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# CEASEFIRE NEGOTIATIONS IN COLOMBIA

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## CEASEFIRE NEGOTIATIONS IN COLOMBIA

### Executive Summary

In November 2016, the Colombian Congress approved the Final Agreement for Ending the Conflict and Building a Stable and Lasting Peace (the “Final Agreement”), concluding a fifty-two-year armed conflict (the “Conflict”) between the national government of the Republic of Colombia (the “Government”) and the Revolutionary Armed Forces of Colombia – People’s Army (“FARC”; together with the Government, the “Parties”).<sup>1</sup> Despite representatives from each of the FARC and several Government administrations attempting to broker peace many times over the decades-long conflict, it wasn’t until 2012 that the conditions were favorable for a definitive peace agreement. Indeed, on the one hand, by November 2016, the FARC’s military strength and public support had decreased significantly relative to the height of its power in 1998-2001, and on the other hand, President Santos of the Government indicated an openness to peace from the onset of his administration, signaling the overall fatigue of the Colombian general population regarding the conflict.

After engaging in secret exploratory meetings in 2011-2012, the Parties agreed upon and published a General Agreement for the Termination of the Conflict and the Construction of a Stable and Lasting Peace (the “General Agreement”).<sup>2</sup> The General Agreement provided a procedural framework and substantive agenda for the negotiations to come, identifying six major areas for discussion: (1) rural development and land policy; (2) political participation; (3) ending the conflict with bilateral ceasefire and demilitarization; (4) illicit drug use, production, and trafficking; (5) reparations for victims; and (6) implementation, verification, and ratification of the final agreement.<sup>3</sup>

Negotiations between the FARC and Government delegations took place in Cuba over the course of four years while the conflict in Colombia continued. The progress of peace talks was intermittently disrupted by violence back home, but the delegations continued to negotiate notwithstanding conditions on the ground and proceeded to reach agreement on each of the major areas by the summer of 2016. Key provisions included increasing access to land for the impoverished rural population; guarantees of political rights and protection of political speech;

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<sup>1</sup> June S. Beittel, *Peace Talks in Colombia*, CONGRESSIONAL RESEARCH SERVICE 14 (Mar. 31, 2015), available at <https://sgp.fas.org/crs/row/R42982.pdf>.

<sup>2</sup> June S. Beittel, *Peace Talks in Colombia*, CONGRESSIONAL RESEARCH SERVICE 18 (Mar. 31, 2015), available at <https://sgp.fas.org/crs/row/R42982.pdf>.

<sup>3</sup> June S. Beittel, *Peace Talks in Colombia*, CONGRESSIONAL RESEARCH SERVICE 18 (Mar. 31, 2015), available at <https://sgp.fas.org/crs/row/R42982.pdf>.

disarmament and integration of FARC forces into civil society; illicit crop substitution measures; clear amnesty laws and an impartial judicial process; and practical implementation mechanisms incorporating international support. By January 2017, the Final Agreement, having already been approved by the Colombian Congress, was recognized by the United Nations as a special agreement under international law.

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## Statement of Purpose

The purpose of this case study is to examine the multiple negotiation phases that led to the Final Agreement in Colombia and their relative success, map out the various preceding ceasefire agreements, and outline the issues that led to their failure or success.

## Background

Political violence wreaked havoc in Colombia in the 1950s. By the 1960s, Columbia was rife with rural poverty and highly concentrated land ownership.<sup>4</sup> Armed guerrillas composed of militant communists and peasant self-defense groups banded together to challenge the state, forming the foundation of the Fuerzas Armadas Revolucionarias de Colombia (“FARC”).<sup>5</sup> FARC forces used kidnappings, bombs, raids, and other methods of violence in an attempt to establish a revolutionary government and protect the rural poor.<sup>6</sup> In the 1980s, wealthy landowners sought to protect themselves from the FARC and other leftist guerrilla groups by forming right-wing paramilitary groups.<sup>7</sup> As the strength of both the FARC and paramilitary groups grew, both forces turned to illicit drug production and trafficking to sustain their operations.<sup>8</sup> The violence swelled, and the Government began to seek ways to intervene and promote peace. In November 2016, the Colombian Congress approved the Final Agreement for Ending the Conflict and Building a Stable and Lasting Peace (the “Final Agreement”) and by January 2017, the Final Agreement was recognized by the United Nations as a special agreement under international law.

## Prior Ceasefire Negotiations

The Final Agreement was the product of five years of negotiations, beginning in 2011 with secretive, exploratory talks between the Colombian Government and FARC representatives. These negotiations, however, were

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<sup>4</sup> Ted Piccone, *Peace with Justice: The Colombian Experience with Transitional Justice*, BROOKINGS 3 (July 2019), available at [https://www.brookings.edu/wp-content/uploads/2019/06/FP\\_20190708\\_colombia.pdf](https://www.brookings.edu/wp-content/uploads/2019/06/FP_20190708_colombia.pdf).

<sup>5</sup> Claire Klobucista & Danielle Renwick, *Colombia’s Civil Conflict*, COUNCIL ON FOREIGN RELATIONS (Jan. 11, 2017), available at <https://www.cfr.org/backgrounder/colombias-civil-conflict>.

<sup>6</sup> Ted Piccone, *Peace with Justice: The Colombian Experience with Transitional Justice*, BROOKINGS 3 (July 2019), available at [https://www.brookings.edu/wp-content/uploads/2019/06/FP\\_20190708\\_colombia.pdf](https://www.brookings.edu/wp-content/uploads/2019/06/FP_20190708_colombia.pdf).

<sup>7</sup> Claire Klobucista & Danielle Renwick, *Colombia’s Civil Conflict*, COUNCIL ON FOREIGN RELATIONS (Jan. 11, 2017), available at <https://www.cfr.org/backgrounder/colombias-civil-conflict>.

