violence and work towards guaranteeing a more stable future. Unlike trials, which are limited in scope and where information may be deliberately suppressed, a truth commission serves to promote greater dialogue between opposing sides to air out their grievances and thus reduce the informational asymmetry that envelops most conflicts. Listening to the words of others and giving truth to the wider experiences of the victims and guerillas alike allows for a return to dignity for actors in a conflict and the recognition that despite those heinous actions committed, in the end we all remain human beings and are capable of mutual respect and fair treatment. In this case, while there are those who question the FARC's ability to fully admit the suffering inflicted by some of their actions, in his discussions with FARC leadership, well-respected mediator Father Francisco de Roux has established that the FARC is receptive to hearing from victims and is capable of acknowledging that they have committed "human" crimes and that war is unjust (SAIS Group Meeting, 20 January 2015).

The reconciliation process then takes up the mantle of rebuilding trust and challenges these actors to create a plan to move forward. First, participants are asked to speak to the underlying causes of the conflict and determine which needs were not adequately being met and will require future attention. For those who feel the FARC are only motivated by greed or political extremism, the involvement of the FARC in such a conversation is seen as both unacceptable and unproductive. However, it may come to light that some of the concerns that drive the FARC in their revolt actually overlap with the struggles faced by their fellow Colombians. For example, many on the left and even President Santos have spoken to the significant role that economic and social inequality plays in fueling the conflict (SAIS Group Meeting with Carlos Lozano, 21 January 2015). By giving the FARC, victims and civil society all a voice to share both their grievances and their visions of a peaceful future, the truth and reconciliation process allows society to work through the surface emotions and begin to address the true roots of conflict. In this way, it can serve as an in-depth learning process that enables "non-repetition," in which actors deliberately take care not to repeat the mistakes of the past and can therefore preclude future conflict.

In Colombia, there is a danger that the establishment of a truth commission could be utilized in the interests of political expediency. With pressure on the Colombian government to achieve a peace agreement in time to be voted on during the fall elections, a truth commission offers the allure of a method that promotes the alternative justice needed to satisfy the FARC demands of avoiding jail time while holding validity with the international community. But if the truth commission holds too slim of a mandate, is too homogeneous in nature, is underfunded, is not politically independent and/or is not given the proper amount of time to operate, it is unlikely to produce the results necessary to compensate for reduced retributive justice (SAIS Group Meeting with Center Historical Memory, 23 January 2015). Instead, the FARC should utilize forums held by the truth commission to allow the wider public to connect with them on a more personal level, gain greater legitimacy and show that their views have greater applicability. In addition, a robust truth commission will also offer the government the ability to start tracing the connecting lines between guerilla groups, illegal mining, the *bacrim*, drug-traffickers and corrupt politicians, giving them a leg up in the next battles in the fight to continue Colombia on a path towards future progress.

Other forms of punishment that flavor the restorative part of alternative justice also present themselves. Most prominent is the idea of giving the FARC the task of rebuilding those communities they have damaged. This would involve putting them to work reconstructing farms, schools and public buildings, demining the surrounding landscape, cleaning-up illegal mining sites, among other things (SAIS Group Meeting with CITpax, 21 January 2015). In turn, the FARC may be allowed to purchase land, gain employment, run for public office and otherwise participate in the daily activities of community members. If coupled with a truth and reconciliation process, it is conceivable that village members who had previously themselves been victimized by the FARC could learn to accept their presence and eventually the seeds of dissension may begin resolve themselves.

### Self-Determination

Webber conceives of a third form of justice that often exists outside the bounds of the more traditional forms of transitional justice as described above and instead focuses on

the idea of “adjustment of contending legal and political orders.” He describes how “most discussions of transitional justice assume that the standards of justice, are, in principle, unified” (Webber 2012, 108). However, this does not take account how during a transition, the “very dimensions of (a) society are challenged.” In other words, the parties engaged in negotiating an agreement may be operating with a framework that no longer adequately applies to the modern day situation. Questions may arise concerning the legitimacy of the current political arrangement and the judicial traditions to which it adheres. For example, in Iraq, the U.S. authority in charge of transition failed to account for the possibility of a formerly unified country dissolving into an intensely splintered group of religious and tribal factions. Similarly, in Rwanda, tribunal prosecutors realized that proceedings against those involved in the genocide needed to incorporate Rwandan traditions of community-based dialogue. Therefore, the third form of justice emphasizes that negotiators must take into account the bigger picture and envision the future normative character and structure of society. The expression “self-determination” thus covers a number of different facets of this third form of transitional justice: political participation should be expanded to those who have previously been without a voice, the government should embrace the judicial philosophy most relevant to its nation’s culture, and political institutions must conceive of potential changes that will root society in a more a stable future, such as enhancing autonomy for minority groups.

In Colombia, self-determination lays at the heart of how and why this conflict has endured for as long as it has. One particular example with great relevance and strong explanatory power lies with the province of Chocó, on the northwest Pacific coast of Colombia. Populated largely by Afro-Colombians and Indigenes, Chocó was never a source of class unrest or part of the story of the FARC’s origin. However, within the last decade it has become a new center of their power, both being a source of income and replenishment of ranks. With the presence of the FARC has come a host of troubling occurrences: illegal mining has left deep scars in the earth, land mines have been scattered along the borders of towns, sons and daughters have been lured into leaving their families, villages have been uprooted and torn down and the rate of child starvation has dramatically risen. In addition, local governments have been beset by high levels of corruption and frequently cede responsibility for providing basic services over to the

FARC. Though in some ways the FARC has made efforts to govern, they have done so by partially re-organizing society, occupying the communal land granted to minorities and imposing a strict ethics code that is reflective of their conservative, moralistic point of view (SAIS Group Meeting with Sergio Guarín, 22 January 2015). Consequently, the population has suffered from numerous indignities, grave concerns for their livelihood and threats to their traditional way of life. The region has become increasingly more destitute and hundreds of thousands have been displaced from their homes. In terms of recourse, the population of Chocó has had only one real option, to organize among themselves and continue to pressure the central government to solve the conflict and give them greater attention and resources.

For the people of Chocó, the result of living through these experiences has led them to look at the bigger picture of the definition of justice, instead of getting caught up in disputes over the amount of jail time or the degree of power given to a truth commission. Rather, they seek to harness their right to exercise self-determination and to encourage a full-scale transformation of their place in society. On the one hand, they seek the ability to participate in the larger national dialogue over the direction of the country. On the other, they would also pursue holding constructive conversations with the federal government that could lead to greater autonomy and respect for their own local customs and definitions. In practice, that means that both the Afro-Colombians and Indigenes would like to see the restoration of the full amount of their collective land and the freedom to govern their respective systems independently of whichever outcomes stem from the agreement decided upon in the negotiations. In instances where the government and the FARC attempt to help rebuild Chocó, at the least this must be done through a process of consultation and dialogue. Otherwise they risk what occurred in the town of Bojayá, site of one the FARC's most infamous acts of violence and reconstructed without accordance to any community input; many houses in the new village remain unoccupied. While minority communities would certainly like answers for the suffering imposed upon by them by outside groups and some measure of redress for those harms, their vision of a post-conflict Colombia is much more concerned with their ability to operate beyond the grasp of these groups for the foreseeable future.

This argument carries weight for greater Colombia and lies at the heart of the discussion over transitional justice currently taking place within the peace talks. There exists the larger “Two Colombias” narrative that has become so prevalent in recent years, where an absence of legitimate authority and public services in the more far-flung corners of Colombia has led to the creation of two very different experiences about what it means to live in Colombia. A transitional process must acknowledge that the absence of armed conflict and a central government more capable of serving basic needs will not lead to a sudden and rapid reconciliation between these Two Colombias. Justice means that the second, less-developed, rural, oft-forgotten part of Colombia should be given the space to put into practice their own visualizations and concepts of governance. Otherwise, the split may only grow larger.

## **Recommendations**

### Negotiators:

- **Delineate exactly what constitutes a crime against humanity (i.e., what does NOT fall under the purview of a political crime).** The more specific the terms, the easier it will be to create a judicial standard. Consultations with the ICC and IACHR can be conducted to ensure that the definition will hold up to review by said bodies.
- **Establish a comprehensive and rigorous punishment scheme that includes creative methods of instituting alternative justice.** Imprisonment must be included as a possible form of punishment, but can be reserved for criminal activities that are both well-documented and meet the strictest definition of “most responsible.” Impunity should be reserved for only those who committed nothing greater than political crimes. For all those in between, those who participate in the truth and reconciliation process and agree to alternative forms of justice, such as restoring victimized communities, jail time may be suspended.
- **Establish a well-funded, politically independent truth commission with a large and expansive mandate.** The truth commission must be given a wide space to investigate the conflict fully and hold talks with all sides of the spectrum, from guerrillas, to *bacrim*, to victims to state actors. Proceedings should be

transparent and accessible to the public. Any conclusions should be delivered to the wider Colombian public and discussed in public forums and town halls.

- **Include greater participation of civil society in the talks.** Invite more civil society organizations to attend the negotiations and offer their own visions for the populations they represent. They can be encouraged to elaborate on how their priorities may differ from those pursued by both the FARC and the government. In addition, they need to plan for ways in which both entities can play a role in respecting the autonomy they seek to safeguard for minorities and other groups that exist outside the margins.

#### Government:

- **Fully adopt and implement the punishment scheme agreed to during the negotiations, including the following possible provisions:**
  - Ensure the legal system has clear guidance as to how to prosecute those that fall under the “most responsible” category.
  - Extend pardons to those previously prosecuted and jailed for political crimes.
  - Establish the proper institutions to oversee implementation of restorative justice.
- **Participate in greater dialogue and build trust with local communities and civil society organizations,** particularly in regions most affected by the conflict.
- **Seek to probe and eliminate corruption at the local and state levels.**
- **Launch a full-scale investigation of crimes committed by state actors** and develop the proper means of instituting a justice regime that will transparently administer reparations and punishment for those actors found to be guilty.
- **Demonstrate greater awareness of the second Colombia and allow rural communities to engage in self-determination.** The government should seek to remedy the lack of services provided in the poorer part of the country but must also respect the wishes of those who have long been neglected to attain greater autonomy.

- **Consult with local communities and NGOs on how best to engage in reconstruction efforts.**
- **Fully restore communal property to minorities and actively prevent further encroachment on their land by non-state actors.**

FARC:

- **Seek to repair ties with communities they wish to settle in permanently.** Those FARC members granted amnesty for political crimes that plan to stay in regions they are not native to, such as Chocó, should consult with local leaders and start public discussions over how they can best integrate into the community.
- **Establish a self-monitoring group to ensure that members given alternative punishments faithfully serve their sentences.** If required by alternative justice to restore damaged communities, FARC members that fail to do so should receive censure from leadership and disassociation with other FARC members.

