

"Mr. President, help us achieve justice." Credit: Official Photographer of the Colombian Presidency. June 2023.

Advancing from Partial Peace

How the United States
Can Help Consolidate Peace
in Colombia

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Executive Summary

As Colombia's first progressive president, Gustavo Petro, took office in August 2022, he launched an ambitious program called "total peace" to end the nation's conflict. The program includes negotiating simultaneously with various illegal armed groups remaining after over 13,000 members of the Revolutionary Armed Forces of Colombia (FARC) were successfully demobilized through the 2016 peace accords. The 2016 accords, backed by the U.S. government, helped to end the longest-running conflict in the Western Hemisphere (1964-2016), in which nearly seven million people were internally displaced and over 250,000 people were killed.

Despite many setbacks, negotiations with the largest remaining guerrilla group, the National Liberation Army (ELN), have now advanced farther than under any previous Colombian president. Negotiations have proceeded tentatively with a dissident FARC group that refused to demobilize in 2016 and other groups. Most significantly, the Petro administration has increased political will and investment levels in implementing the historic 2016 peace accords.

At the same time, many Colombians in areas affected by conflict remain at the mercy of armed groups and have yet to see the realization of the ambitious promises of either the 2016 accords or "total peace." Attempts by the Petro administration to negotiate with other illegal armed groups deeply involved in organized crime, like the Clan del Golfo, have been more controversial. Civil society groups have raised concerns regarding the improvisational way in which negotiations and poorly-enforced ceasefires with criminal groups have been carried out. Obstacles to peace building include the Petro government's administrative weaknesses, illegal armed groups' failure to respect civilian populations even during ceasefires, and opposition to reforms from a divided Colombian Congress.

Yet the United Nations' assessment is positive on balance, noting that "the Government's engagement [in negotiations] with illegal armed groups and criminal organizations has reduced lethal violence." According to the International Crisis Group, the Petro administration is learning from its mistakes and is applying stricter criteria before agreeing to ceasefires, as well as suspending them in response to ceasefire violations.

Even with the undoubted political will to achieve peace, the challenges ahead are daunting. Most peace accords fail within five years of signing. While Colombia has passed that benchmark, its partial peace remains fragile. At a moment when global conflict is rising, the United States would be well advised to support the few bright spots, including Colombia, where peace is advancing. Continued strong U.S. support for implementation of the 2016 accords and more visible U.S. backing for the most advanced negotiations—with the ELN—would help Colombia's progress towards peace.

This memo analyzes the implementation of the 2016 accords and reviews progress in the ELN negotiations and the challenges of "total peace," as well as offering recommendations for U.S. policy to support peace.

Recommendations for U.S. Policy

- 1. The U.S. government should provide strong diplomatic and financial support for implementation of the 2016 peace accords.
- 2. The U.S. government should carry out its pledge to "accompany" the 2016 accords' Ethnic Chapter, backed by specific funding and emphasizing that the Colombian government should consult with ethnic organizations convened in the Special High-level Body on Ethnic Peoples (IANPE) as specified by the accords. Members of Congress should urge the State Department and USAID to ramp up their efforts to assist the Colombian government's Ethnic Chapter implementation.
- 3. The U.S. government and members of the U.S. Congress should express support for the Colombian government-ELN negotiations. Members of Congress should urge the State Department to more officially back the negotiations. Recognizing the pivotal role played by the U.S. special envoy to the negotiations that resulted in the 2016 peace agreement, the U.S. government should appoint a liaison to the negotiations. Sustained international and national support for these negotiations should be contingent upon the ELN's compliance with ceasefire obligations and an end to kidnapping and other violent acts.
- 4. The U.S. government should monitor negotiations with other illegal armed groups under the "total peace" policy and remain open to supporting other peace talks if they mature sufficiently.
- 5. The U.S. government should encourage all parties in negotiations to make civilian safety and protection of human rights defenders, social leaders, and communities of highest priority.
- 6. The State Department and the U.S. Congress should urge the Colombian government to fulfill its commitments to protect human rights defenders, social leaders, and Afro-Colombian and Indigenous communities, and provide support for these efforts. This must include regularly convening, consulting with, and abiding by recommendations made by the national and local Roundtables of Guarantees that include human rights defenders and representatives of national and local government. Special attention must be paid to protection of ethnic leaders and local community leaders. The National Protection Unit must be thoroughly revamped to focus on preventive measures, prioritize collective protection, end corruption, and fully incorporate the concerns of human rights defenders and social leaders.
- 7. The U.S. government should back the Colombian government's public policy to dismantle illegal armed groups and criminal organizations, including paramilitary successor groups, which emphasizes breaking links between such groups and security forces, regional political leaders, and other state agents and actions targeting money laundering and financing of drug trafficking and organized crime. U.S. support should include diplomacy, targeted financial or visa sanctions on individuals, and specific funding.