<sup>8</sup> Ted Piccone, *Peace with Justice: The Colombian Experience with Transitional Justice*, BROOKINGS 3 (July 2019), available at [https://www.brookings.edu/wp-content/uploads/2019/06/FP\\_20190708\\_colombia.pdf](https://www.brookings.edu/wp-content/uploads/2019/06/FP_20190708_colombia.pdf).

preceded by a series of attempts (both formal and informal) between the two opposing parties to end the conflict.<sup>9</sup>

The first notable attempt to negotiate a peace agreement was in 1982, at the onset of the administration of President Bentancur.<sup>10</sup> President Bentancur offered to pursue peace talks with guerrilla groups (including the FARC) in his inauguration, and shortly thereafter put into place a sweeping amnesty law that, notably, did not require disarmament for implementation.<sup>11</sup> At first, FARC was receptive to the Bentancur Administration's overtures and agreed to a favorable bilateral ceasefire that allowed FARC forces to retain their pre-ceasefire territory and their weapons.<sup>12</sup> As part of this push for peace, FARC established the Union Patriótica party ("UP") in an attempt to transition away from the military realm and into the political sphere. Though the UP party performed well in national and municipal elections, its members began experiencing overwhelming targeted violence from paramilitary groups and other opposition groups.<sup>13</sup> Over 3,000 UP members were killed, including several of its most prominent political figures. The Government failed to provide for the UP's protection and assimilation into the political environment. FARC soon retreated from its foray into politics and returned its focus to military activities, resulting in the termination of the ceasefire in 1987.<sup>14</sup>

The next notable round of peace negotiations began in 1998 at the onset of the administration of President Pastrana.<sup>15</sup> FARC was then at its military highpoint and was only continuing to grow, numbering close to 17,000 combatants in 2001 (up from 1,300 in 1982).<sup>16</sup> Demonstrably growing, FARC leveraged its position to achieve the demilitarization of a large FARC-controlled zone in Colombia in which negotiations could take place. FARC used the demilitarized zone as a base from which it could grow its military and economic strength undisturbed, and continued

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<sup>9</sup> June S. Beittel, *Peace Talks in Colombia*, CONGRESSIONAL RESEARCH SERVICE 14 (Mar. 31, 2015), available at <https://sgp.fas.org/crs/row/R42982.pdf>.

<sup>10</sup> June S. Beittel, *Peace Talks in Colombia*, CONGRESSIONAL RESEARCH SERVICE 14 (Mar. 31, 2015), available at <https://sgp.fas.org/crs/row/R42982.pdf>.

<sup>11</sup> June S. Beittel, *Peace Talks in Colombia*, CONGRESSIONAL RESEARCH SERVICE 14 (Mar. 31, 2015), available at <https://sgp.fas.org/crs/row/R42982.pdf>.

<sup>12</sup> June S. Beittel, *Peace Talks in Colombia*, CONGRESSIONAL RESEARCH SERVICE 14 (Mar. 31, 2015), available at <https://sgp.fas.org/crs/row/R42982.pdf>.

<sup>13</sup> June S. Beittel, *Peace Talks in Colombia*, CONGRESSIONAL RESEARCH SERVICE 14 (Mar. 31, 2015), available at <https://sgp.fas.org/crs/row/R42982.pdf>.

<sup>14</sup> June S. Beittel, *Peace Talks in Colombia*, CONGRESSIONAL RESEARCH SERVICE 14 (Mar. 31, 2015), available at <https://sgp.fas.org/crs/row/R42982.pdf>.

<sup>15</sup> June S. Beittel, *Peace Talks in Colombia*, CONGRESSIONAL RESEARCH SERVICE 15 (Mar. 31, 2015), available at <https://sgp.fas.org/crs/row/R42982.pdf>.

<sup>16</sup> International Crisis Group, *Colombia: Peace at Last?* (Sept. 25, 2012), available at <https://www.crisisgroup.org/latin-america-caribbean/andes/colombia/colombia-peace-last>

to engage in violence, hostage-taking, and drug trafficking.<sup>17</sup> The Government eventually halted peace negotiations and directed the military to retake the demilitarized zone in 2002 after FARC forces hijacked a commercial plane and kidnapped a prominent politician.<sup>18</sup>

Following this breakdown of peace talks, the Colombian Government and FARC engaged in no further formal peace negotiations until 2012.

### **Catalysts for the 2012 Peace Talks**

While no single event was an identifiable catalyst for the 2012 negotiations, the confluence of the weakening FARC and the relatively open Santos administration arguably paved the way for a successful ceasefire agreement.

By the time formal negotiations were initiated in 2012, the FARC's ranks had decreased to approximately 7,000 members, down from 16,000 in 2001.<sup>19</sup> President Uribe in the prior administration had taken a hard line against the FARC and other guerilla groups, deploying thousands of troops to reduce FARC ranks and recapture FARC-held territory.<sup>20</sup> FARC's leadership was depleted in the years leading up to 2012. The FARC's supreme leader and founder died in 2008 and his replacement and multiple other high-ranking officials were killed in military raids.<sup>21</sup> The decrease in FARC's power relative to prior decades likely incentivized the group to come to the negotiating table.<sup>22</sup>

On the Government side, hardliner President Uribe was replaced by President Santos in 2010, who proved to be more open to a diplomatic resolution. In its first two years, the Santos Administration enacted several legislative reforms that paved the way for peace talks, including a Victims and Land Restitution Law to compensate millions of victims of the conflict with economic reparations and

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<sup>17</sup> June S. Beittel, *Peace Talks in Colombia*, CONGRESSIONAL RESEARCH SERVICE 15 (Mar. 31, 2015), available at <https://sgp.fas.org/crs/row/R42982.pdf>.

