



Peace Accord Implementation in Colombia: Urgent Need to Adhere to the Spirit of the Accords

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March 12, 2019. Over the last seven months, the implementation process of the peace accords signed between the Colombian government and the FARC has advanced slowly and in an uneven manner.

President Iván Duque—who came into power on August 7, 2018 after running on the promise of making [substantial modifications](#) to the final peace deal signed in November 2016—and his administration have made progress on some aspects of the accords, focusing primarily on reintegration projects for the demobilized guerrillas, as well as beginning to implement development plans for the conflict areas known as Territorially-Focused Development Programs (PDETs). However, even the progress on these points still falls far short from the objectives outlined in the accords.

The new administration has made few advances in the rural reform chapter of the accords and has stood idly by while the president’s party, Centro Democrático, challenges parts of the Comprehensive System for Truth, Justice, Reparation, and Non-Repetition. Moreover, in light of high coca numbers and the United States’ myopic stance favoring aggressive but ineffective anti-drug policies, President Duque has shifted attention away from crop-substitution programs to renewed forced eradication efforts, including the potential use of drones to conduct aerial fumigations.

The state has yet to make it out to the areas of the country that were most affected by the conflict. The communities living in these territories are extremely vulnerable to increasing levels of violence from illegal armed actors. Human rights defenders and social leaders—most of whom are active supporters of the peace accords and have taken initiative to build peace from the ground up—are being killed at alarming rates. This deadly human rights situation demands immediate direct action by the Colombian government—and the most important step the government can take is to vigorously implement the peace accords.

During his campaign, President Duque did not hesitate to say that he would make “[structural reforms](#)” to the peace agreement. Though once in power he [softened](#) his rhetoric around this issue, his government has made little headway in implementing the accords, which is taking its toll on the victims of the conflict, spurring the rise of dissident FARC groups, and fueling a rise in threats and killings of social leaders, who are the country’s main proponents of peace.

A Surge of Violence Against Human Rights Defenders and Social Leaders

Violence against social leaders has increased dramatically since the signing of the peace accords in 2016. Threats against these community leaders, many of them Afro-Colombian and indigenous, have skyrocketed in the last year: the number of [reported threats](#) to individuals increased almost 175 percent, from 270 in 2017 to 740 in 2018. Moreover, 500 threats were made against social organizations last year alone. According to the Colombian Ombudsman's Office, 126 leaders were murdered in 2017 and 178 in 2018, marking a [27 percent](#) increase. In January 2019 alone, 15 were killed. Some civil society organizations believe the numbers are even higher—according to [Indepaz](#), the number of leaders killed was 116 in 2016, 191 in 2017, and a shocking 252 in 2018. There are currently about [4,000](#) human rights defenders using state-issued protections.

[Over 80 percent](#) of killings in 2018 took place in Cauca, Antioquia, Valle del Cauca, Norte de Santander, Putumayo, Caquetá, Nariño, Meta, Córdoba, and Chocó—all regions that are historically impoverished and bore the brunt of the armed conflict. Since the signing of the peace accords, other illegal armed groups moved into these regions, partly because of the state's failure to assert its presence after the FARC demobilized and left their territories. Civil society organizations underscore the [systematic](#) nature of the attacks against human rights defenders and community leaders.

President Duque [signed](#) the Action Plan for the Protection of Social and Community Leaders, Human Rights Defenders, and Journalists ([PAO](#)) in November 2018 to respond to this intensifying crisis. Nevertheless, this strategy has not fulfilled the expectations of civil society organizations. Franklin Castañeda from the Colombia-Europe-United States Coordination (CCEEU), a network of more than 275 Colombian human rights organizations, [expressed](#) concerns over the PAO's militaristic emphasis and limited approach to the problem. Human rights groups note that the plan was not developed with the participation of human rights defenders and social leaders and does not build on past lessons about what actually works to keep them safe. Instead, Colombian human rights groups emphasize that the key to protecting social leaders and human rights defenders is to implement fully the provisions of the peace accords meant to protect them.

On January 30, five months after taking office, the Duque Administration finally [convened](#) the Security Guarantees Commission, which was created within the framework of the peace accords to address the safety of social leaders, communities, and ex-combatants. This commission should develop (and the government should implement) a plan to investigate and dismantle the paramilitary successor groups—many of which are linked to local politicians and economic actors—that are behind much of the continued violence.

Reintegration and Protection of Ex-Combatants: Far to Go

Ensuring the safety and social and economic reintegration of the ex-combatants is not just a question of fulfilling the peace accords. It is essential to make sure that the war does not break out again.