International Community:

- **Give generous financial support and share technical knowledge that will enable the establishment of a successful truth commission.**
- **Refrain from pursuing extradition requests until the agreement has been fully implemented.**
- **The ICC and IACHR should continue to monitor the peace process but wait to become actively involved until absolutely necessary.**



# **Assuring Victims' Rights and Reparations in Colombia**

Victoria Bosselman

For more than fifty years, the conflict between the Colombian state, the FARC and the ELN guerrillas, and the paramilitaries has inflicted violence upon the civilian population. While the regions of the country have experienced the conflict differently, kidnapping, extortion, and land displacement have been common occurrences. To date, the Special Administrative Unit for the Attention and Reparations of Victims (“Victims Unit”) has identified more than seven million victims, most of who have yet to receive the proper redress for the violations they suffered. Until recently, the government and the guerrillas did not agree on who of the seven million qualified as victims, as they maintained different perspectives on the nature of the crimes, and the victims’ struggles were obscured by the normalization of the conflict as it worsened.

During previous peace negotiations, particularly with the demobilization of the paramilitaries from 2002 to 2006, the state attempted to address the myriad needs of victims, but the mechanisms established did little to prioritize victims’ concerns. Rather, the Justice and Peace Law (“JPL”) applied only to victims of crimes committed by the paramilitaries, excluding many individuals whose lives had been affected by the conflict (Bouvier 2009, 145). The ineffective law was decried by a number of victims’ organizations, which have played an important role in giving voice to the needs of many who may not have been considered in the pursuit of an end to the conflict. With the passage of the Law on Victims’ Rights to Comprehensive Reparation and Land Restitution (“Victims’ Law”) in 2011, the government’s definition of victims expanded to include those who were victimized by the Colombian armed forces or other state agents (Amnesty International 2014, 31). By expanding the legal definition, the government opened the door for victims’ interests to finally be given the attention needed.

The increased attention has continued throughout the negotiations between the government and the FARC in Havana. Unlike prior attempts to broker peace between the parties, victims have been included as one of the five agenda items for discussion, and the government’s lead negotiator, Humberto de la Calle, has stated that victims’ rights “are not negotiable” (BBC 2014). While the government and the FARC continue to propose

rather divergent mechanisms for addressing these issues, the inclusion of victims in the talks remains a positive sign that the peace agreement will provide for the closure and attention critical to restoring the lives of the conflict's victims.

### **Victims' Rights**

Colombia's internal divisions are reflected in the myriad of victims and the crimes they suffered during the conflict. While over seven million victims have been identified to date, different groups have formed within the larger entity to fight for specific goals. Some, as in Chocó, advocate primarily for victims' rights as they pertain to land restitution and displacement assistance, while others, like Movimiento de Víctimas de Crímenes de Estado (MOVICE), focus more on truth-seeking and reconciliation measures. Groups in Chocó, including Comisión Vida Justicia y Paz and Foro Interétnico Solidaridad Chocó, focus on land rights and the lack of government presence in the region because those issues resonate with the majority of victims under their umbrella. The region is home to many Afro-Colombians and indigenous peoples who have received little attention from the Colombian state, and have suffered high levels of displacement from the violence perpetrated by the guerrillas and paramilitaries. For many victims in the region, inclusion as an agenda item in the Havana negotiations does not translate to tangible results that pertain to their specific needs. Rather, they continue to advocate development programs that will provide livelihood opportunities and the social services needed by people in Chocó, as well as for land restitution measures that will remedy the extensive displacement experienced by many victims. National umbrella organizations, like MOVICE, advocate judicial remedies and truth for victims. Formed in response to the demobilization of the paramilitaries, the organization works on behalf of victims of state crimes, who were excluded entirely from the reparations process under the JPL (Garcia-Godos 2013, 248). While their advocacy efforts successfully helped to move the government to expand its categorization of victims, the organization remains active in order to pressure both negotiating parties to accept the principle that impunity cannot be part of the post-conflict justice process.

Over the course of the previous negotiations in Colombia, categories of victims have received divergent treatment. The demobilization of the paramilitaries was

accompanied by judicial and reparation programs, but those were limited to victims of crimes perpetrated by the paramilitaries. Other victims did not receive similar promises of justice and compensation until the passage of the Victims' Law in 2011. That law is grounded in the United Nations (UN) Basic Principles and Guidelines on the Right to a Remedy and Reparations for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law, which are relied upon by the international community. These principles include restitution of property, compensation, rehabilitation, satisfaction, and guarantees of non-repetition (Amnesty International 2014, 16).

Along with these guiding principles, the Victims' Law's provisions demonstrate the improvement in the Colombian government's approach to victims. This improvement is seen from the broadening of the definition of victimhood to the creation of administrative units to address particular aspects of the reparations process. The law expanded to classify as victims "any person who has suffered grave violations of human rights of international humanitarian law as a result of the conflict since 1985" (Summers 2012, 226). With that recognition, many more citizens were able to gain access to social services, livelihood opportunities, and legal actions that the state sets aside for conflict victims. The remaining exception to the classification is the group of individuals victimized by the *bandas criminales (bacrim)* that emerged after the demobilization of the paramilitaries. The Victims' Law also detached the process of registering legally as a victim from the judicial process of determining the responsibility of the perpetrator, which had previously been linked and had complicated victims' ability to exercise their rights (Summers 2012, 226). Although the legal recognition of almost all victims represents a critical step forward, the ongoing peace process may not result in provisions that address the most important interests of victims, including participation in the peace process, truth and reconciliation process, and reparations.

### Inclusion in the Peace Process

The negotiations currently underway in Havana are unique in their inclusion of the victims as an agenda item. Both of the parties at the table have publicly recognized the importance of hearing the victims' stories and addressing their needs. However,

compared to the other four items on the negotiation agenda, little detail was provided on what that stage of the negotiations would cover or how it would be structured until the summer of 2014 when the parties had reached tentative agreements on the preceding agenda items.

After further discussion on how the negotiations were to be structured, the parties came to an agreement that provided for a more inclusive approach to the victims. Rather than having the parties discuss the post-conflict implications on their behalf, they tasked the UN and the national university with coordinating five delegations of victims to share their stories in Havana. Each delegation, which was approved by both negotiating teams, comprised twelve victims who were chosen based on four criteria: balance, pluralism, good judgment, and direct victimhood from the conflict (Hinchliffe 2014). For the UN, the objective was to select victims that would achieve geographical diversity and represent the variety of violations suffered over the course of the conflict. The selection process proved challenging because both conflict parties preferred that the majority of delegates be victims of their opponents' actions (SAIS Group Meeting with Jared Kotler, 21 January 2015). In the end, the delegations included victims of kidnapping, displacement, and extrajudicial killings of civilians by the army, commonly referred to as false positives, and consisted mostly of women, who have been disproportionately affected by the conflict, as the earlier chapter by Shauna Aron details. Once a month, from August to December of 2014, the negotiating parties heard from a delegation, representing the first time that either side acknowledged the full effects of the conflict on civilians. These visits represented a dramatic shift in the rhetoric of the FARC, who had previously failed to listen to its victims or recognize that their crimes surpassed political and war mistakes.

The UN also coordinated a series of forums, both at the regional and national levels, to hear from others affected by the conflict. The proposals made during those forums were compiled and sent to the negotiating teams in Havana for their consideration. Over 10,000 people attended the three regional forums, held in the particularly conflict-afflicted areas of Meta, Barrancabermeja, and Barranquilla, and the national forum in Cali (United Nations Development Programme 2014). Generating hundreds of proposals, these forums expanded the participation of victims in the peace

process, and allowed the negotiating parties to confirm that the victims' requests were being considered in the formulation of the final peace agreement (SAIS Group Meeting with Jared Kotler, 21 January 2015). Whether any of these proposals will truly affect the final agreement has yet to be seen, but their solicitation constitutes more inclusion than many expected from the process.

### Truth-seeking

For many victims, the primary desire is not for criminal punishment of their perpetrator, but rather to discover the truth behind the violation. The search for truth is supported by the government negotiators and President Santos, who pronounced that constructing the truth of what happened is the responsibility of every Colombian (Bouvier 2013).

Previous initiatives to provide elements of the truth of the conflict have emerged through the work of the National Commission of Reparation and Reconciliation (CNRR) and the Center for Historical Memory (CMH). The CNRR was established under the JPL to focus on the goals of truth-telling and reconciliation as well as to recommend the criteria for the award of reparations to victims (Evans 2012, 215-217). While intended to clarify the historical and sociological factors involved in the conflict, the commission was ultimately unsuccessful in facilitating the meaningful participation for victims in the demobilization process for the paramilitaries from 2002 to 2006. At least 70,000 victims attempted to register but most did not receive legal, psychological, or economic assistance to help them through the process (Bouvier 2009, 152). In accordance with the provisions of the JPL, the CNRR functioned in coordination with the judicial proceedings against perpetrators, failing to address the need for truth-telling. The CNRR was replaced by the CMH in order to produce a historical narrative of the conflict between the government and the armed groups. The center represented the first national initiative that gave priority to dignifying victims and recording their testimonies in order to illustrate the violations suffered throughout the country. The center's work on emblematic cases is not sufficient to fill the role of a truth commission in the post-conflict environment, but can be used as a starting point for crafting the methodology and composition of the transitional justice mechanisms that are created out of the final peace agreement between

the government and the FARC (SAIS Group Meeting with Maria Emma Wills Obregon, 23 January 2015).

Most observers of the negotiations agree that a truth commission will be the foundation of the transitional justice process following a peace agreement between the FARC and the government. The FARC has stated that a truth commission should be used to clarify “the origins and truth” of the history of Colombia’s internal conflict, while de la Calle called for one to be established with the objective to uncover “all of the truths, without exception” (Wight, 31 March 2014). Civil society groups, including the Inter-Church Commission on Justice and Peace and CITPAX, call for the commission to include both national and international members and to be created outside of Bogotá (SAIS Group Meeting with the International Center for Peace, 21 January 2015). The inclusion of international members will provide assurance to the FARC, who objects to the jurisdiction of the Colombian state, while also addressing the concerns of the international community. For many victims, the truth commission will open the door to reconciliation and healing. As members of the FARC are likely to reintegrate into many of the communities in which they committed crimes, it is critical for the community to understand why they suffered such violations and who perpetrated them. With a foundation of understanding and forgiveness, both the victims and ex-combatants may be able to co-exist without incidents.