<sup>18</sup> Associated Press, *Colombia Breaks Off Peace Process*, (Feb. 21, 2002), available at [http://web.archive.loc.gov/all/20021115095238/http://www.zmag.org/content/colombia/ap\\_peaceover.cfm](http://web.archive.loc.gov/all/20021115095238/http://www.zmag.org/content/colombia/ap_peaceover.cfm)

<sup>19</sup> Claire Klobucista & Danielle Renwick, *Colombia's Civil Conflict*, COUNCIL ON FOREIGN RELATIONS (Jan. 11, 2017), available at <https://www.cfr.org/background/colombias-civil-conflict>.

<sup>20</sup> June S. Beittel, *Peace Talks in Colombia*, CONGRESSIONAL RESEARCH SERVICE 6 (Mar. 31, 2015), available at <https://sgp.fas.org/crs/row/R42982.pdf>, and see International Crisis Group, *Colombia: Peace at Last?* (Sept. 25, 2012), available at <https://www.crisisgroup.org/latin-america-caribbean/andes/colombia/colombia-peace-last>

<sup>21</sup> June S. Beittel, *Peace Talks in Colombia*, CONGRESSIONAL RESEARCH SERVICE 15 (Mar. 31, 2015), available at <https://sgp.fas.org/crs/row/R42982.pdf>.

<sup>22</sup> Ashish Kumar Sen, *Lessons from Colombia's Peace Process*, ATLANTIC COUNCIL (Aug. 29, 2016), available at <https://www.atlanticcouncil.org/blogs/new-atlanticist/lessons-from-colombia-s-peace-process/>.

land restitution, and a Peace Framework Law to provide a transitional justice structure for an eventual peace process.<sup>23</sup>

## Negotiation Process and Timeline

The final round of peace negotiations took place over the span of five years, from exploratory talks in 2011 until the signing of the Final Agreement in 2016.<sup>24</sup> The representatives for each party reportedly first made contact in March 2011 and continued to meet secretly over the next year to iron out the logistics and agenda for the eventual formal peace talks. In August 2012, the Colombian Government and FARC delegates drafted and signed a framework for their negotiations—the General Agreement.<sup>25</sup>

### *Logistics and Agenda*

The General Agreement dictated that negotiations take place on neutral ground, commencing in October in Norway and continuing in Cuba. Delegates consisted of five lead negotiators per side, each representing a team of up to thirty, and included former high-ranking politicians, security advisors, business leaders, and members of FARC's ruling secretariat.<sup>26</sup> The composition of the delegate teams changed several times over the years, eventually including two women (a noted lawyer and human rights advocate, and the prior High Presidential Adviser on Women's Equality) for the Government delegation, and two members from the previously unrepresented FARC southern bloc.<sup>27</sup> The General Agreement also dictated that a mechanism be established to allow for proposals and commentary by civil society on the negotiation agenda.<sup>28</sup> The United Nations and the National University of Colombia organized public forums to receive proposals, thousands of which were submitted to the delegates.<sup>29</sup>

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<sup>23</sup> June S. Beittel, *Peace Talks in Colombia*, CONGRESSIONAL RESEARCH SERVICE 16 (Mar. 31, 2015), available at <https://sgp.fas.org/crs/row/R42982.pdf>.

<sup>24</sup> *Semana*, *Secretos de la negociacion*, (Aug. 31, 2012), available at <https://www.semana.com/nacion/articulo/secretos-negociacion/263986-3/>.

<sup>25</sup> International Crisis Group, *Colombia: Peace at Last?* (Sept. 25, 2012), available at <https://www.crisisgroup.org/latin-america-caribbean/andes/colombia/colombia-peace-last>

<sup>26</sup> June S. Beittel, *Peace Talks in Colombia*, CONGRESSIONAL RESEARCH SERVICE 17-18 (Mar. 31, 2015), available at <https://sgp.fas.org/crs/row/R42982.pdf>.

<sup>27</sup> June S. Beittel, *Peace Talks in Colombia*, CONGRESSIONAL RESEARCH SERVICE 22-23 (Mar. 31, 2015), available at <https://sgp.fas.org/crs/row/R42982.pdf>.

<sup>28</sup> International Crisis Group, *Colombia: Peace at Last?* (Sept. 25, 2012), available at <https://www.crisisgroup.org/latin-america-caribbean/andes/colombia/colombia-peace-last>

<sup>29</sup> June S. Beittel, *Peace Talks in Colombia*, CONGRESSIONAL RESEARCH SERVICE 22 (Mar. 31, 2015), available at <https://sgp.fas.org/crs/row/R42982.pdf>.



In addition to logistical considerations, the General Agreement set forth an agenda of major points for discussion and resolution, which included:

- 1) integrated agricultural development policy, with an aim to boost regional integration and equitable social and economic development;
- 2) political participation, with an aim to ensure rights for those exercising political opposition and promotion of greater and more diverse citizen participation;
- 3) end to the conflict, with specific goals including bilateral ceasefire and handover of weapons (to be initiated upon signing of the Final Agreement and carried out within a reasonable period of time agreed by the parties);
- 4) solution to the problem of illicit drugs, such as narcotic-crop substitution programs and development plans (with input from affected communities), public health programs, and solutions to the narcotics production and commercialization phenomenon;
- 5) victim reparations; and
- 6) implementation, verification and ratification measures, including follow-up commissions, mechanisms to settle differences, international accompaniment, a schedule, budget, tools for dissemination, and mechanism for ratification of the agreements.<sup>30</sup>

### *Negotiation Process*

Each of the substantive topics outlined in the General Agreement were negotiated intermittently over the four-year period from 2012-2016. The formal peace talks began in October 2012 in Norway, before moving to Cuba for the remainder of the process.<sup>31</sup> Notably, despite the ongoing formal meetings, the parties did not agree to a bilateral ceasefire. While the FARC announced a two-month unilateral ceasefire as a show of good faith, the Government declined to reciprocate, noting that military operations against FARC forces would continue until a final agreement had been reached.<sup>32</sup> Violence on the part of both sides continued notwithstanding the ceasefire, but the talks proceeded as scheduled.