The Colombian government is still struggling to provide satisfactory services within all the remaining 24 Territorial Training and Reincorporation Spaces (ETCRs), the zones where the FARC demobilized.

The administration has also made little progress overall on the economic and social reintegration of demobilized FARC. The UN Mission to Colombia [noted](#) that of the 24 ETCRs, 12 have “less than satisfactory conditions” and six were deemed “inadequate.” Complicating matters further, the ETCRs, as well as the monthly allowance on which the former combatants depend currently, only extend to [August 15, 2019](#). It is still unclear whether the National Reintegration Council will further extend the time period or provide other alternatives for the thousands of ex-guerrillas.

As of December 2018, a [total](#) of 29 individual and 20 collective productive projects have been approved by the National Reintegration Council, benefitting 1,340 former combatants (including 366 women)—that is, only about one-tenth of the former guerrillas. Moreover, funds for most of the collective projects have yet to be disbursed. The provision of health services, as well as education and appropriate housing options, is still lacking. While the majority of registered ex-combatants have health insurance through the government, the almost non-existent access to healthcare providers remains a serious challenge. Earlier this year, the government announced new healthcare measures for ex-combatants, which include doctors’ visits to the ETCRs [three days](#) out of the month and, in some spaces, a 24-hour ambulance service. However, these measures will also expire on August 15, 2019. Lastly, the Colombian government has yet to implement a plan to provide adequate services to pregnant ex-FARC members and the over 800 children now living in the ETCRs.

At least 85 former FARC members [have been killed](#) since the signing of the peace accords. So far, sentences have been issued in only three cases. According to the Special Investigation Unit, the main actors behind the attacks are illegal armed groups and criminal organizations. Emilio José Archila, the High Counselor for Post-Conflict and Presidential Delegate for Security Guarantees, says 36 protection measures have been issued to former FARC members and has [announced](#) a protection plan for former combatants in light of the upcoming regional and local elections taking place in October 2019. Nonetheless, Archila has emphasized the temporary nature of ETCRs and insists that the program is slated to end in August as planned. Effective coordination between prevention, protection, and investigation entities is crucial to ensuring the protection of both demobilized guerrillas and the rural communities surrounding the ETCRs.

Growing Dissidence. While the exact number of dissident FARC members is hard to estimate (it could be anywhere [between](#) 1,750 and 3,000), it is clear that the numbers are growing. The lack of jobs and productive opportunities, as well as the dearth of services such as healthcare, housing, and education, are leading some ex-combatants to take up arms again. Nonetheless, it should be noted that the majority of demobilized FARC have kept up their end of the bargain and are committed to turning a new leaf.

Transitional Justice System: Up and Running, but at Risk

The three main entities that comprise the Comprehensive System for Truth, Justice, Reparation, and Non-Repetition are officially set up and functioning, though not without difficulties.

On February 8, the Special Jurisdiction for Peace [sent](#) a letter to the director of the National Planning Department expressing “[very strong concern](#)” that resources that had been previously earmarked for the implementation of the peace agreement were not found anywhere in the National Development Plan (PDN) 2018-2022 that was approved by Congress. The Planning Department’s [response](#) was vague and failed to recognize the concerns raised.

All three bodies of the Comprehensive System are underfunded, which will severely hinder their ability to conduct their fieldwork outside of Bogotá (that is, where it is most needed to reach the victims of the conflict).

The Special Jurisdiction for Peace (JEP). In August 2018, the country’s Constitutional Court [approved](#) the statute of the JEP. The Court clarified certain points, including that:

- only those ex-combatants and military officials who fully confessed their crimes during the initial hearings would be eligible for 5 to 8 years of non-prison penalties and would be able to participate in politics;
- those who wait until sentencing to confess would be eligible to 5 to 8 years of prison;
- and those who do not take responsibility for their crimes would receive 15 to 20 years of prison.

In addition, the prohibition on extradition for crimes committed prior to the signing of the peace accord for ex-FARC members who submit to the transitional justice system was upheld. Moreover, the controversial provision that prohibited human rights lawyers who had represented victims of state violence from participating as magistrates of the JEP was removed. The Court also ruled that the JEP has jurisdiction over sexual crimes against minors committed during the conflict, a decision that was [welcomed](#) by a number of women’s rights organizations given their belief that these crimes would never be addressed in the regular justice system.