## **Reparations**

Much as the government and the FARC have agreed to address victims’ rights to truth and justice, they have recognized the importance of providing reparations, and have taken steps to do so since the passage of the JPL in 2005. Along with expanding the rights of victims to know the truth of the crimes perpetrated against them, the law created administrative mechanisms through which victims could claim compensation from their perpetrators. However, the mechanisms inadequately addressed victims’ needs because they linked compensation with judicial proceedings, making it particularly difficult to receive the expected assistance. Reparations could only be rewarded for crimes that ex-combatants confessed to committing, and the burden of proof rested heavily on victims (Bouvier 2009, 145). For victims who could not identify a specific perpetrator, but could

name the paramilitary group responsible, claims could be made to the Reparation Fund for Victims.

In cases in which victims could identify the responsible party, payments were limited to the money and property illegally obtained and in the possession of the ex-combatants at that time, shielding many property owners who had received their land through connections with the paramilitaries, and prevented victims from the full restitution of land they sought. The award of reparations was further restricted by the lack of capacity and resources devoted to the JPL's implementation (Evans 2012, 214-215). The state fund does not have sufficient resources to respond to the hundreds of thousands of claims filed. The state's legal responsibilities toward the victims were absent from the JPL's provisions, and the institutions tasked with implementation lacked the expertise to oversee the process. While well intentioned, the JPL did little to provide the redress sought by victims, leading the government to pursue alternative means of compensating individuals in 2008.

Following extensive criticism from victims' organizations and the Inter-American Commission on Human Rights (IACHR), the Colombian government issued Decree Number 1290 which created a separate administrative program for providing individual reparations. Instead of requiring victims to pursue judicial recourse in order to receive reparations, financial compensation was handled separately and based on the principle of solidarity. Reparations no longer depended on the funds provided by specific perpetrators, although the implementing institutions still lacked the resources and funding to respond to all claims submitted by victims. In responding to claims, the state prioritized victims of landmines, sexual violence, and child recruitment (Evans 2012, 217-219). While the program represented a step forward in providing compensation to victims and awarded payments to over 10,000 individuals, those who suffered as a result of state agents' actions remained excluded, leaving many victims' needs still unaddressed.

#### Mechanisms under Law 1448

Passed in 2011, the Victims' Law improved on many of the weaknesses of the JPL. By creating specific administrative units and mandating 51 state entities with service

delivery in accordance with different aspects of the law, legislators provided a foundation for implementing it to the fullest extent possible. The Victims Unit focuses primarily on registering victims in order to facilitate their claims to benefits and on their return to their places of origin. Municipal units were established under the national one to handle declarations of victimhood and distribute payments to victims, but coordination problems have complicated the process (Refugees International 2012). The national unit offers training to the municipal bodies on the filing of declarations, but the offices suffer from a lack of human resource capacity and financial resources. While claims may now be filed by almost all of the conflict's victims, with the exception of victims of the *bacrim*, little education has been provided to assist them through the complex process, and to prepare them for the lengthy wait for a response from the national unit in Bogotá. In addition to being overwhelmed by requests, municipal units have also been mandated to fund victims' assistance programs in their development plan, which further stretches their limited resources.

The most innovative aspect of the Victims' Law came in the creation of the Special Administrative Unit for the Management and Restitution of Dispossessed Land ("Land Restitution Unit"), which was tasked with responding to the needs of the displaced. With property rights at the heart of much of the conflict in the rural regions of the country, the establishment of an administrative structure to work specifically on the restitution of lands demonstrated a critical step in the government's approach to conflict drivers. The law establishes context-specific and extensive rights to both material and judicial restitution of land, and adopts measures that hold businesses accountable for contributing to illegitimate displacement of citizens (Summers 2012, 228-232). In many ways, the Victims' Law represents the beginning of a new approach to victims' rights on the part of the Colombian government, but it may be too ambitious to address all of the issues included in its text. Victims' organizations have expressed skepticism about the capacity of the structures currently at work under the law, and the government must allocate more funding and resources to the Victims and Land Restitution Units in order to fully execute its provisions. Initially passed without an accompanying budget, the government has pledged to set aside \$57 million for addressing victims' needs in 2015, but it is unclear if this assistance will reach those who require it most (SAIS Group



Meeting with Mesa de Victimias, 17 January 2015). In regions like Chocó, corruption at the municipal level often disrupts the transfer of reparations and displacement assistance from the Victims Unit in Bogotá to registered victims. While more funding would allow the government to provide increased assistance for victims, changes are also necessary within political structures to ensure that victims' rights are prioritized over corrupt practices.

### Negotiating Teams' Proposals

In light of the progress made under the Victims' Law, the Colombian government and the FARC have a strong foundation to build upon when finalizing the partial agreement on victims' reparations and transitional justice in the coming months. While 480,000 individuals have received reparations to date and land has begun to be restituted, legislators have stated that incomplete or ineffective implementation remains a potential outcome for the Victims' Law (SAIS Group Meeting with Rodrigo Lara, 20 January 2015). Neither negotiating team has proposed to completely eschew the current system, but they differ on the role that the FARC should play within that system after its members demobilize. Sergio Jaramillo, the Colombian government's High Commissioner for Peace, stated that while negotiations continue, he sees an opportunity for the FARC to provide alternative reparations to victims in addition to or in lieu of the prison sentences some members may serve. Rather than expecting them to surrender the money illegally obtained over the course of the conflict to fund the reparations process, ex-combatants can contribute to demining and infrastructure projects (SAIS Group Meeting with Sergio Jaramillo, 23 January 2015). Not only will this help to rebuild communities that have been subjected to decades of destructive conflict, but it will also assist with the reintegration of ex-combatants who hope to settle in those areas.

The FARC, however, has proposed that the reparations program should focus on the displaced victims and on immediate measures intended to reduce poverty. The guerrillas' negotiating team has called for the funding for the program to come from Colombia's gross domestic product at a percentage of 3%. They assert that the funding can come from cuts to the defense and security budget, international donations, and a wealth tax currently used to finance the conflict (Guggenheim 2015). It is unlikely that

the government's negotiating team will agree to the proposal, but by putting it forward during negotiations in Havana this spring, the FARC has signaled its desire to weigh in on and contribute to the reparations program after the peace agreement is finalized. Whether the parties can agree to a program that includes the alternative measures proposed by the government remains in question, but negotiators indicated that FARC's participation in addressing victims' needs would allow for lenience on other agenda items.

## **Recommendations**

### To the Colombian Government:

- **Streamline the registration process for victims by strengthening the human resource capacity and funding of the Victims Unit at the national and municipal level.** Eliminating the backlog of claims for reparations is critical to the implementation of the Victims' Law.
- **Expand the definition of victims to include those affected by the *bacrim*.** The government's restriction of the definition ignores the full range of violations suffered over the course of the conflict, and impedes the process of truth-telling and reconciliation for all victims.
- **Solicit advice and participation from international justice experts in the establishment of a post-conflict truth commission.** The government should seek expertise from other countries who have undertaken the reconciliation process after armed conflict, as well as justice experts who can guide the methodology and structure of the commission.

### To the FARC:

- **Cease all violence and criminal activities.** While the unilateral ceasefire demonstrates a step forward, the group's continued reliance on extortion and other criminal activities obstructs the peace process and undermines public and government confidence in its durability.
- **Actively participate in the reparations process once established.** The FARC should agree to pursue both traditional and alternative reparations mechanisms,

and prioritize rebuilding and reconciliation within the communities it affected. Participating in demining and infrastructure projects will also facilitate ex-combatants' re-entry into society.

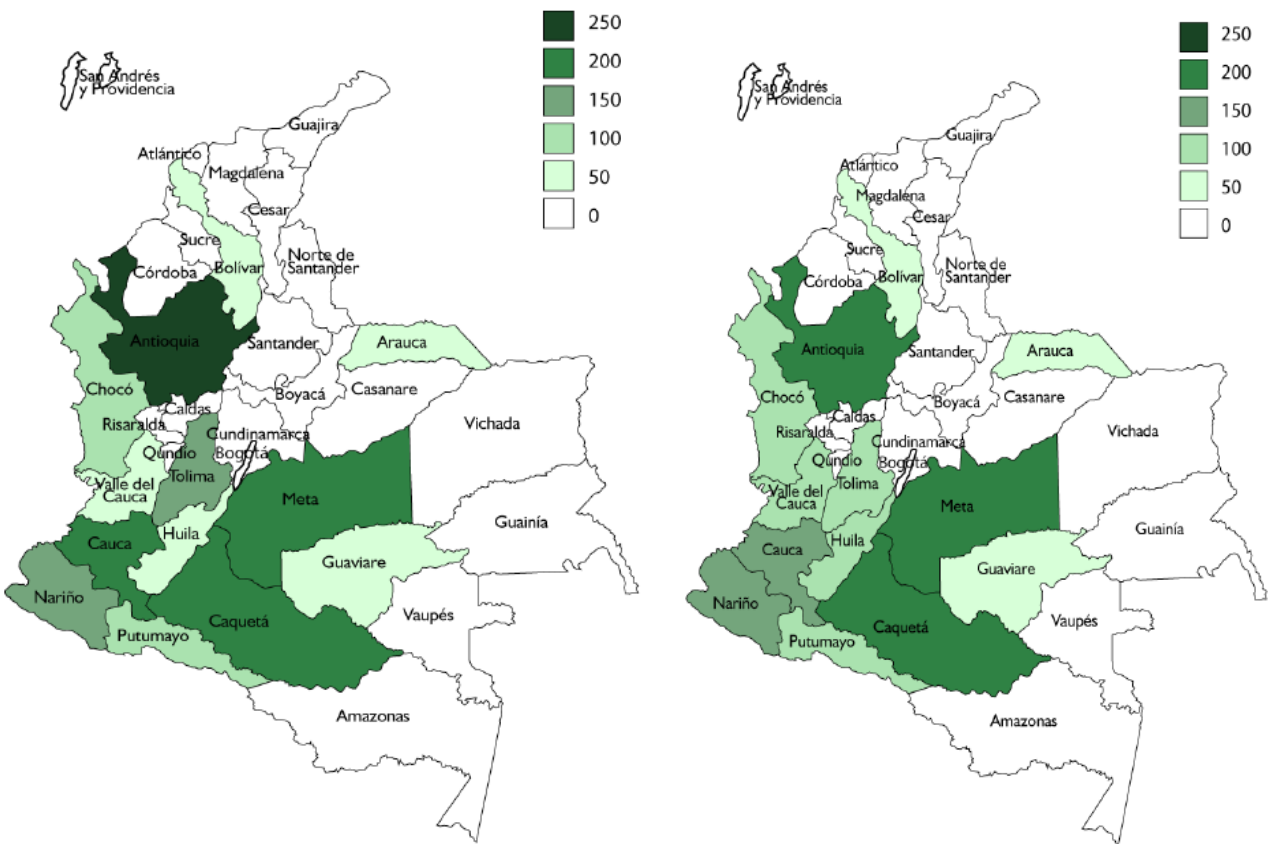
- **Commit to full acknowledgment of all past crimes.** Although the guerrillas have acknowledged that some crimes surpassed political and war mistakes, further recognition is needed to address the depth of the suffering in many regions of the country. Ex-combatants should provide full testimony to the truth commission, and continue to apologize publicly for their actions.