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<sup>30</sup> International Crisis Group, *Colombia: Peace at Last?* (Sept. 25, 2012), available at <https://www.crisisgroup.org/latin-america-caribbean/andes/colombia/colombia-peace-last>

<sup>31</sup> June S. Beittel, *Peace Talks in Colombia*, CONGRESSIONAL RESEARCH SERVICE 19 (Mar. 31, 2015), available at <https://sgp.fas.org/crs/row/R42982.pdf>.

<sup>32</sup> June S. Beittel, *Peace Talks in Colombia*, CONGRESSIONAL RESEARCH SERVICE 19 (Mar. 31, 2015), available at <https://sgp.fas.org/crs/row/R42982.pdf>.

The negotiators reached an agreement on the first topic (agricultural and land development policy) in May 2013.<sup>33</sup> FARC had pushed for as many as nine million hectares of land in autonomous “peasant reserve zones”, which the Government rebuffed. The agreement instead allowed for partial redistribution of farmland, a process to formalize land ownership, legal and police protection for farmers, loans and technical assistance to small farmers, among other measures addressed at alleviating rural poverty.<sup>34</sup>

The negotiators reached an agreement on the second topic (political participation) in November 2013. This issue was particularly important to the FARC, who were wary of a repeat of their past entry into politics via the Union Patriótica party (UP). FARC delegates demanded guaranteed congressional seats as a way to ensure a protected place in the legislature. The Government pushed back, instead agreeing to establish special temporary districts for “historically conflictive areas” to elect legislators to Colombia’s legislature.<sup>35</sup> This agreement also included a framework for an opposition statute to guarantee the rights and security of political opposition, enhanced media access, improved processes to form new political parties, citizen oversight and election transparency, and guarantees for women’s participation.<sup>36</sup>

The negotiators reached a partial agreement on the fourth topic (illicit drugs) in May 2014. This agreement (to be enacted upon signing of the Final Agreement) committed the FARC and Colombian Government to eradicate coca, resolve drug production and trafficking, and address public health and drug consumption.<sup>37</sup>

The pace of negotiations slowed over the next year, as violence on the part of both parties plagued Colombia. In November 2014, FARC forces kidnapped a high ranking general, and the Government declined to continue talks until mediators from Chile and Norway secured his release.<sup>38</sup> The peace talks resumed in December, and the parties acknowledged the precariousness of the situation. In early 2015, the Government began to consider agreeing to a bilateral ceasefire,

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<sup>33</sup> June S. Beittel, *Peace Talks in Colombia*, CONGRESSIONAL RESEARCH SERVICE 21 (Mar. 31, 2015), available at <https://sgp.fas.org/crs/row/R42982.pdf>.

<sup>34</sup> June S. Beittel, *Peace Talks in Colombia*, CONGRESSIONAL RESEARCH SERVICE 21 (Mar. 31, 2015), available at <https://sgp.fas.org/crs/row/R42982.pdf>.

<sup>35</sup> June S. Beittel, *Peace Talks in Colombia*, CONGRESSIONAL RESEARCH SERVICE 21-22 (Mar. 31, 2015), available at <https://sgp.fas.org/crs/row/R42982.pdf>.

<sup>36</sup> June S. Beittel, *Peace Talks in Colombia*, CONGRESSIONAL RESEARCH SERVICE 21-22 (Mar. 31, 2015), available at <https://sgp.fas.org/crs/row/R42982.pdf>.

<sup>37</sup> June S. Beittel, *Peace Talks in Colombia*, CONGRESSIONAL RESEARCH SERVICE 24 (Mar. 31, 2015), available at <https://sgp.fas.org/crs/row/R42982.pdf>.

<sup>38</sup> June S. Beittel, *Peace Talks in Colombia*, CONGRESSIONAL RESEARCH SERVICE 25 (Mar. 31, 2015), available at <https://sgp.fas.org/crs/row/R42982.pdf>.

encouraged by FARC's announcement that it would cease recruiting youth militants.<sup>39</sup> The parties developed a joint program to remove landmines and explosive devices, which had killed thousands of Colombian civilians.<sup>40</sup> Finally, as a show of good faith, the Government suspended military attacks on FARC encampments. This suspension lasted only for a month, ending when a FARC ambush killed eleven soldiers and a retaliatory Government operation killed close to thirty FARC militants.<sup>41</sup> The delegates recognized that public confidence in the peace process was severely shaken by these events, and announced a joint de-escalation process of the national military and FARC forces. This de-escalation process held the peace talks together and allowed negotiators to turn back to the remaining points on the agenda.

The negotiators reached a partial agreement on the fifth topic (victim reparations) in December 2015. The agreement created a Comprehensive System of Truth, Justice, Reparation and Non-Repitition ("Comprehensive System"). The Comprehensive System called for the establishment of a "truth commission" to investigate: (i) the causes of the conflict, societal impact, and to recommend preventative measures for the future; (ii) the construction of a transitional justice system to investigate and prosecute human rights violations of the conflict, and to separately indicate eligibility for and provision of amnesty for certain other crimes (such as political offenses including rebellion, sedition, and military uprising); (iii) the building of a scheme for sanctions and punishment; and (iv) the setting forth measures for reparations and restitution for victims.