Implementing the 2016 accords

The 2016 peace accords have reached the halfway mark of the 15-year timetable for their implementation. The head of the UN Verification Mission in Colombia, Carlos Ruiz Massieu, noting that most peace agreements fall apart within five years, labels Colombia "a global success story" showing the possibility of resolving conflict through dialogue, despite ongoing problems.³ The vast majority of the over 13,000 FARC members who turned in their arms remain committed to civilian life and Colombia's groundbreaking transitional justice system has advanced significantly.



Colombian President Juan Manuel Santos signing the peace treaty with FARC leader Rodrigo Londoño Echeverri while UN secretary-general Ban Ki-moon and various Latin American heads of state applaud. Credit: Government of Chile. September 2016.

Yet much remains to be fulfilled. The Peace Accord Matrix produced by the Kroc Institute for International Peace Studies indicates that 32 percent of the peace accords' provisions have been fully carried out, and 19 percent have reached an intermediate level, while 39 percent are still minimally implemented. The Kroc Institute warns that "though the Colombian Final Accord hasn't stagnated, there is a lack of evidence showing feasible completion of the remaining 49 percent of commitments within the 15-year timetable."

Why, seven years after signing, does implementation of the accords matter so much? It matters because the 2016 accords are not just an agreement resolving a conflict with one armed group but a roadmap for Colombia to build a more sustainable, less deeply unequal society, based on the rule of law. The accord is aimed at addressing the roots of more than a half-century of conflict that left over 260,000 people dead and 9.6 million victims of internal

displacement, forced recruitment, kidnapping, extrajudicial executions, sexual violence, and other gross violations of human rights. The accord's provisions are intended to reduce extreme inequalities, corruption, and human rights violations that could drive future conflict. In addition, progress in implementing the 2016 accord encourages other armed groups, such as the ELN, to pursue peace.

President Juan Manuel Santos successfully shepherded negotiations for the 2016 accords yet lacked a vigorous plan for their implementation. Under President Ivan Duque's lack of support for the peace plan, implementation faltered. President Gustavo Petro pledged to forge ahead with implementation. How has implementation fared under his administration?

Rural reforms

The peace accords promised to return land to farmers displaced by the conflict and to address the precarious situation of Colombia's rural poor, including the lack of clear title to land which made peasant farmers and Indigenous and Afro-Colombian communities vulnerable to displacement and more susceptible to growing coca. After a slow start, the Petro administration doubled the budget of the National Land Agency and quadrupled the budget for the Agency for Rural Development for 2024, showing its intention to scale up rural reforms, though implementation challenges abound.⁵ It aims to step up implementation of PDETs (Programas de Desarrollo con Enfoque Territorial), the local development programs developed with community participation following the accords' signing. The land agency during Petro's term has formalized (i.e., provided clear titles to land already held) 807.815 hectares of land for farmers and Afro-Colombian and Indigenous communities.⁶ In addition, the agency purchased 401,157 hectares for landless farmers, of which 75,452 have been provided to beneficiaries. In December 2023, a new agrarian court system was launched to resolve land conflicts, based on the assumption specialized judges trained in agrarian issues will provide more just outcomes.8 In a symbolically important move, the Colombian Congress passed a constitutional reform to recognize the "campesinado." Colombia's small farmers. as having rights to special protections. These efforts, which have benefited women, peasant farmers, and Indigenous and Afro-Colombian communities, show political will to implement a core element of the accord. Nonetheless, Colombian civil society groups and observers such as the Kroc Institute maintain that the rate of implementation of the key rural reform chapter of the accords remains too slow.9

Victims' rights

Colombia's tripartite transitional justice system, consisting of a Truth Commission, a transitional court—the Special Jurisdiction for Peace (JEP)—and a commission to search for the disappeared, has made advances. On June 28, 2022, the truth commission released its groundbreaking report; now, a follow-up committee charged with monitoring compliance with the report's recommendations has begun its work. The Unit for the Search of Persons Deemed as Missing has progressed slowly, recovering over 1,000 dead bodies, returning remains to families, consolidating a list of missing persons, and finding some missing people alive.