# Considerations, Limitations, and Opportunities of the Peace Process for Children in Colombia

Irena Grizelj

“The cessation of violations against children including full demobilization of child soldiers are essential components to any peace process”-Bertrand Bainvel, UNICEF<sup>8</sup>



*Geographic presentation of the number of children recruited into (left map) and demobilised from (right map) illegal armed groups in Colombia between 2007-2013 (UNICEF and National University of Colombia, 2013)*

Over the course of the 50 year conflict that has permeated Colombia, children – defined as boys and girls under the age of 18 by the UN Convention of the Rights of the Child

<sup>8</sup> Child Soldiers International. Accessed 6 March 2015. [http://www.child-soldiers.org/news\\_reader.php?id=806](http://www.child-soldiers.org/news_reader.php?id=806).

(CRC) – have been subjected to tremendous physical and psychological trauma by guerrilla, paramilitary, and military groups. In their formative years, children are particularly susceptible and vulnerable to the detriments of conflict.

According to the Colombia Taskforce for the United Nations Resolution 1612<sup>9</sup>, established to monitor children in armed conflict, there have been at least 400 serious violations of children’s rights within the framework of armed conflict. Forced recruitment, attacks and occupation of schools, and the killing and maiming of children have been emphasized, along with sexual violence and rape. The change in the geographic dynamic of the conflict over the years has resulted in a disproportionately greater impact of the conflict on children in rural areas and, consequently, on ethnic minorities. Hostilities between the Revolutionary Armed Forces of Colombia (FARC-EP), National Liberation Army (ELN), and Colombian National Army have especially affected children and adolescents in the departments of Antioquia, Caquetá, Cauca, Córdoba, Chocó, Nariño and Putumayo. Although children are first and foremost considered victims under the CRC, in this conflict, they have also been labeled as victimizers.

The issues that children face in Colombia span the issues of transitional justice, victims’ rights, minorities’ rights, organized crime, internal displacement, and political economy – many of the topics covered in this overall report. The current Government under President Santos has made commendable progress in addressing children’s rights: according to official figures, Colombia has shown significant improvement in security and human rights’ indicators, and the national Government has strengthened institutional strategies for integral protection of children affected by the conflict in Colombia. For example, the National Policy to Prevent the Recruitment of Children and Adolescents by Illegal Armed Groups was established in 2010 (Bureau of International Labor Affairs 2013), and in 2011, the first former paramilitary was convicted for sexual violence against minors and children under the Justice and Peace Law of 2005. Despite this progress, the realization of children’s rights continues to be neglected in practice in

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<sup>9</sup> The Government of Colombia has voluntarily accepted the monitoring and reporting mechanism pursuant to Security Council resolution 1612 (2005) on the condition that any dialogue between the United Nations and armed groups would take place with its consent.

Colombia, as reports and interviews from the SAIS trip highlight. The issue of children's rights are not currently explicitly included in the agenda for the present peace negotiations.

Human rights organizations have extensively written about the magnitude of the harm committed to children by the parties to the conflict, and will not be elaborated on this report. This essay will first provide an overview of the potential impact of the peace process on children who have been affected by the conflict, as well as those directly involved in the conflict. Then the report will address the current limitations and deficiencies in the peace process, as it pertains to children. It will analyze the opportunities for the rights of children to be addressed and protected in the third item on the agenda, on "End of the conflict", and the fifth item, on "Victims". Finally, based on the interviews, reports from international and local organizations, and research conducted in Colombia as part of the SAIS trip, this essay will present key recommendations for the actors in the conflict, in an attempt to more effectively meet the dynamic and immediate needs of the children in Colombia.

### **Children Involved with the Parties to the Conflict**

One of the most pertinent issues facing the peace process, specifically with regard to children, is the use of children and child recruitment by armed groups. Despite international and national laws prohibiting the involvement of children into conflict, both the FARC and ELN are reported to have recruited and used children within their ranks, including indigenous children (Bureau of Democracy, Human Rights, and Labor, 2010) – a problem that remains underreported in Colombia. Although the National Army no longer recruits children, the FARC has accused the government of using children as intelligence spies; children have been killed or threatened with death by the FARC on suspicion of being informants for the Colombian military.

The Colombian Family Welfare Institute (ICBF) is the government agency responsible for children who have been demobilized from non-state armed groups. As of 31 October 2013, 5,352 children and adolescents have registered under the Care for Children Demobilized from the Armed Conflict Program of the ICBF (UNSG, Children and Armed Conflict, May 2014). From 2002 to 2005, the UN Children's Fund (UNICEF)

estimated that the number of children participating in armed groups was as many as 14,000. Other sources have estimated that one quarter of the FARC members were recruited as children (Springer 2012). Today, without an official census, it is difficult to know exactly how many children are being used within armed groups.

#### International and National Law

Under international humanitarian law, it is illegal to recruit a person under 15 years of age. However, forced or compulsory recruitment of children under 18 years for use in armed conflict constitutes as one of the worst forms of child labor (Article 3(a), Convention of the Worst Forms of Child Labor). Reports highlight that children under the age of 15 years have been systematically and frequently utilized by the FARC. Furthermore, Colombia is party to the Optional Protocol for Children in Armed Conflict, which states that “State Parties shall ensure that persons who have not attained the age of 18 years are not compulsorily recruited into their armed forces,” and “groups that are distinct from the armed forces of a State should not, under any circumstances, recruit ... persons under the age of 18 years.”

On 11 February 2015, the FARC released a statement declaring they will prohibit the recruitment of children into their forces who are under the age of 17 years, raising the recruitment age by two years from 15 (Agence France-Presse, 13 February 2015). Although it has taken two years into the peace negotiations for the use of children by the armed groups to be explicitly acknowledged, this declaration of the FARC is a promising addition to the peace process. However, as President Santos stated in a speech in the southern Colombian region of Caqueta, “It’s a step that we appreciate as being in the right direction, but it’s not enough, I do not understand why it’s 17 years, when the age [of maturity] is 18.” The FARC has also claimed that, “the entrance to the FARC-EP is personal, voluntary and conscious between 15 and 30 years” (FARC-EP, Feb 2015). In under a week following the declaration to prohibit recruitment of children under 17, the FARC negotiators in Havana further agreed to release all children under 15 within their ranks. It was publicly announced that there were only 13 children under the age of 15 in the FARC. The implementation and successful monitoring of these declarations will prove challenging.



### Characteristics of the Children

The UN has reported that FARC-EP use children to fight, as preparers, refiners and distributors of narcotics, debt collectors, smugglers, extortionists, “tax” collectors, to recruit other children to act as spies, gather intelligence, serve as sex slaves, as well as a variety of other illegal, dangerous and violent activities. Furthermore, children from indigenous groups have disproportionately been affected: 14% of those registered as demobilized from the FARC are indigenous, while they represent just 3% of the total Colombian population (*El Espectador* 2015).

The reasons for child involvement with armed groups, as well as the tasks they are reported to undertake, are diverse. According to the joint study undertaken by UNICEF, ICBF, and National University of Colombia (2013), the most common reasons for joining with armed non-state actors included: “I liked guns” (14.2%); “I liked what they were doing” (11.4%); “Problems at home” (8.7%); “I was bored” (7.3%); “For money or work” (6.9%); “I was taken” (6.9%); “For revenge” (6.6%); “They tricked me” (6.2%); “They forced me” (5.2%); “They invited me” (4.8%). Another study by Springer (2012) found that an overwhelming majority (81%) of children stated that their recruitment into armed groups was “voluntary,” while a fraction claimed to have been forced (18%). The FARC has declared that, “Contrary to what the institutional propaganda and those seeking to de-legitimize us say, under no circumstances have we proceeded to forcibly recruit minors nor any fighter” (FARC-EP, Feb 2015).

The profile of the children and adolescents interviewed highlight a common denominator of poverty and vulnerability. It is evident that there are deeper societal and economic issues affecting children and, in turn, their motivations for becoming involved with illegal armed groups. The different reasons for which children become involved with the conflict must be recognized by the government to effectively shape policy responses.

### **Children Not Involved with Parties to the Conflict**

According to official figures from the Special Administrative Unit for the Care of and Comprehensive Reparation for Victims (UARIV), by 1 September 2014, there were 5,897,435 reported victims of forced displacement in Colombia, of whom 2,136,464

(36%) are estimated to be under 18 years old (Watchlist 2013, 3). The primary concern for the peace process with regard to the children who have not been directly involved in the conflict is addressing the disparities between the different departments in Colombia.

The 2013 Annual Report by UNICEF highlighted the fact that, although the Government's efforts to reduce inequality have been considerable, there are still important limitations that keep children and adolescents in poverty, "including marked inequality in the institutional capacity of regional governments and difficulties of coordination between national and local authorities." Extreme rural poverty is 3.3 times higher than extreme urban poverty (UNICEF Annual Report 2013, 2). In 2010, for instance, the national average of chronic malnutrition in children under the age of five was 13.2%, but in departments with a high proportion of indigenous and afro-descendant communities the percentage was twice or three times that value (Guajira: 27.9%; Cauca: 23.1%; Amazonas: 28.7%). The conflict has also stood in the Government's way of addressing these disparities. For example, the Government of Colombia implemented "Municipal improvement plans" to address health services for Colombians, but at the end of 2013, 31% of the plans are behind schedule due to the effects of the armed conflict that blocked the work of health professionals (UNICEF Annual Report 2013, 5).

These regional differences were strikingly apparent in our visit to Quibdó, Chocó. Cocomacia and Uniclairetina representatives emphasized that education and access to social programs for youth were a major concern in the area, though the same problems were faced by all the coastal/Pacific regions. The groups we met with often did not feel acknowledged nor supported by the central government. There seems to be limitations in the central government's capacity to meet the needs of these departments effectively.