The third topic (bilateral ceasefire and termination of conflict) and sixth topic (implementation, verification and ratification) were negotiated throughout the first half of 2016, and the parties reached final agreements in June. The agreements provided for a formal bilateral ceasefire (to begin on August 29, 2016) in which the Government and FARC would no longer conduct military actions against the other.<sup>42</sup> Five days following the signing of the Final Agreement (which was set for September 26, 2016), the FARC was required to move its fighters to transitional village demilitarization zones and begin providing information on and handing

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<sup>39</sup> June S. Beittel, *Peace Talks in Colombia*, CONGRESSIONAL RESEARCH SERVICE 26 (Mar. 31, 2015), available at <https://sgp.fas.org/crs/row/R42982.pdf>.

<sup>40</sup> June S. Beittel, *Peace Talks in Colombia*, CONGRESSIONAL RESEARCH SERVICE 26 (Mar. 31, 2015), available at <https://sgp.fas.org/crs/row/R42982.pdf>.

<sup>41</sup> June S. Beittel, *Peace Talks in Colombia*, CONGRESSIONAL RESEARCH SERVICE 27 (Mar. 31, 2015), available at <https://sgp.fas.org/crs/row/R42982.pdf>.

<sup>42</sup> International Crisis Group, *Colombia's Final Steps to the End of War 4* (Sept. 7, 2016), available at <https://www.crisisgroup.org/latin-america-caribbean/andes/colombia/colombia-s-final-steps-end-war>.

over weapons stockpiles.<sup>43</sup> The ceasefire provisions were synchronized with the implementation, verification and ratification provisions—in addition to the Government and FARC, an initial UN Mission would be established to oversee and verify the ceasefire and relinquishment of weapons.<sup>44</sup>

The Final Agreement itself was to be submitted for ratification by referendum—a mechanism formerly bitterly contested by the FARC. Throughout the peace talks, FARC negotiators called for a constituent assembly to be formed for the purpose of implementing the eventual Final Agreement.<sup>45</sup> The Government firmly believed that the Final Agreement should be ratified by a citizen referendum and implemented by the existing legislative structure.<sup>46</sup> The referendum remained a point of contention between the parties until FARC leadership finally relented in 2016.<sup>47</sup> After ratification, the Final Agreement was to be submitted for approval by the Colombian Congress as a special agreement, and reviewed by the Constitutional Court. President Santos would then make a unilateral declaration submitting the Final Agreement before the UN Secretary General to ensure international legitimacy.

The Government and FARC signed the Final Agreement in September 2016 and submitted it to popular ratification in October. Notably, the referendum failed: 38% of eligible voters participated, with 50.2% voting against and 49.8% voting in favor.<sup>48</sup> The delegations returned to the negotiating table and tightened up restrictions on the FARC, requiring forces to move to the transitional village demilitarization zones and relinquish weapons more quickly.<sup>49</sup> The revised Final Agreement was not submitted for another popular ratification, and instead was approved by the Colombian Congress, becoming law.<sup>50</sup>

## **Analysis of Key Terms and Provisions**

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<sup>43</sup> International Crisis Group, *Colombia's Final Steps to the End of War* 5 (Sept. 7, 2016), available at <https://www.crisisgroup.org/latin-america-caribbean/andes/colombia/colombia-s-final-steps-end-war>.

<sup>44</sup> International Crisis Group, *Colombia's Final Steps to the End of War* 4 (Sept. 7, 2016), available at <https://www.crisisgroup.org/latin-america-caribbean/andes/colombia/colombia-s-final-steps-end-war>.

<sup>45</sup> International Crisis Group, *Colombia's Final Steps to the End of War* 8 (Sept. 7, 2016), available at <https://www.crisisgroup.org/latin-america-caribbean/andes/colombia/colombia-s-final-steps-end-war>.

<sup>46</sup> International Crisis Group, *Colombia's Final Steps to the End of War* 8 (Sept. 7, 2016), available at <https://www.crisisgroup.org/latin-america-caribbean/andes/colombia/colombia-s-final-steps-end-war>.

<sup>47</sup> International Crisis Group, *Colombia's Final Steps to the End of War* 8 (Sept. 7, 2016), available at <https://www.crisisgroup.org/latin-america-caribbean/andes/colombia/colombia-s-final-steps-end-war>.

<sup>48</sup> BBC News, *Colombia Referendum: Voters Reject FARC Peace Deal*, (Oct. 3, 2016), available at <https://www.bbc.com/news/world-latin-america-37537252>.

<sup>49</sup> Claire Klobucista & Danielle Renwick, *Colombia's Civil Conflict*, COUNCIL ON FOREIGN RELATIONS (Jan. 11, 2017), available at <https://www.cfr.org/background/colombias-civil-conflict>.

<sup>50</sup> Claire Klobucista & Danielle Renwick, *Colombia's Civil Conflict*, COUNCIL ON FOREIGN RELATIONS (Jan. 11, 2017), available at <https://www.cfr.org/background/colombias-civil-conflict>.

Each of the previous agreements were combined into the Final Agreement and structured as items 1-6: (1) comprehensive rural reform; (2) political participation; (3) bilateral ceasefire and cessation of hostilities (including reintegration of FARC forces into civilian life and protection against paramilitary successor groups); (4) solutions to the use and production of illicit drugs; (5) a system of judicial mechanisms for victim reparations and justice; and (6) implementation and verification measures.<sup>51</sup>

### *Comprehensive Rural Reform*

The success of the Final Agreement as a whole depended upon the assumption that the FARC could, and would, transition to civilian life. The provisions of each “item” were necessary to facilitate that transition. The FARC began as the peoples’ response to the inequitable economic conditions of the 1960s, particularly representing the rural poor. Item 1 outlined substantial steps towards equitable social and economic development, with “national plans financed and promoted by the State [...] to provide public goods and services, such as education, health, recreation, infrastructure, technical assistance, food and nutrition.”<sup>52</sup> A key mechanism to accomplish rural development was through the democratization of land access. For example, the Final Agreement provided for the creation of a land bank (3 million hectares) to facilitate large scale land titling (7 million hectares), and the Government to purchase subsidies and lines of credit for historically disadvantaged rural communities.<sup>53</sup> Community participation mechanisms were to be agreed at different territorial levels to enable citizen participation and oversight of these processes.<sup>54</sup> As a result, the Final Agreement aligned with a key mission of FARC: the improvement of the quality of life and equal-opportunity of the rural poor.

