



Peace Accord Implementation Advances in Colombia: Progress, But Challenges Abound

Contents: *Logistical Challenges; Criminal Networks Expand; Justice Challenges; The ELN Negotiations; Illicit Drug Production; Recommendations for U.S. Policy*

April 5, 2017. Over [6,900 members](#) of the FARC guerrillas have entered agreed-upon “concentration zones” to begin the process of leaving war behind and reentering civilian life. On March 17, the former guerrillas turned over [140 weapons](#) to the United Nations Political Mission in Colombia, officially starting the gradual disarmament process slated to finish on May 29, 2017.

In February, talks with the last major remaining guerrilla group, the ELN, were launched.

Colombia’s homicide rate is now the lowest in 40 years. Anti-kidnapping group País Libre closed its doors in March, declaring its mission [completed](#). There were only 205 kidnappings for ransom in 2016, down from 3,500 in 2000, and more than [80 percent](#) of kidnappings in 2016 were linked to common criminals, according to police, rather than members of guerrilla forces.

This momentum towards peace in Colombia is encouraging. At the same time, there are concerning trends that must be addressed in order to ensure a lasting peace.

Logistical Challenges

As the FARC entered the concentration zones in January and February, there was virtually nothing in place in these pre-arranged areas where they were to stay temporarily as they transitioned to civilian life. Even tents and potable water were lacking. “There are no camps nor toilet facilities nor water. We just found some fields and there are absolutely no logistics, the government has failed to comply...” [stated](#) a local FARC leader in Mesetas. Observers also expressed concern over lack of conditions for pregnant FARC members and new-born babies.

By the end of March, some progress has been made as members of the demobilizing guerrillas are working with the Colombian government to build temporary housing, classrooms, and health posts. However, the Colombian government must pick up the pace of addressing the immediate needs of ex-combatants and ensuring more complex reintegration programs are in place. If not, there could be significant defections of ex-combatants back to guerrilla ranks or into criminal gangs. Moreover, lack of government compliance with basic elements of the accord with the FARC could negatively affect negotiations with the ELN.

Criminal Networks Expand

As the FARC has moved out of conflict areas into the concentration zones, paramilitary successor groups (spinoffs of the brutal United Self-Defense Forces of Colombia [AUC], which was partially demobilized in 2005) and other criminal actors have expanded their reach in these areas. Several hundred armed members of the Gaitanista Self-Defense Groups, for example, have been seen near the Cacarica River. Other illegal groups still operating include the Gulf Clan as well as still-active ELN guerrillas and undemobilized remnants of the FARC (some 300 rebels are [estimated](#) to have not demobilized). Human

rights organizations report that paramilitary successor groups operate openly near police and army outposts, raising concerns about persistent collusion with or tolerance of such groups by some members of official security forces and local political leaders.

The expansion of paramilitary successor groups is one reason behind the surge in assassinations of local human rights defenders. Eighty human rights defenders were murdered in 2016, a marked increase from 63 in 2015, according to the Colombian nongovernmental project [Somos Defensores](#) (We Are Defenders). Forty-five of the 80 murders were attributed to paramilitary successor groups, a sharp increase from the year before; of the remaining crimes, 28 perpetrators were unknown, 3 were attributed to guerrillas, and 4 to members of Colombia's official security forces. Murders of human rights defenders have increased even as the overall homicide rate has declined. Continued conflict among various armed actors also spurs displacement; in 2016, the UNHCR registered [11,363](#) people internally displaced by violence on the Colombian Pacific Coast alone.

Colombian authorities such as the minister of defense and attorney general fail to recognize the extent of the problem, according to the Colombian weekly publication *Semana*. "We aren't in an earthly paradise, but the [criminal] bands aren't growing nor are they occupying FARC territory," the defense minister stated.

Colombian human rights advocates urge their government to recognize the extent of the problem and to establish and fully fund the Unit to Investigate and Dismantle Organized Crime and Paramilitary Successor Groups. This unit is mandated by the peace accords (section 3.4.4). While under the Attorney General's office, the unit is intended to have its own budget and operate autonomously.

This step is necessary for Colombians to achieve peace. It is also essential for U.S. policy goals including reducing the power of organized crime and drug trafficking networks, as these groups are seeking to control the illicit drug trade and other criminal activities.

Justice Challenges

The laws implementing the peace accords are to be "fast-tracked" through the Colombian Congress and should adhere to the peace accords. However, some Colombian members of Congress are using this opportunity to weaken provisions that ensure justice for gross human rights violations allegedly committed by official armed forces, and to make it more difficult to dismantle organized crime groups. The factions seeking to water down the justice provisions include members of the party of Germán Vargas Lleras, who just resigned as Colombia's vice president and is expected to run for president.