The absence of state presence in the Chocó region has resulted in the worsening of the conflict over the years. In extreme cases, the conflict has caused incidences of children dying of starvation in the region, which has not been previously reported. The FARC and ELN have provided social programs and taken over the role of authority in the absence of the government, however, this has left children confused over identities of who is the victim and who is the aggressor. A negative result is that it has enabled greater recruitment of children from the region – voluntary recruitment due to destitution is not unknown. Representatives from Chocó highlighted the plight of displaced persons who

flee from rural areas to Quibdó but are now displaced. Opportunities for employment are scarce, educational services are not adequate, and income for many families is not sufficient for their livelihood. Chocó, and Colombia, is witnessing its second generation of victims.

As James Robinson of Harvard University said with regards to the needs for Colombia, it is “education, education, education” (Robinson 2015). This will promisingly be addressed in the new National Development Plan for Colombia, in which education is one of the three key pillars. Equality of access to quality education for the different departments of Colombia, as well as taking into account the different needs of children from the different departments – including Afro-Colombian and indigenous education – is a crucial component for peace in Colombia.

## **Limitations and Opportunities of the Peace Process**

### End of the Conflict: Issues with Demobilization

There is currently no National Plan for the demobilization of children who are delinked from the non-state armed groups or the military, and the problem is not formally discussed in the peace negotiations. The issue with disarmament, demobilization, and reintegration (DDR) of children from non-state armed groups or military is a fundamental component for a peace process. The previous demobilization efforts of the United Self-Defense Forces of Colombia (AUC) from 2003 to 2006 provide lessons that should be taken into consideration. The first lesson is with regard to the demobilization process itself, and the second is related to justice and victim’s rights.

Despite an estimated 5,000 children associated with the AUC group, only 450 children passed through formal reintegration program of the ICBF in 2006 (Aguirre, 2013). The majority of children who were associated with the AUC left the groups informally and registered with the ICBF on their own accord. This resulted in a failure of the recognition of many of the children’s rights as victims of the conflict, and without access to the educational, financial, legal, training, and psycho-social benefits that should have been theirs by right of the programs set up to aid them (COALICO 2014).

The problem has been compounded by the fact that many former-AUC leaders resurfaced following the demobilization process, and created new non-state armed

groups. In her report, Springer (2012) details that criminal gangs have absorbed no less than 42% of children who were part of the original structures of the AUC. The government's failure to acknowledge the demobilization process resulted in the labeling of these groups as "emerging criminal gangs" (*bandas criminales emergentes*). As a result, children recruited or used by armed post-demobilization groups do not receive the same legal treatment as victims of illegal recruitment attributable to the guerrillas of the FARC and ELN. Children recruited by the criminal gangs are not viewed as victims under international humanitarian law but as common criminals. Interestingly, during the Committee of the Rights of the Child session in Geneva (March, 2015), the ICBF delegation stated "the State was providing care and support for all victims of the conflict, regardless of the perpetrator, and also included victims of criminal gangs." As recruitment of children continues with the criminal gangs, many children have been re-victimized. In January 2011, the head of the Colombian National Police declared the new armed groups as the "biggest threat to national security." Other military experts fear that some of the guerrilla who were recruited as children, and who know nothing but warfare, are at risk of joining criminal gangs if their units are dissolved. It is critical that all children subject to recruitment be provided with the same rights and protection.

As highlighted by a human rights representative during the SAIS research trip, for the FARC, the issue of demobilization is a little more complex. The inter-generational duration of the war has resulted not only in children being recruited into the FARC, but in children actually being born within families of the FARC. Furthermore, according to the UNICEF-ICBF-National University study (2013), 61% of children demobilized from the non-state armed groups have close relatives who are active within the guerrillas. The issue of justice, prosecution, and reparation is intertwined and complicated as a result.

#### Victim's Rights: Justice for Children

On 5 February 2015, the FARC declared on their official website a list of the victims they will address as part of the negotiations, but children were not included in the list (Peace Delegation of the FARC-EP, 3 February 2015). Children face sensitive and complex difficulties in gaining access to justice. The Paris Principles state that children who participated in armed conflict:

“... who are accused of crimes under international law allegedly committed while they were associated with armed forces or armed groups should be considered primarily as victims of offences against international law; not only as perpetrators. They must be treated in accordance with international law in a framework of restorative justice and social rehabilitation, consistent with international law which offers children special protection through numerous agreements and principles.”

Under the Rome Statute of the International Criminal Court (1998, Articles 8(2)(b)(xxvi) and (e)(vii)), to which Colombia is party, “conscripting or enlisting children under the age of fifteen years” into armed forces or groups constitutes a war crime in both international and non-international armed conflicts. The issue of accountability and impunity for violations against children remains a concern and is pertinent in the peace process. How the peace processes chooses to address justice for the child victims, who are also perceived as victimizers within Colombia, is sensitive and requires thorough discussion. This perception poses a key obstacle to re-integration of children associated with armed conflict and undermines the realization of children’s rights as promised under the CRC. FARC and leaders of the National Army should not be allowed to avoid accountability for serious international crimes, if found guilty through judicial processes. Whatever agreement the negotiators come to, it should include a transparent and monitored process for the release of children that upholds their rights.

### **Recommendations**

The following policy recommendations should be regarded as neither extensive nor complete for all children affected by the conflict in Colombia. Such recommendations go beyond the scope of this report. Rather, the recommendations are related specifically to the peace process, taking into account the interviews conducted as part of the SAIS research trip and reports available publically.

In general, there are several aspects to consider going forward. First, a rights-based approach to protection for children should be endorsed by the Colombian state. Secondly, in the short-term, reintegration into the community, quality education, and economic opportunities for the children and youth who have been involved in the conflict

is critical for sustainable peace. Thirdly, in terms of politics and a long-term approach, youth should be nurtured with leadership skills in order to be able to effectively, peacefully, constructively, and positively engage in politics and have a voice in the direction of their country.

Finally, unless the root causes for children to go into the guerrilla groups – such as lack of social protection, quality education, equitable access to health and social services – are addressed, the threat of child recruitment and abuse of children’s rights will continue.

The Government of Colombia:

- **Incorporate child protection frameworks into the peace negotiations**, with strategic advice from child protection experts. Recognize the potential incapacity of the state to reach all departments equitably, and work on creative solutions to address the imminent needs of the vulnerable departments.
- **Reach a *bilateral* agreement with the FARC to stop the recruitment of children** – forced or voluntary – under the age of 18 years.
- **Create a National Plan for the safe and transparent delinking of children** from the military and non-state armed groups.
- **Pressure the FARC to be transparent in the release and demobilization of children** within their ranks in order to ensure that children are protected and their rights properly addressed. Take into consideration the lessons from the demobilization process of the AUC.
- **Strengthen the institutional capacity of agencies that provide psychosocial and educational support** for children who have demobilized, most notably the ICBF, but also the civil society members who work in this capacity.
- **Listen to, and take into consideration the voice of the children:** establish a sub-committee with representatives of youth and children, as well as child specialists, which could mainstream the interests of children and youth in the peace process in a similar way to the gender sub-commission.
- **Take into account and address the regional inequalities** with regards to social protection, health, and education policy implementation for children. Recognize

the different reasons children become involved with armed groups, and shape protection and social development policies in response.

The FARC:

- **Work with the government to conduct a census among the ranks** to get accurate information on the number of children within the FARC. This will enable more effective and targeted policy response once the scope of the issue is established.
- **Prohibit the use of children under 18 in hostilities**, and release the children currently under 18 years of age in a transparent and formal manner.

Colombian Family Welfare Institute (ICBF):

- **Recognize limited resources and capacity to address the needs of all the children** currently affected by or involved with the conflict. Express needs and requirements to the government to ensure institutional capacity is strengthened, or partnerships with other agencies are established.
- **Ensure the practice of equal provision of rights and care for all children** involved with the conflict, whether in illegal armed groups or criminal gangs.

The International Community:

- **Invest in infrastructures that support the rights of children**, such as psycho-social support centers, schools, and reintegration programs. Conditional and earmarked aid could be utilized to ensure the funding is spent on these structures.
- **Support effective programs for reconciliation** at family, community and school levels to ensure that children associated with armed conflict can become reintegrated.
- **Provide ample levels of financial aid** – do not assume that needs will be less once the peace accord is signed – in order to effectively support the institutions and authorities at central and sub-national levels.





## Conclusion

P. Terrence Hopmann

After many decades of failed negotiations between the Government of Colombia and the main rebel group, the *Fuerzas Armadas Revolucionarias de Colombia* (FARC), negotiations currently underway in Havana, Cuba, have completed three of six planks of a peace agreement and appear likely to finish negotiations on a comprehensive peace agreement in the foreseeable future in spite of numerous potential obstacles. The SAIS group of 16 students and three faculty members were thus able to evaluate the negotiation process at this important juncture during our study trip of ten days in January 2015, and this report has brought together the findings from our trip to that region.

### **Drivers, Incentives and Consequences of Conflict**

In order to understand the current peace process it is necessary to begin with a diagnosis of the drivers of the conflict that has endured in various forms for over 50 years. In the United States and many other developed countries, the narrative of this conflict has focused on the illegal activities of the FARC, especially in narco-trafficking, and on the efforts of the Colombian government, with assistance from the United States under Plan Colombia, to crush the FARC in order to destroy the narco-trafficking network. One conclusion that clearly emerged from our visit to this region, however, is that this is an overly simplistic and often misleading understanding of the underlying dynamics of the conflict that too often has led to ineffective or even counterproductive policy responses. The literature on conflict management tends to identify three primary drivers: grievances (need), ideology (creed), and profiteering (greed). The papers in this report indicate that all three are present in the Colombian case, but that too often the component of greed has been overemphasized in many superficial treatments.

Anyone whose knowledge of Colombia is restricted to visiting its major cities – Bogotá, Medellín, Cali, and Cartagena – sees a picture of a well-developed country in which violent conflict seems to be far removed. By beginning our trip in Quibdó, capital of the western province of Chocó, we were able to see the “other Colombia” and gain a greater understanding of the major drivers of conflict in the country beyond the focus

exclusively on “lootable resources.” Chocó lies in northwestern Colombia, fronting the Pacific coast but also with a short coastline on the Caribbean Sea bordering Panama; it is a very poor region, with one of the world’s heaviest annual rainfalls, with few roads but cross-cut by numerous rivers that provide the primary transportation routes through the jungle terrain. In recent years these factors have contributed to its becoming a center for FARC activity. The overwhelming majority of its population is Afro-Colombian, with a small minority of indigenous peoples and *mestizos*. Partially as a result of its geographical remoteness, it has not shared in the relative prosperity of much of the rest of the country, as is the case also in other Pacific coast provinces and in portions of eastern and southeastern Colombia, especially Amazonia, all of which have been centers of the rebellion against the Government and, indeed, against the capitalist economic system and the structures of political, military and economic dominance in the country. Chocó suffers dramatically from a lack of infrastructure, educational and health facilities, and social welfare programs; for most residents, the only clear presence of the central government is in the form of the army and the police, both of which are under the command of the national Ministry of Defense.