### *Political Participation*

Another key issue for FARC and its constituents, given that the FARC’s previous attempts to integrate into the Government and civilian life ended in violence and a return to conflict, was the Government’s assurances of adequate representation in the political process, both at the time of the Final Agreement and

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<sup>51</sup> UN Mission in Colombia, FINAL AGREEMENT FOR ENDING THE CONFLICT AND BUILDING A STABLE AND LASTING PEACE, S/2017/272 p. 9, *available at* [https://unmc.unmissions.org/sites/default/files/s-2017-272\\_e.pdf](https://unmc.unmissions.org/sites/default/files/s-2017-272_e.pdf).

<sup>52</sup> UN Mission in Colombia, FINAL AGREEMENT FOR ENDING THE CONFLICT AND BUILDING A STABLE AND LASTING PEACE, S/2017/272 p. 10, *available at* [https://unmc.unmissions.org/sites/default/files/s-2017-272\\_e.pdf](https://unmc.unmissions.org/sites/default/files/s-2017-272_e.pdf).

<sup>53</sup> UN Mission in Colombia, FINAL AGREEMENT FOR ENDING THE CONFLICT AND BUILDING A STABLE AND LASTING PEACE, S/2017/272 pp. 13-14, *available at* [https://unmc.unmissions.org/sites/default/files/s-2017-272\\_e.pdf](https://unmc.unmissions.org/sites/default/files/s-2017-272_e.pdf).

<sup>54</sup> UN Mission in Colombia, FINAL AGREEMENT FOR ENDING THE CONFLICT AND BUILDING A STABLE AND LASTING PEACE, S/2017/272 p. 21, *available at* [https://unmc.unmissions.org/sites/default/files/s-2017-272\\_e.pdf](https://unmc.unmissions.org/sites/default/files/s-2017-272_e.pdf).

thereafter. Only with a stable presence and acceptance in the political sphere could FARC have confidence in achieving its rural development goals and provide for the safety of former FARC members. Accordingly, Item 2 provided genuine opportunity for political participation through the securing of rights for opposition parties and security guarantees for political activists, leaders of social organizations, and human rights activists. In particular, the security guarantee included the strengthening of investigative and judicial capacities to prosecute persons who commit offenses against persons engaged in political activity—a key deterrent against violence similar to the paramilitary and organized crime that imploded the peace process in 1987.<sup>55</sup> Item 2 also created 16 special temporary electoral districts for peace in areas particularly affected by the conflict and Government neglect. These provisions were key in facilitating FARC’s confidence in future political participation and security.

### *Bilateral Ceasefire and Cessation of Hostilities*

To ensure the likelihood of a lasting peace, the Final Agreement needed to include strong, comprehensive mechanisms for a bilateral ceasefire and the demilitarization of the FARC. The Government needed assurances that FARC would demilitarize and turn over their weapons in order to end the conflict, and the FARC needed assurances that the Government would not take FARC weapons and re-initiate military strikes against a now-defenseless FARC population. Item 3 set forth a detailed timeline and process for demilitarization. Key provisions included (i) the Government and FARC jointly designating transitional local zones and points for normalization, termed de-militarized zones (each a “DMZ” and, collectively, the “DMZs”) (in which FARC forces could begin assimilating to civilian life without Government persecution);<sup>56</sup> (ii) the establishment of security protocols for the population in the DMZs;<sup>57</sup> (iii) the creation of protocols relating to the laying down of arms via registration, identification, monitoring and verification of possession, collection, storage, and eventual removal and disposal of the weaponry under UN supervision;<sup>58</sup> and (iv) the economic, social and political reintegration of FARC members (including establishment of a recognized

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<sup>55</sup> UN Mission in Colombia, FINAL AGREEMENT FOR ENDING THE CONFLICT AND BUILDING A STABLE AND LASTING PEACE, S/2017/272 p. 35, *available at* [https://unmc.unmissions.org/sites/default/files/s-2017-272\\_e.pdf](https://unmc.unmissions.org/sites/default/files/s-2017-272_e.pdf).

<sup>56</sup> UN Mission in Colombia, FINAL AGREEMENT FOR ENDING THE CONFLICT AND BUILDING A STABLE AND LASTING PEACE, S/2017/272 pp. 52-55, *available at* [https://unmc.unmissions.org/sites/default/files/s-2017-272\\_e.pdf](https://unmc.unmissions.org/sites/default/files/s-2017-272_e.pdf).

<sup>57</sup> UN Mission in Colombia, FINAL AGREEMENT FOR ENDING THE CONFLICT AND BUILDING A STABLE AND LASTING PEACE, S/2017/272 pp. 55-56, *available at* [https://unmc.unmissions.org/sites/default/files/s-2017-272\\_e.pdf](https://unmc.unmissions.org/sites/default/files/s-2017-272_e.pdf).