However, on March 10, 2019, President Duque partially [objected](#) to the [statutory law](#) of the JEP, which provides the necessary legal backing to decisions emitted by the special court. The decision came after weeks of heated debate around the subject. On the one hand, some sectors of Colombian society—specifically, the Centro Democrático and the Conservative parties—argued that the law as it stood, despite having been approved by the Constitutional Court, still contained issues that were “inconvenient” for the country. On the other hand, those in favor of the implementation of the peace accords urged the president to approve the law to avoid further delaying the JEP’s crucial work. President Duque’s decision to object to the Constitutional Court’s ruling was highly unusual in Colombia—similar to a U.S. president objecting to a Supreme Court ruling.

President Duque’s failure to approve the statutory law sends a message that his administration is not in favor of the peace process. It introduces an element of uncertainty—especially for ex-guerrillas, members of the military, and other actors who have submitted themselves to the JEP—and effectively throws a wrench into the central bargain of the accords, thereby jeopardizing the entire peace process. As expected, the pushback came almost immediately. The Santos Administration and the FARC’s peace negotiation teams sent an extensive [letter](#) to the UN Secretary General expressing their concern

over the objections made by the president and denouncing that his government intends to modify the peace agreement.

The statutory law must now go back to Congress, which must decide whether it agrees with the objections made by President Duque. If so, Congress will then amend the objections, discuss them, and then send them back to the Constitutional Court.

Even before this decision came out, international organizations had expressed their concern about attacks on the JEP, some of which come from Colombian state institutions and legislators. For instance, the UN Verification Mission in Colombia and the UN High Commissioner for Human Rights responded to an [incident](#) in which the Attorney General's office ransacked the JEP's office by putting out a [statement](#) underlining the importance of the JEP and calling for all public entities to respect of its independence and autonomy. Given the political climate, members of the International Commission of Jurists also [expressed](#) their concern for the integrity of the Transitional Justice System and advised the JEP to remain alert of any attempts to undermine its independence and autonomy.

Despite these and [other](#) obstacles, the JEP is fully functioning. According to the UN Mission in Colombia, [13,271](#) people have subjected themselves to the jurisdiction of the JEP as of October 5, 2018—including 1,923 ([1,958](#) as of January 2019) members of public security forces, 11,303 ex-FARC members, and 33 public officials.

The shortage of resources has affected the development of some of the JEP's fundamental tasks, though. For instance, the lack of funds has forced the JEP to [halve](#) its planned presence in the former conflict zones, dealing a blow to its strategy to attend to victims in rural areas.

The Commission on Truth, Coexistence, and Non-repetition (Truth Commission). The Truth Commission was inaugurated on November 29, 2018, starting its three-year mandate. Its mission is to promote an understanding of what happened during the armed conflict, allowing Colombian society to reconcile. According to the Truth Commission's [Methodological Guidelines](#) published in January of this year, the first 14 months of its mandate are to be used to develop a systemized process to collect information and identify explanatory patterns and contexts that illustrate what truly happened. Through conversations with diverse actors, including victims and communities in areas that bore the brunt of the conflict, the Commission will also begin identifying proposals for "non-repetition"—reforms to ensure that the brutal past is not repeated.

The Truth Commission estimates that it will collect at least [20,000 testimonies](#) from all over the country, 70 percent of which they hope to gather by the end of the year. The body is also aiming to open [26 regional offices](#), called Houses of Truth (*Casas de la Verdad*), and to reach out to Colombians abroad to compile a faithful retelling of the half-century-long conflict.

Unfortunately, the Truth Commission's budget has been cut by [40 percent](#), which will hinder the body's crucial work, especially in the territories. The international community has [spoken out](#) against the budget cut, but there has yet to be a response from the Duque Administration.

Special Unit for the Search for Missing Persons (Special Unit). The Special Unit has the daunting task of finding the more than 100,000 people who disappeared during the conflict. The Special Unit's [scope](#) includes kidnappings and forced recruitments, as well as forced disappearances. Its main objective is to search for the truth behind the disappearances, putting the victims and their families front and center.

Despite its shortage of resources—it was assigned [less than half](#) of its initial budget request—the Special Unit plans to travel to [17 areas](#) of the country this year and focus on working together with families to advance the search for missing persons, drawing from information collected by the families of the disappeared, the Office of the Attorney General, and civil society organizations.