As Maia Blume argues in her chapter, from the beginning the FARC and other rebel groups, especially the ELN (Ejército de Liberación Nacional), originated as peasant movements to combat the high degree of inequality in Colombia, which has increasingly fallen along urban-rural lines. Colombia ranks 10<sup>th</sup> out of 174 countries in the World Bank’s GINI index of inequality; almost 43% of the rural population lives below the national poverty line, in contrast to 27% of the urban population. The almost total lack of investment in the economic development of these areas has created a powerful incentive for both active and passive support for the FARC rebels in many rural regions of the country. And as Caitlin Watson observes, poverty is especially striking among the roughly five million Colombians who have been displaced from their homes as a consequence of the violence, where 94% of the IDPs live below the poverty line. Although the Colombian government passed a progressive Victims’ and Land Restitution Law in 2011, efforts so far have been inadequate to even register, much less provide assistance for the vast majority of IDPs concentrated mostly in the rural areas.

As Maude Morrison points out, the Afro-Colombian community, descendants of slaves brought to Colombia by the Spanish, especially feels the brunt of this marginalization. Afro-Colombians have been both subject to recruitment by the FARC and victims of violence at the hands of the FARC, as well as the paramilitary forces that were created largely to combat the FARC and other rebel groups, other illegal armed groups often composed largely of “demobilized” paramilitaries known as the *bandas criminales (bacrim)*, and the national army and police. Most of the many civilians killed or “disappeared” in the decades of violence have been Afro-Colombians, and many have been forced from their homes to refugee communities like one we visited outside Quibdó called “El Futuro,” which paints about as dystopic portrait of the future as one could possibly imagine as most of the inhabitants live in miserable conditions with little hope for a better life. Although victims have often come together to form civil society organizations to present their concerns to the government and have been invited to send representatives to the peace panel in Havana, so far the pervasive economic and social inequality presents a serious challenge to peace and a significant driver of conflict in all of its forms.

Given this pervasive inequality, it is not surprising that the Colombian rebellion includes a significant ideological component founded largely in the grievances of the rural peasantry, many of whom had been displaced from their lands by landholders who turned small farms into large *latifundia*. As a peasant-based movement, however, the FARC also adopted a Marxist ideology as a foundation for their struggle, as Georgios Xenokratis describes in his chapter. Furthermore, many of the FARC’s leaders, especially in its early years, were educated in the Soviet Union, and they also organized their rebellion along strictly hierarchical lines. The ELN, which also formed at about the same time, tended to draw more heavily from an urban base and took their inspiration largely from the Cuban revolution, with strong support from the radical movement of “liberation theology” within the Catholic Church. With the collapse of the socialist bloc after 1989 and the abandonment of official Marxism by the Kremlin, many believed that the FARC would abandon its ideology and that greed would take over as the dominant driver of their struggle; some evidence to this effect was provided by the fact that the decade of the 1990s was characterized by the rapid expansion of narco-trafficking

stemming from Colombia. Although it is difficult to separate these competing motivations, Xenokratis largely concludes that coca production and other illegal activities undertaken by the FARC, including kidnapping, extortion, and mining, were largely viewed by the FARC leadership and by leftist parties in Colombia as a means to support their struggle.

Alexandra Papatheodorou elaborates further on this point by emphasizing that the FARC is not a traditional drug cartel and that its primary role in narco-trafficking has been cultivating marijuana and coca plants and “taxing” cultivation by others; most of the subsequent aspects of narco-trafficking – turning raw coca leaf into cocaine and shipping it to destinations in North America and Europe – has been dominated by other illegal armed groups that are in the business purely for its economic benefits without any ideological motivation. By contrast, for the FARC, engagement in illegal activity seems to have been primarily viewed as a means to support their struggle on behalf of Colombia’s aggrieved peasantry in an effort to achieve their ideological ends. As she argues, profits from the drug trade were largely used by the FARC to support their military and political goals, both in terms of buying arms and in providing for the social and economic needs to the communities from which they draw their necessary support. Therefore, the FARC’s motivation for entering into negotiations with the government is not only due to its weakened military position, although this is an important consideration, but due to the perception that they cannot overthrow the present Colombian government and establish a Marxist state in the style of the Cuban revolution. In short, their fundamental ideological goal is no longer attainable, they cannot win outright, and their efforts in current negotiations appear to be directed largely to secure as many changes as possible in Colombian governance consistent with better meeting the needs of Colombia’s large, marginalized peoples.

This implies that a peace agreement may not bring an end to narco-trafficking, which may be continued by the extensive *bacrim* networks. As many Colombians from all sides note, the drug problem is not so much a Colombian problem as a North American and European problem; as long as there is a demand for drugs from the “north,” there will be growers and traffickers in Colombia, Bolivia, Ecuador, Guatemala, Mexico or any number of other locations who will be eager “suppliers.” As

Papathodorou observes, the “balloon effect” means that ending drug production in one location simply means that it will swell in another in order to meet the ever growing demand emanating from the consumers of drugs in the north. In this respect, focusing on the conflict in Colombia as a part of the “war on drugs” misses the essential motivations driving the parties to the conflict, whose resolution is likely to have a minimal effect, if any, on the supply of drugs on global markets; it also fails altogether to address the primary demand for drugs from consumers in North America and Europe.

Peace in Colombia, therefore, needs to be founded upon finding justice for the rural poor and for the many victims of the conflict, not on “winning” the war on drugs. As Eric Rahman notes in his contribution to this volume, a key incentive for a peace agreement that serves both the needs of the Government and of the FARC is to extend throughout the entire country the substantial economic growth, which has predominated in the urban zones and regions at higher elevations in the Andes, to the impoverished regions like Chocó in the northwest and Amazonia in the southeast. This will require both the government and the FARC to adapt to the development priorities of the local communities rather than imposing a development plan from the top down. Fundamentally, a peace agreement provides a “mutually enticing opportunity” to remedy some of the most severe economic disparities that have fed the conflict in Colombia for well over 50 years. This will require the FARC and the government to cooperate to bring the benefits of development to the impoverished regions from which the FARC has drawn its support both politically and economically.

### **The Negotiation Process**

The current peace negotiations opened in Havana, Cuba in October 2012, under the initiative of Colombian President Juan Manuel Santos. As Emily Zeidler points out in her chapter, President Santos has made a conscious effort to avoid many of the mistakes made by his predecessors during the previous 30 years of failed attempts to negotiate peace with the FARC. It was important to move the negotiations outside Colombia to reduce domestic pressure on the negotiators, and Cuba has proven to be a valuable host site, especially because it provides a non-threatening environment for the FARC. President Santos has also consulted with several experts on “principled” or “problem-

solving” negotiations in order to focus on the substance of the agreement and to minimize the influence of power disparities. The parties have decided to combine negotiations in a “package” with “step-by-step” negotiations. Thus six central issues were identified, and tentative agreement had been reached on three of those components at the time of our visit in January 2015. At the same time, both parties accept the principle that “nothing is agreed finally until everything is agreed,” opening the possibility to adjust the terms of early steps in the process if they appear necessary to compensate for the agreements reached in the later stages. As is common with this approach, some of the less difficult issues were treated initially and the most difficult issues remain to be negotiated.

The current negotiations have also made an effort to minimize the role of outside “third parties” in order to make this a negotiation “among Colombians and for Colombians.” Cuba and Norway have both served as facilitators, but they have seldom taken a directive role in the negotiation process. Venezuela and Chile also serve as “accompanying parties” to act as advisors while taking no direct role in the negotiations. There has been a conscious effort to keep the major global players at arms’ length; however, the United Nations has assisted mostly by organizing meetings between the civil society organizations representing victims of the conflict and the negotiating parties. The United States has wisely stayed out of any direct participation, although President Obama recently appointed Ambassador Bernard Aronson as his special envoy to the peace talks. Clearly the participation of major states and institutions like the European Union and the United States, with resources to contribute, will be crucial in implementing any agreement, but excessive engagement by these parties during the sensitive negotiation stages would likely do more harm than good.

During our visit it was evident that the Government was strongly committed to the peace process and represented in Havana by an effective negotiating team, led by Sergio Jaramillo, High Commissioner for Peace in the Office of the President. However, one significant absence in the peace process, as Shauna Aron argues in her paper, is the full participation of women as called for in UN Security Council Resolution 1325. As she points out, women are disproportionately affected by the conflict both as participants in the fighting and as victims of it, and they are often marginalized in society, further reinforcing this aspect as a driver of conflict. Although many civil society organizations

have promoted the engagement of women and eventually succeeded in getting two women included on the negotiating teams, Aron emphasizes that women remain under-represented at the highest level of the negotiations. A gender sub-commission has also been created in conjunction with the negotiation process, but Aron questions whether the negotiators will pay sufficient attention to their recommendations. Therefore, the voices of a significant part of Colombia society, especially those most affected by the conflict, are insufficiently represented at the Havana negotiation table.

Emily Zeidler's chapter also raises the difficult role of a ceasefire while the negotiations are unfolding. The FARC declared a unilateral ceasefire in December 2014 and called upon the government to respond in kind. The government has refused to declare a formal ceasefire on the grounds that past ceasefires allowed the FARC to regroup, although offensive government action against the FARC seems to have largely been curtailed and it is not clear how the FARC, with their military forces significantly weakened and largely restricted to operations in isolated jungle regions, could significantly rearm during a ceasefire. In our SAIS field trip to Mindanao (Philippines) in 2014, where a similar peace process was being concluded, it was clear that the ceasefire between the main rebel group, the Moro Islamic Liberation Front (MILF), and the Armed Forces of the Philippines was critical to prevent the negotiations from being disrupted by small, breakaway fighting forces trying to act as spoilers of the peace process (see Hopmann and Zartman, 2014), and the same danger lurks in Colombia as well.