<sup>58</sup> UN Mission in Colombia, FINAL AGREEMENT FOR ENDING THE CONFLICT AND BUILDING A STABLE AND LASTING PEACE, S/2017/272 pp. 56-58, *available at* [https://unmc.unmissions.org/sites/default/files/s-2017-272\\_e.pdf](https://unmc.unmissions.org/sites/default/files/s-2017-272_e.pdf).

political party with an annual allowance, accreditation of legal status for members, access to basic income and social security, and security processes).<sup>59</sup>

### *Use and Production of Illicit Drugs*

During the Conflict, FARC relied heavily on income from drug production and trafficking to support its existence and continued military efforts. The overwhelming majority of coca crops were grown in impoverished, rural areas, and the surrounding communities largely depended on coca production for economic survival. The Final Agreement therefore could not simply seek to destroy illicit drug crops—it needed to hamper the drug trade without harming the rural poor. Item 4 outlined the National Comprehensive Programme for the Substitution of Crops Used for Illicit Purposes (the “Substitution Programme”) to promote voluntary substitution of illicit crops in exchange for productive products (such as short rotation crops or fish and poultry farming that can quickly generate income).<sup>60</sup> Though a national program, implementation of the Substitution Programme would be tailored to the needs of each affected territory and formed with input and oversight from local communities, as well as the preferences of individual households.<sup>61</sup> The Government and communities were required to sign agreements outlining timelines for compliance.<sup>62</sup> Operationally, if a community declined to participate in substitution, the Government could eventually unilaterally eradicate that community’s illicit crop, while continuing to support a substitute economic activity and offer financial support.<sup>63</sup>

### *Judicial Mechanisms for Victim Reparations and Justice*

The fifty-two year conflict in Colombia caused hundreds of thousands of deaths and left millions of Colombians forcibly displaced.<sup>64</sup> Any viable final peace accord needed to provide a path for victims and their families to obtain some measure of justice and/or reparations for their suffering. However, the Final Agreement also needed FARC’s compliance. Any measures considered unreasonably punitive would have been off the table. Item 5 was drafted to bridge

<sup>59</sup> UN Mission in Colombia, FINAL AGREEMENT FOR ENDING THE CONFLICT AND BUILDING A STABLE AND LASTING PEACE, S/2017/272 p. 80, available at [https://unmc.unmissions.org/sites/default/files/s-2017-272\\_e.pdf](https://unmc.unmissions.org/sites/default/files/s-2017-272_e.pdf).

<sup>60</sup> UN Mission in Colombia, FINAL AGREEMENT FOR ENDING THE CONFLICT AND BUILDING A STABLE AND LASTING PEACE, S/2017/272 p. 97, available at [https://unmc.unmissions.org/sites/default/files/s-2017-272\\_e.pdf](https://unmc.unmissions.org/sites/default/files/s-2017-272_e.pdf).

<sup>61</sup> UN Mission in Colombia, FINAL AGREEMENT FOR ENDING THE CONFLICT AND BUILDING A STABLE AND LASTING PEACE, S/2017/272 p. 97, available at [https://unmc.unmissions.org/sites/default/files/s-2017-272\\_e.pdf](https://unmc.unmissions.org/sites/default/files/s-2017-272_e.pdf).

<sup>62</sup> UN Mission in Colombia, FINAL AGREEMENT FOR ENDING THE CONFLICT AND BUILDING A STABLE AND LASTING PEACE, S/2017/272 p. 93, available at [https://unmc.unmissions.org/sites/default/files/s-2017-272\\_e.pdf](https://unmc.unmissions.org/sites/default/files/s-2017-272_e.pdf).

<sup>63</sup> UN Mission in Colombia, FINAL AGREEMENT FOR ENDING THE CONFLICT AND BUILDING A STABLE AND LASTING PEACE, S/2017/272 p. 93, available at [https://unmc.unmissions.org/sites/default/files/s-2017-272\\_e.pdf](https://unmc.unmissions.org/sites/default/files/s-2017-272_e.pdf).

<sup>64</sup> UN Mission in Colombia, FINAL AGREEMENT FOR ENDING THE CONFLICT AND BUILDING A STABLE AND LASTING PEACE, S/2017/272 p. 109, available at [https://unmc.unmissions.org/sites/default/files/s-2017-272\\_e.pdf](https://unmc.unmissions.org/sites/default/files/s-2017-272_e.pdf).

the gap between securing formative justice for victims and securing FARC participation. To accomplish this, a key mechanism was the incorporation of civilian input into the Final Agreement. Sixty victims delivered testimony directly to the delegations in Cuba and over 3,000 victims took part in local forums in Colombia.<sup>65</sup> This ensured that civilian voices were heard and considered in producing the Final Agreement, which in turn strengthened popular support for the peace talks. Item 5 strove to provide both justice for victims and a comprehensive, impartial mechanism to penalize perpetrators of human rights violations and provide amnesty to others that committed less heinous crimes. It set forth guidance on the content, scope and limits of amnesties to be provided and structured a system observing due process, transparency, and impartial procedural standards, instilling confidence that FARC's members would receive fair treatment.<sup>66</sup>

### *Implementation and Verification Measures*

Importantly, the Final Agreement provided a practicable means of implementation and verification—key to assuring the Government, the FARC, the civilian population of Colombia, and the international community that genuine peace could be achieved. Item 6 set forth a timeline for implementation of laws and regulations required by the Final Agreement and established a commission of high-level representatives from the Government, FARC, and impartial countries to oversee the Final Agreement's implementation.<sup>67</sup> A separate UN Mission would be established to verify the reintegration of FARC personnel and disarmament.<sup>68</sup> Further, each item of the Final Agreement would have various sets of foreign countries and international organizations providing observation and verification support.<sup>69</sup> The active participation of the international community in overseeing the implementation of the Final Agreements added legitimacy to the process and promoted trust in its success.

## **Conclusion**

The Final Agreement thoughtfully and comprehensively outlined a path to peace in Colombia, but the Government, former FARC members, civilian

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<sup>65</sup> UN Mission in Colombia, FINAL AGREEMENT FOR ENDING THE CONFLICT AND BUILDING A STABLE AND LASTING PEACE, S/2017/272 p. 97, available at [https://unmc.unmissions.org/sites/default/files/s-2017-272\\_e.pdf](https://unmc.unmissions.org/sites/default/files/s-2017-272_e.pdf).