Rural Development: Profit over People

There are a number of initiatives being introduced by the administration and its party that go against the heart of the comprehensive rural reform chapter of the peace accords, that is, the economic integration of Colombia's poor rural communities through land-titling, a land fund, and the extension of state services to the countryside. For instance, Senator María Fernanda Cabal of Centro Democrático introduced a bill in September 2018 to reform law 1448 of 2011 ([the Victims' Law](#)), which promises to return land to displaced persons. The changes aim to undermine the land restitution process, heavily emphasizing the rights of "secondary occupants" (persons or businesses currently using the land and opponents to restitution) and exchanging the victims' right to return and remain on their land for monetary compensation. Moreover, there is an ongoing discussion in Congress about a [bill](#) to amend the Agrarian Reform Law to allow the government to hand over previously state-owned lands to large-scale landholders for mining and energy projects, which would only [deepen](#) the country's existing inequalities.

Earlier this month, the government [signed](#) the last of the 16 Territorially-Focused Development Programs (PDETs), which were created within the context of the peace accords to foster community participation in the creation of action plans for post-war reconstruction and local development. Yet, it is unclear how the PDETs will be effectively implemented moving forward.

There are serious concerns regarding the implementation of other components of the rural chapter. The Land Fund, which was created in the peace accords to increase small farmer land ownership, has only officially received [200,000](#) hectares—that is, less than 7 percent—of the 3 million hectares it is supposed to disburse by 2028. Other fundamental elements, such as the multi-purpose cadaster, have not even been approved by Congress.

Coca Substitution: Drifting Away from the Accords

The peace accords offer a historic opportunity to work with communities to eradicate and replace coca. The FARC committed itself to work towards this goal, and local community leaders have joined in, encouraging local farmers to sign up for voluntary eradication as per the peace accords' innovative drug chapter. By the end of 2018, nearly [100,000 families](#)—responsible for over 51,000 hectares of coca—had signed agreements with the Colombian government on voluntary crop substitution,

demonstrating that communities aspire to live and support themselves under conditions of legality. Yet, the progress of crop-substitution programs has been [slow](#), in great measure because of the government's failure to provide communities financial and technical assistance.

There are real challenges facing Colombia. Coca production in Colombia reached a record high of [171,000 hectares](#) in 2017—a 17 percent increase from the year before, according to the UN Office on Drugs and Crime (UNODC)'s 2018 annual report. In response to the hike in production, the U.S. government is putting [additional pressure](#) on the Duque Administration to reduce the numbers by any means necessary. This pressure, in turn, has pushed the Colombian government to focus less on crop substitution programs and more on forced eradication.

President Duque recently announced that his administration is aiming to eradicate [100,000 hectares](#) of illicit crops in 2019—30,000 more than last year. The administration [plans](#) to eradicate 80,000 hectares using police and military forces and the remaining 20,000 through voluntary eradication programs outlined in the accords, namely the National Comprehensive Program for Illicit Crop Substitution. This ambitious goal will be particularly difficult to achieve given that, in 2018, about [35 percent](#) of hectares were reseeded after eradication.

The Duque Administration had a [hearing](#) with the Constitutional Court on March 7 to discuss the use of aerial fumigation with glyphosate, which has been banned since 2015 given human health concerns, to eradicate illicit crops. The Court has yet to issue a decision on the issue. Restarting aerial fumigations would be extremely harmful, in environmental and public health terms, and will likely result in a [waste of money as it tends to spread coca production from one area to the next without providing sustainable alternatives](#).

Between 2017 and 2018, [63 community leaders](#) working with the government on its voluntary eradication strategy were murdered. Forty-five of these leaders were also associated with the National Coordinator of Coca, Poppy, and Marijuana Cultivators (COCCAM). Community leaders have placed not just their hopes but their lives on the line to advance voluntary eradication. The Colombian and U.S. governments should fulfill their part of the bargain by complying with the agreements to provide alternative development programs hand-in-hand with local communities.

ELN Peace Negotiations Break Down

Due to a violent attack by ELN members, peace negotiations between the Colombian government and the Ejército de Liberación Nacional (ELN), the last major remaining guerrilla group in the country, are frozen for the foreseeable future.

On January 17, a [car bomb](#) exploded near the Cadet School of the Santander General Police in Bogotá, claiming 21 lives and injuring more than 60 people. The Colombian government immediately [pointed](#) to the ELN as the author of the attack, dissolved the peace table in Cuba, and reactivated [arrest warrants](#) against the ELN's 10 negotiators.