The Colombian peace process is also threatened by potential spoilers, as Min Kyung Yoo discusses in her chapter. Negotiations presently are taking place only with the FARC, but there are numerous other armed groups in Colombia. The other Marxist rebel group, the ELN, is considerably weaker than the FARC and appears willing to enter into separate negotiations with the Government to take place in Ecuador; as Yoo argues, therefore, any peace agreement that does not in some way include the ELN will be incomplete. However, the major threats to peace come from the mostly right-wing paramilitary groups, formally demobilized but in many locations still active and well-armed, and the *bacrim*, which has recruited heavily from former fighters of both the political right and left including demilitarized paramilitary fighters. These parties now

control the vast majority of the illegal activity, including narco-trafficking and mining, in rural Colombia, and they are also very well armed and are unlikely to turn in their weapons even if the FARC does. Furthermore, some FARC fighters may prefer to join the *bacrim*, which likely will pay better wages than civilian alternatives available to former guerrillas. In addition, many of the provisions of the peace agreement concerning issues such as land reform and the dismantling of coca farms will directly threaten the livelihood of these criminal groups, making them likely to engage in violence regardless of any agreement that is signed between the Government and the FARC. This may also disrupt the peace process itself as these groups operate in the same areas as the FARC, and it will be difficult for the government and those monitoring the peace process to distinguish between violence initiated by these criminal groups and by the FARC, which may well be blamed for incidents for which in reality it was not responsible. Even now, in the absence of a ceasefire, distinguishing between violence initiated by the *bacrim* and the FARC could create serious obstacles for the successful conclusion of the Havana negotiations. Illegal armed groups that profit from the continuation of violence and the absence of the rule of law may readily take advantage of this ambiguity by initiating violent acts in an effort to discredit the peace process in the eyes of the Colombian populace.

Another factor in the completion of the peace process is the role of domestic politics in Colombia, and especially of the opposition Conservative Party and its leader, former President Álvaro Uribe. As Mohamed Raouda describes, under Uribe's government, with current President Santos then serving as his Minister of Defense, the Colombian army aided by U.S. military support under Plan Colombia succeeded in substantially weakening and isolating the FARC forces. When President Santos reversed course and initiated negotiations with the FARC, Uribe and his followers (known as *Uribistas*) generally opposed the peace process, favoring reliance on the military track with the goal of eventually wiping out the FARC guerrillas. By contrast, the Santos government has argued that this is a very difficult and costly goal given the advantages of the guerrillas in knowing the jungle in which they operate and having at least some degree of local support, exceeding that of the army in most rural areas.



The main critique by the Uribistas falls along several lines, and in our meetings with Colombian Senators from the Conservative Party they seemed to differ slightly in their criticisms of the peace process; in part for this reason, Min Kyung Yoo treats the Uribista opposition as potential “spoilers” of the peace process, whereas Mohamed Raouda tends to view them more as domestic political actors playing their normal role as the opposition party. The more extreme critics of the peace process, perhaps appropriately cast as potential “total spoilers,” tend to view the entire peace process as fundamentally wrong; in their view, rather than negotiating peace the government should have utilized its military advantage in pursuit of total victory over the FARC. They totally oppose any agreement that would provide a legitimate political role for the FARC in a post-conflict society, in some cases they even imply that the FARC would turn Colombia into a socialist state like Venezuela under Hugo Chávez. As Raouda indicates, other Conservative politicians tend to focus their critique on both the process and the specific content of the agreement. First, they argue that the secret negotiating process employed in Havana does not provide sufficient transparency about the deal being struck in Havana, thereby trying to keep it out of the domestic political debate. Furthermore, they argue strongly that those FARC commanders who committed war crimes or crimes against humanity should be brought to justice, tried in a court of law, and if convicted serve substantial time in jail. These “limited spoilers” generally do not oppose the peace process in its entirety, but they insist that they will oppose it politically if it is not more transparent and does not contain sufficiently punitive consequences for the FARC.

These political opponents to the Santos government thus are focusing their attention on a national referendum, in which the public is expected to vote to approve or reject whatever agreement is reached in Havana. The Santos government initially committed itself to hold a national referendum on the peace agreement, and their goal is to schedule it in October 2015 at the same time as regional and municipal elections in order to assure high voter turnout. Although some government officials have suggested that a referendum is not required, it will be difficult for the government to renege at this stage. At the same time, the effort to complete an agreement in time for an October process could potentially rush the negotiations and thereby make it harder to find equitable, optimal, and durable solutions to the Colombian conflict. Meanwhile, both the

FARC and some Uribeistas have suggested that the agreement should be part of a Constitutional Convention to revise the Colombian constitution, albeit for very different reasons. For the FARC, placing the agreement within the constitution would give it a legal permanence that it might otherwise lack, but at the potential cost of running a greater risk that it might fail to be adopted through this mechanism; for some Uribeistas it would present a higher hurdle for the agreement to meet than a referendum, thereby reducing the likelihood that an agreement would ever be ratified. This issue will undoubtedly be critical to the “end game” of the negotiation process and will challenge the negotiators to produce an agreement that both satisfies the expectations of the parties and also can pass muster with the Colombian public.

### **Key Issues in the Peace Process**

The negotiation process has been broken up into six issues treated in a step-by-step fashion, with a clear understanding that the final agreement must be evaluated in its entirety and that tentative agreements may be modified in the light of subsequent negotiations. The first issue, for which a draft agreement was completed in May 2014, covered Comprehensive Rural Reform. As Jay Totte explains, this meant that the issue of the marginalization of the rural poor was recognized as a primary driver of the conflict and thus given a high priority by both parties. This draft contains three elements: the first grants lands that the government will expropriate, either because it was acquired illegally or is underutilized, to be distributed in small plots to peasants and displaced victims of the conflict; the second creates a territorial approach to regional development to reduce the disparity between the urban centers and rural areas; and the third proposes development of infrastructure, social programs, health care, education, technical assistance to farmers, and guarantees of food security. Implementing this will be a huge task as Totte indicates, and it may well require considerable outside assistance even though the major share of resources will come from the central government. This agreement represents, however, a clear commitment to rural reform to address the most serious drivers of violence in Colombia. Although many civil society organizations in the affected regions would prefer more localized development plans reflecting especially cultural practices of the Afro-Colombian and indigenous communities, as Maude

Morrison emphasizes, a focus on rural development will inevitably have to address the long-term grievances of these marginalized communities.

Similarly, the second draft plank of the agreement focuses on political participation. As Keri Zolman writes, decades of state weakness have created a political system fraught with corruption that needs to be addressed comprehensively at all levels of government, especially in the remote regions where the authority of the central government is weakest. Issues of corruption, lack of transparency, and restrictions on political freedoms strain the legitimacy of democratic governance in the eyes of many citizens. In response to this political environment, the draft agreement would open up political participation in Colombia and attempt to bring the State into the lives of citizens in remote regions where it has heretofore largely been represented only by the police and army. Territorially-based Councils for Reconciliation and Coexistence would be established regionally around the country to allow for greater citizen participation in governance. Presumably the agreement will also facilitate the FARC reorganizing as a political party which, despite its unpopularity nationally, might establish a base for participation in the democratic political process in those regions where it still retains a degree of popular support.

A third and very delicate issue concerns DDR - disarmament, demobilization, and reintegration of the FARC fighting forces. The FARC has been reluctant thus far to embrace full-scale DDR due both to their lack of trust in the Government not to exploit their superior access to the means of violence, but also due to the fact that many other groups, paramilitaries, *bacrim*, and other rebel groups such as the ELN would still be armed and potentially dangerous. But the FARC has shown interest in “laying down their weapons,” which would likely entail maintaining possession of some weapons in an environment where arms are ubiquitous, but committing themselves not to use them unless attacked. The government would prefer that most weapons possessed by the FARC be collected, preferably by an outside party, and the UN has offered its services based on its experience in DDR processes in other global regions of conflict. In his essay about the weapons issue, Joshua Levkowitz especially argues that the cantonment process used in other DDR efforts offers the greatest promise for Colombia. In this case, the guerrilla forces would concentrate in a central area and turn their weapons over to an

international third party, and in turn the army would also turn over heavy weapons and/or redeploy out of regions where they were no longer needed and where civilian security could best be assured by a well-trained police force, which might include incorporating some demobilized FARC guerrillas.

Fortunately, Colombia already has experience with the reintegration of many former paramilitaries that demobilized after 2002, and most FARC members would likely need to be reintegrated into the civilian economy in some fashion. Failure to find meaningful employment might cause former guerrillas to join the *bacrim*, where their fighting experience could prove valuable and where continued exploitation of “lootable” resources might prove lucrative. Alternatively, many might become gainfully employed in ways that would also contribute to reconciliation with the victims and families who suffered in the combat, for example by assisting with the location and removal of the many landmines found throughout the regions where the FARC was active. Demobilized guerrillas could potentially be employed in “community service” efforts to promote reconciliation by aiding victims of the conflict, including rebuilding destroyed homes, schools, clinics and infrastructure. Levkowitz, therefore, emphasizes that the Colombia government, with the support of the international community, must actively reintegrate former guerrillas, assure their security from those who might seek revenge against them, and create a neutral and democratic police force and judicial system that would assure security and justice for all citizens.

A special problem with the dismantlement of the FARC military structures concerns the status of children, reported by many to be serving the FARC, both voluntarily and under duress, in various capacities as fighters, intelligence agents, sex slaves, coca or marijuana cultivators and smugglers, and in other illicit activities. As Irena Grizelj emphasizes in her chapter, this practice violates both international and Colombian domestic law. The FARC has recently prohibited the recruitment of children under 17 years old and released those they claim are under age 15. These declarations need to be monitored and enforced as part of the peace process. Furthermore, at least some children working with the FARC were born and raised by FARC members in their camps, creating a grey area legally. Grizelj criticizes the DDR process as currently conceived in the negotiations for its failure to address directly the demobilization of child

combatants, as, among other issues, this may result in child soldiers becoming vulnerable to being re-victimized through recruitment by former paramilitaries and *bacrim*. She thus emphasizes the importance of assuring equal rights and protection for all children who have been engaged with the FARC or other armed groups, and following up any agreement by providing reintegration programs, education and meaningful employment for all children victimized by the conflict.