<sup>66</sup> UN Mission in Colombia, FINAL AGREEMENT FOR ENDING THE CONFLICT AND BUILDING A STABLE AND LASTING PEACE, S/2017/272 pp. 127-132, available at [https://unmc.unmissions.org/sites/default/files/s-2017-272\\_e.pdf](https://unmc.unmissions.org/sites/default/files/s-2017-272_e.pdf).

<sup>67</sup> UN Mission in Colombia, FINAL AGREEMENT FOR ENDING THE CONFLICT AND BUILDING A STABLE AND LASTING PEACE, S/2017/272 pp. 173-175, available at [https://unmc.unmissions.org/sites/default/files/s-2017-272\\_e.pdf](https://unmc.unmissions.org/sites/default/files/s-2017-272_e.pdf).

<sup>68</sup> UN Mission in Colombia, FINAL AGREEMENT FOR ENDING THE CONFLICT AND BUILDING A STABLE AND LASTING PEACE, S/2017/272 pp. 182, available at [https://unmc.unmissions.org/sites/default/files/s-2017-272\\_e.pdf](https://unmc.unmissions.org/sites/default/files/s-2017-272_e.pdf).

<sup>69</sup> UN Mission in Colombia, FINAL AGREEMENT FOR ENDING THE CONFLICT AND BUILDING A STABLE AND LASTING PEACE, S/2017/272 pp. 181-183, available at [https://unmc.unmissions.org/sites/default/files/s-2017-272\\_e.pdf](https://unmc.unmissions.org/sites/default/files/s-2017-272_e.pdf).



population and international community must continue to push towards its implementation. As of 2021, 29% of the peace accords were implemented, while 18% were at an intermediate stage of implementation, 36% were at a minimal stage of implementation, and 17% were not implemented or being implemented.<sup>70</sup>

Land restitution is progressing, but slowly—as of August 2020, the Colombian courts had issued rulings in only 11,300 of more than 125,000 claims filed.<sup>71</sup> On the other hand, strides have been made on political participation—FARC candidates were able to participate in 2018 elections, and will occupy five guaranteed seats in each house of Congress through 2026.<sup>72</sup> Disarmament and demobilization efforts have developed well, and the majority of the 14,000 guerrillas who participated in the process have now moved out of the transition zones to build new lives.<sup>73</sup> A minority of FARC dissidents, however, refused to demobilize and remain a threat to the Government and civilian population.<sup>74</sup> Meanwhile, in the fight against illegal drug production, nearly 100,000 families signed up for the substitution scheme and destroyed their coca crops as of 2021, but only 7% had received Government support in exchange.<sup>75</sup> Finally, regarding justice initiatives, the Special Jurisdiction for Peace (“JEP”) formally began opening cases in July 2018.<sup>76</sup> Close to 10,000 former FARC members submitted themselves to JEP jurisdiction, with a 99% rate of participation.<sup>77</sup> Controversy remains, however, over the lack of sufficient penalties for past crimes.

The Final Agreement was slated to last at least 15 years. While significant progress has been made—progress that would have been unimaginable to the Colombian population even ten years ago—stakeholders must remain vigilant and continue to push for change.

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<sup>70</sup> Gideon Long, *Colombia: Why Peace Remains Elusive Five Years after FARC Deal*, FINANCIAL TIMES (Sept. 19, 2021), available at <https://www.ft.com/content/0b6107be-0448-4e6d-b287-54fc31a49e9b>.

<sup>71</sup> Human Rights Watch, *Colombia: Events of 2020*, available at <https://www.hrw.org/world-report/2021/country-chapters/colombia>.

<sup>72</sup> Ted Piccone, *Peace with Justice: The Colombian Experience with Transitional Justice*, BROOKINGS 5 (July 2019), available at [https://www.brookings.edu/wp-content/uploads/2019/06/FP\\_20190708\\_colombia.pdf](https://www.brookings.edu/wp-content/uploads/2019/06/FP_20190708_colombia.pdf).

<sup>73</sup> Ted Piccone, *Peace with Justice: The Colombian Experience with Transitional Justice*, BROOKINGS 5 (July 2019), available at [https://www.brookings.edu/wp-content/uploads/2019/06/FP\\_20190708\\_colombia.pdf](https://www.brookings.edu/wp-content/uploads/2019/06/FP_20190708_colombia.pdf).

<sup>74</sup> Human Rights Watch, *Colombia: Events of 2020*, available at <https://www.hrw.org/world-report/2021/country-chapters/colombia>.

<sup>75</sup> Gideon Long, *Colombia: Why Peace Remains Elusive Five Years after FARC Deal*, FINANCIAL TIMES (Sept. 19, 2021), available at <https://www.ft.com/content/0b6107be-0448-4e6d-b287-54fc31a49e9b>.

<sup>76</sup> Ted Piccone, *Peace with Justice: The Colombian Experience with Transitional Justice*, BROOKINGS 13 (July 2019), available at [https://www.brookings.edu/wp-content/uploads/2019/06/FP\\_20190708\\_colombia.pdf](https://www.brookings.edu/wp-content/uploads/2019/06/FP_20190708_colombia.pdf).

<sup>77</sup> Ted Piccone, *Peace with Justice: The Colombian Experience with Transitional Justice*, BROOKINGS 14 (July 2019), available at [https://www.brookings.edu/wp-content/uploads/2019/06/FP\\_20190708\\_colombia.pdf](https://www.brookings.edu/wp-content/uploads/2019/06/FP_20190708_colombia.pdf).

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