Four days later, the guerrilla group officially claimed responsibility. In a [statement](#), ELN leadership attempted to shift blame onto President Duque for carrying out “military attacks” against the guerrilla during the unilateral truce they declared between December 23, 2018 and January 3, 2019. The statement’s unapologetic tone did not sit well with the majority of Colombians. However, a few days later, ELN chief negotiator Pablo Beltrán [said](#) that neither the ELN’s Central Command nor the ELN’s peace committee in Havana were aware of the plan to carry out the attack.

Although the Santos Administration had agreed on a security protocol allowing the ELN negotiators to return to hiding in Colombia the event the peace negotiations break down, the Duque Administration [discarded](#) the protocol and urged Cuba to hand over the guerrilla’s leaders. The peace table’s guarantor and accompanying countries—Chile, Norway, Brazil, and Cuba—are [divided](#) on the issue: Cuba and Norway have come out in support of the protocol’s enforcement while Chile and [Brazil](#) sided with President Duque’s position. This issue has yet to be resolved.

Though the future of peace talks between the government and the ELN is uncertain, there are signs that they are not a lost cause. Community leaders in the territories most affected by the conflict—such as Arauca, Chocó, and Norte de Santander—[pushed back](#) against President Duque’s decision to suspend peace talks with the ELN, calling for both sides to stay at the peace table to prevent a surge in violence in the country’s most remote areas. Likewise, members of several faith groups and communities in rural areas [sent a letter](#) to Pope Francis on January 25 asking him to persuade President Duque to resume peace talks with the guerrillas, warning that failure to do so will intensify the armed conflict. Moreover, despite the general population’s strong rejection of the brutal January 17th attack, a survey found that [61.5 percent](#) of Colombians still believe that the dialogue between the government and the ELN must continue until a peace agreement is reached, only two percent less than the percent found in November 2018. In an event at the Atlantic Council in Washington, D.C., President Duque [said](#) he will not to restart peace talks with the ELN unless it releases nineteen hostages and ends its attacks, which could signal a (perhaps veiled) willingness to continue working toward a peace agreement.

Venezuelan Refugee Crisis

The ongoing political and humanitarian crisis in Venezuela is putting additional pressure on Colombia’s frail peace process. Approximately [4,000 people](#) cross over to Colombia from Venezuela every day and there is now an estimated 1.3 million Venezuelans dwelling in Colombian territories. While it is commendable that the Colombian government has not closed its borders to Venezuelan refugees and migrants, this influx of people has [shifted](#) resources away from the implementation of the accords.

As [Refugees International](#) notes, “a major injection of donor support for Colombia’s overstretched social services and the UN’s regional funding appeal are essential to ensure that state’s generous approach toward Venezuelans can be sustained.”

Conclusion

Colombia’s fragile peace process is facing serious obstacles. The Colombian government’s failure to move quickly to bring the civilian part of the state into the areas where the FARC demobilized is leading

to recycled violence in which local community leaders are being threatened and killed. The Duque Administration's rather half-hearted attitude towards the peace accord implementation is placing efforts for truth, justice, and guarantees of non-repetition at risk. Insufficient attention to the reintegration of ex-combatants is leading some to rearm, although the majority remains committed to civilian life. The U.S. government's preoccupation with Venezuela and narrow-minded counternarcotics goals further complicate the picture.

Recommendations for U.S. Policy

The United States should reinforce the importance of fully implementing the peace accords. Specific obstacles and weaknesses should be raised on a regular basis and advances should be praised. The State Department should encourage the Colombian government to ensure that the Truth Commission, the Search Unit, and the JEP, as well as other initiatives to carry out the peace accord, are fully funded and supported. Specifically, the U.S. government should encourage President Duque to support the JEP and allow it to move forward. The U.S. government should not pressure the Colombian government to adopt harsh and ineffective counternarcotics strategies, such as aerial spraying, that undermine the sensible strategies outlined in the peace accords. The U.S. Congress should continue to raise these issues in statements and letters. Consolidating peace should remain a major issue for U.S. diplomacy towards Colombia, not subsumed in Venezuela policy or a narrow counternarcotics focus.

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See previous LAWG Colombia Peace Process Updates:

[*Are the Victims No Longer at the Center? Implementation Problems for Colombia's Peace Accord*](#), July 2018

[*Colombia's Peace Process: Successful Disarmament, but Other Implementation Proceeds Slowly*](#), September 2017

[*FARC Guerrillas Turn in their Weapons: An End to Fifty Years of War*](#), June 2017

[*Peace Accord Implementation Advances in Colombia: Progress, but Challenges Abound*](#), April 2017

[*Peace Accord Implementation Begins in Colombia: FARC Guerrillas Enter Concentration Zones*](#), February 2017