The final and perhaps the most difficult issue still facing the negotiators is that of transitional justice. As Ryan Ball argues, any peace agreement must provide sufficient incentives for the FARC to lay down their arms and peacefully reintegrate into Colombian society. To put it bluntly, the FARC leaders are unlikely to sign an agreement that would result in their having to serve lengthy jail sentences for crimes allegedly committed during the 50 years of civil conflict. On the other hand, as noted previously, the government negotiators are under considerable pressure to bring all of those accused of serious crimes, whether members of the FARC, the paramilitaries, the army, or the police, to trial and to jail if convicted. This is viewed as necessary both to bring a feeling of justice to the victims of the conflict and well as to deter others from committing similar crimes in the future. As a signatory of the Rome Convention on the International Criminal Court, Colombia is also internationally obligated to bring to justice any individuals guilty of crimes against humanity. These considerations make a blanket declaration of amnesty, as was used in previous cases when the M-19 guerrillas or the paramilitaries demobilized, very unlikely in the current situation. The dilemma that this creates, therefore, is how to achieve both justice and peace, how to respond to the many acts of extreme violence in the 50 years of conflict without at the same time undermining the peace process. One point that stood out in our meetings with civil society groups representing the victims of the conflict in Quibdó was that they sought justice, but not at the price of continuing the conflict, which they realized would only bring further violence and injustice. They were sufficiently future-oriented to recognize that a peaceful and more just future was preferable to punishing all past crimes, if that entailed a continuation of the conflict and all of the violence and misery that it has brought. Therefore, somewhere a balance needs to be struck between the seemingly irreconcilable goals of

peace in the future and justice for past violations of the lives and rights of the victims of the conflict.

It is important to recognize that many parties were responsible for the deaths and destruction in Colombia's violent struggles. The Catholic Diocese of Quibdó has attempted to collect data on responsibility for the deaths and "disappearances" of some 640 civilians of their region between 1973 and 2013, and they find that the largest number were caused by paramilitary forces (41%), followed by the FARC (23%), victims caught in the middle of fire fights (16%), other non-state armed actors (12%), the army (4%), and the national police (3%) (Holzapfel and Kolwitz 2014, 18). The largest single incident occurred when a church in Boyayá was hit by a rocket fired by the FARC in May 2002 where 79 people were killed, more than half of the deaths in this region attributable to the FARC during the 40 year period. Although it remains a matter of dispute whether this was an intentional attack or a rocket that misfired and tragically hit the church by accident, if this incident is found to be the result of either a deliberate attack on the church or negligence, this would appear to constitute a war crime in which the commanders, if they can be identified, should be tried and subject to punishment. Below this clear case, however, culpability gets a great deal murkier. Overall, the difficulties of determining culpability in the Chocó region illustrate the dilemma for the country as a whole: first, there are many parties responsible for the death of innocents, not just the FARC, so an agreement that punished the FARC and none of the other perpetrators would be patently unfair; second, it is very hard in most cases to draw the line between major acts of violence that rise to the level of "war crimes" or "crimes against humanity" versus the tragic but inevitable deaths of countless innocent people living in any war zone; third, even if the responsible party can be identified in general, it is extremely difficult to identify those individuals responsible for major acts of violence who need to be brought to before a criminal process and to obtain sufficient evidence long after the fact to convict them.

Therefore, it appears that the final agreement will have to specify a number of critical distinctions among the responsible parties and set up a number of different processes to achieve justice for the victims. Ball contends that creative and alternative mechanisms for achieving justice must be found in the peace process, and he further

argues that many of these decisions should be made in consultation with victims at the local and regional level rather than in blanket procedures applied to the country as a whole. One such mechanism is the establishment of an independent truth and reconciliation commission with a broad mandate. Other approaches, as noted above, may require former guerrillas to do community service to restore what has been destroyed in the violence. Imprisonment should focus on those cases where there is well-documented evidence of responsibility for those who are most culpable of committing war crimes and crimes against humanity.

Victoria Bosselman also stresses the importance of the combatants providing reparations to the victims, including truth-telling, confession of crimes, and requesting forgiveness from one's victims. As she notes, the Law on Victims' Rights to Comprehensive Reparations and Land Restitution passed in 2011 creates a structure in which the thousands of persons displaced from their homes and farms and in other ways victimized by the conflict might be compensated, whether by the Government or by the FARC; so far 480,000 individuals have received some compensation or land restitution under this provision, though much more remain to be done. Bosselman thus notes that there may be many ways in which the FARC can compensate victims for the damage done to their lives short of serving jail time, which also would seem to be consistent with the FARC's claimed desire to reduce rural poverty in Colombia; she similarly argues that victims must be compensated for damage done to their livelihood not only by the FARC but also by the *bacrim* and other illegal armed groups. Measures directed solely at compensation by the FARC thus represent just a single step in the direction of bringing peace and justice to Colombia; the peace process needs to be broadened so that whatever agreement emerges from the present negotiations doesn't itself fall victim to the many other conflicts that have affected Colombia over the past 50 years.

In conclusion, the ongoing Havana negotiations offer the best opportunity over the past 50 years to end the protracted conflict in Colombia and to try to extend nationwide the benefits of the substantial economic growth and stability that has come to many regions, mainly urban ones, to include the marginalized rural areas as well. However, even the successful conclusion of the Havana peace negotiations will only represent a part of the long-term peace-building process. After an agreement is signed between the

Government and the FARC, extensive efforts must be made to bring the other non-state armed actors into the peace and development process. Even more challenging will be finding the resources and the political will to overcome the high level of economic, social, and political inequality in Colombia and integrating the entire state into a single nation. This will require substantial sacrifice on the part of Colombia's entire citizenry, as well as a great deal of support from Colombia's friends around the world. Colombia has made many strides in recent decades, and urgently addressing the primary drivers of conflict – inequality and marginalization of the rural regions of the country – in a comprehensive peace-building and development process may at last bring peace, socio-economic justice, democratic governance and political stability to Colombia.



## List of Interviews

### Washington DC, Briefings

- **Cynthia Arnson**, Director, Latin American Program, Woodrow Wilson International Center for Scholars (SAIS, 15 October 2014)
- **Mark Chernick**, Director of the Center for Latin American Studies, Georgetown University (SAIS, 30 October 2014)
- **Demobilizations in Colombia: An Evolving Process**, *A Colombia Peace Forum Event*, **USIP Briefing** (USIP, 17 November 2014)
- **Luis Carlos Villegas** Ambassador of Colombia to the United States (SAIS, 19 November 2014)

### Itinerary

#### Conflict Management Field Trip to Colombia:

16-24 January 2015

#### Quibdó

16-17 January, 2015

- Fundación Universitaria Claretiana (Uniclaletiana), Meeting with **Rector José Agustín Monroy Palacio**
- Panel Discussion and conversation with the **Comisión Vida Justicia y Paz** [Commission for Living Justice and Life] accompanied by community members and victims of the armed conflict
- **Foro Interétnico Solidaridad Chocó** [Interethnic Solidarity Forum of Chocó], Uniclaletiana
- **Mujer y Vida** [Women and Life], **Mesa de Víctimas** [Table of Victims], and **Unión de Desplazados** [Union of the Displaced], Uniclaletiana
- Defenders of the Public, Secretary of the Interior of the Department of Chocó and the Municipality of Quibdó, Uniclaletiana.

- Lunch at **La Paila de Mi Abuela** [restaurant run by women victims of the conflict]
- Meeting with students of Conflict and Peace of the Universidad Claretiana.
- Meeting at the Barrio “El Futuro” with leaders of this community of IDPs.
- Informal gathering and supper with the Catholic mission to Quibdó.
- Meeting with **Lieutenant Colonel Giovanni Buitrago Beltrán**, Deputy Commander of the Police Department of Chocó.

## **Bogotá**

**18-24 January, 2015**

### **Sunday 18 January**

- Meeting and Introductory Briefing by **Ambassador Fernando Cepeda Ulloa**, Professor at the Universidad de los Andes, former Minister of Interior of Colombia and former ambassador of Colombia to the United Nations.

### **Monday 19 January**

- **President Juan Manuel Santos, President of Colombia, Palacio de Nariño, Bogotá.**
- **Lerber Lisandro**, Professor of Anthropology, Santa Marta, and demobilized former member of the AUC [United Self-Defense Forces of Columbia (paramilitary group)].
- **Jorge Bedoya**, Deputy Minister of Defense for Policy and International Affairs, Ministry of Defense of Colombia.

### **Tuesday 20 January**

- **Rodrigo Lara**, Member of Congress from the Liberal Party
- **Father Franciso de Roux**, Jesuit director of the Program Magdalena Medio; participant in the peace negotiations.
- **Professor Alejandro Reyes**, sociologist and expert on land reform issues; participant in the peace negotiations.
- Meeting with **Simón Gaviria Muñoz**, Director General, Departamento Nacional de Planificación [National Planning Department].

### Wednesday 21 January

- **Carlos Lozano**, Director of *Voz*, Communist Party newspaper.
- **Senator Alfred Rangel**, Conservative Party.
- **President César Gaviria**, President of Colombia, 1990-94, Liberal Party.
- **Jared Kotler**, Peace and Development Advisor, United Nations.
- Representative of the International Center for Peace (Toledo Pax), Madrid, Spain:  
**Claudia Medina.**

### Thursday 22 January

- **Fidel Cano Correa**, Editor, *El Espectador*, liberal newspaper.
- **Sergio Guarín León**, Manager, Postconflict and Peace Building Program, Fundación Ideas para la Paz [Foundation on Ideas for Peace].
- **Arlene Tickner**, Professor of International Relations, Universidad de los Andes, expert on U.S.-Colombia relations.
- **Sandra Borda**, Professor of International Relations, Universidad de los Andes, expert on the international context of the Colombian peace process.
- **Senator Antonio Navarro Wolff**, Green Alliance; former Minister of Health of Colombia; demobilized former leader of M19 guerrillas.

### Friday 23 January

- **Sergio Jaramillo Caro**, High Commissioner for Peace, Office of the President of Colombia; chief government negotiator in the Havana peace negotiations.
- **Senator Marta Lucía Ramírez**, Conservative Party; former Defense Minister for President Uribe and presidential candidate of the Conservative Party.
- **Senator Natalia (Piedad) Castro Córdoba**, Director of Colombianas y Colombianos por la Paz; former nominee for the Nobel Peace Prize.
- **Maria Emma Wills Obregón**, Assistant Director of the Centro de Memoria Histórica [Center for Historical Memory].
- **Ariel Fernando Avila Martínez**, Coordinator, Fundación Paz & Reconciliación [Foundation for Peace and Reconciliation].

- **Marc Bonnet**, Programme Manager, United Nations Mine Action Service, Department of Peacekeeping Operations, United Nations Office in Bogotá.
- **Senator Iván Duque**, Conservative Party; former Secretary to President Alvaro Uribe Vélez.
- **Reception with SAIS Alumni** in Bogotá at residence of Philipp Lustenberger (SAIS Conflict Management MA, 2011).

#### **Saturday 24 January**

- **Senator Ivan Cepeda**, Polo Democrático Alternativo.
- **Philipp Lustenberger**, Embassy of Switzerland: debriefing and conclusion.

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