The now-reconciled version of the law setting up the transitional justice system, according to human rights analysts, would: 1) make it harder to prosecute financial backers of illegal armed groups, by limiting such investigations only to cases where the link is directly established between financing the groups and commissions of war crimes; 2) insisting that [testimony](#) from victims must be corroborated by third parties in order to be submitted; and 3) [weakening](#) the concept of "command responsibility" by stating that commanders must have "effective control" and knowledge before, during, or after the abuse took place if they are to be deemed accountable. This weakens the definition of command responsibility in the Rome Statute of the International Criminal Court, to which Colombia is a party. Article 28 of the Rome Statute requires that governments hold armed group commanders responsible for war crimes committed by their troops if they "knew or, owing to the circumstances at the time, should have known" that subordinates were committing a war crime.

These changes will make it more difficult to prosecute officials for the some 5,000 alleged extrajudicial executions allegedly committed by members of the Colombian armed forces in which primarily young men from poor neighborhoods were executed, dressed in guerrilla outfits, and counted as enemy dead. As of the end of 2016, only [one general](#) of 14 under investigation was brought to trial, and five high-level officials implicated in the cases were promoted. The transitional justice law as it stands will also make it more difficult to prosecute financial backers both of the paramilitary forces and of the guerrillas.

However, the transitional justice law will be reviewed by Colombia's Constitutional Court, which could choose to object to provisions that limit justice.

The ELN Negotiations

ELN negotiations opened on February 7 in Quito, Ecuador after the ELN released former Colombian member of Congress Odin Sánchez. The International Committee of the Red Cross and the governments of Norway, Ecuador, Cuba, Venezuela, Brazil, and Chile are providing international accompaniment. A team of Colombian Catholic Church bishops are prepared to assist as needed. There are estimated to be between 1,500 and 2,000 ELN guerrillas.

The negotiating teams are working simultaneously on two points: civil society participation in the peace talks and humanitarian issues. The ELN negotiations are expected to be complicated, especially given the ELN's emphasis on extensive civil society participation and its insistence on tackling important subjects outside the scope of the government-FARC negotiations, such as extractive industries and reform of the armed forces.

As with the FARC, negotiations are being launched without a bilateral ceasefire in place. The risks of this approach became clear when, on February 19th, an attack in Bogota left 26 members of the police wounded, one of whom later died. ELN members claimed responsibility for the crime and the government condemned the attack. However, neither side left the peace table and negotiations continue.

Illicit Drug Production

To ensure that coca production is brought under control, the Colombian government must carefully implement the drug policy chapter of the peace accords. In doing so, the Colombian government would work with farming communities to help them carry out manual eradication and build up alternative and viable livelihoods for such communities.

The Colombian government must also expand the civilian presence of the state—schools, health posts, courts, roads, civilian police, access to credit and markets, and rural development—in areas that had long been largely abandoned. As [Insight Crime](#) notes, “Without alternative ways of making a living, these communities will almost inevitably come under the authority of the next criminal group to arrive, should it have more to offer them than state institutions.”

The peace accords offer a strategic opportunity to address illicit drug production. Yet, there are no shortcuts. Working with rural communities and expanding the civilian presence of the state so that poor rural Colombians are included in the political and economic life of the nation is the only way to sustainably address illicit drug production, as well as to build lasting peace in areas historically ravaged by conflict.

Recommendations for U.S. Policy

- Provide substantial assistance tailored to peace accord implementation, including strong support for civil society initiatives for truth, justice, and peace building. Contribute to the budget for the United Nations High Commissioner for Human Rights office in Colombia and for the UN Political Mission in Colombia, which play key verification roles essential to accord implementation;
- Urge the Colombian government to establish, fund, and ensure the vigorous implementation of the Unit to Investigate and Dismantle Organized Crime and Paramilitary Successor Groups, and contribute to funding for this office; urge strong steps to dismantle paramilitary successor groups and organized crime, including by investigating and prosecuting economic backers of these criminal organizations and any state actors or local politicians collaborating with such forces;
- Encourage the Colombian government to step up its efforts to provide for immediate needs of ex-combatants in the concentration zones and to ensure that reintegration programs are ready to roll out;
- Help the Colombian government expand the civilian presence of the state in former conflict areas, including by implementing the drug policy chapter of the accords, working with farming communities to voluntarily eradicate coca, and expanding licit economic opportunities; and
- Urge the Colombian government to protect the rights of victims and human rights defenders, including by more effectively investigating and prosecuting threats and attacks against them.

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