The Special Jurisdiction for Peace advanced significantly, opening 11 "macro cases" of types of human rights violations committed by armed actors, focused particularly on those members of the FARC guerrillas and the Colombian armed forces with "maximum responsibility" for the most serious human rights violations. After sustained advocacy by women's and LGBTQ+ organizations, the final, eleventh macro case was opened on gender-based, reproductive, and sexual violence during the conflict. If perpetrators reveal truths and accept responsibility, they can receive benefits of 5 to 7 years of restorative justice measures rather than jail time. Most foot soldiers receive amnesty. The hearings, much of which were public, gave space for victims to participate and provide testimony. As of March 2024, the JEP has indicted 151 individuals—47 members of the former FARC-EP, including its top leadership; 100 security force members; 3 civilian third parties, and one non-combatant state agent. While other paramilitary leaders were not included under JEP jurisdiction as they were covered by another transitional justice law governing their 2005 demobilization, one top leader, Salvatore Mancuso, is included because of his knowledge of the ties between the

paramilitaries and top military and political leaders (see LAWGEF's <u>Listen to the Human Rights</u> <u>Defenders: Lessons from Colombian Paramilitary Warlord Salvatore Mancuso's Testimony</u>).

Now, the difficult phase of providing sentences and restorative justice projects begins. Victims' and human rights organizations have called for greater victims' input into restorative justice sentences and more community consultation regarding the community projects selected.

Victims' reparations pre-date the peace accords, being established by the 2011 Victims' and Land Restitution Law. Over <u>1.46 million victims</u> have received monetary compensation, according to the government's Victims' Unit. In 2023, more victims were compensated than in any year since 2012.¹¹ The land restitution part of the law has been much more difficult to implement, by any administration. According to the United Nations, "Of the 10 million hectares being processed since 2011, only about 3 per cent (326,637 hectares) have been restituted or financially compensated for, owing to poor security conditions in the field and judicial overload." Victims organizations and human rights groups call for accelerating progress on providing land restitution and collective reparations.

In April 2024 discussion began in the Colombian Congress on an updated, revised version of the 2011 Victims' and Land Restitution Law advanced by the Petro administration.¹³

Reintegration of former combatants

Of the 13,705 former FARC members registered with the government, 79 percent currently participate in 5,691 productive projects. In what the UN mission calls a "significant step to give a long-term, structured approach to integration," the former combatants and the Colombian government approved a Comprehensive Reintegration Program after a year-long joint design process in which nearly 500 former combatants participated. Former combatants voted largely without obstacles in the 2023 elections and slightly increased their success as candidates.

Security remains the number one challenge for ex-combatants. The UN mission has verified the killing of 416 ex-combatants, 137 attempted homicides and 37 disappearances since the signing of the peace accord through March 2024. Eighty-seven of those ex-combatants killed were under or awaiting protection measures. As of March 2024, Colombia's courts produced 75 sentences of perpetrators of attacks against these ex-combatants. The government has finally approved several long-anticipated mechanisms to provide security to ex-combatants, including a comprehensive protection program and a protocol for emergency evacuation of former combatants at risk. It remains to be seen if these new policies and programs will result in sustained reduced violence against them. The Kroc Institute observed that killings of ex-FARC combatants dropped 32 percent during the first year of the Petro administration compared to the previous year. In the combatants are combatants dropped 32 percent during the first year of the Petro administration compared to the previous year.

Violence against human rights defenders and social leaders

Although the United Nations documented a 9.5 percent decrease in attacks against human rights defenders in 2023 compared to 2022,¹⁹ "the violence against them remains intolerable."²⁰ Colombia remains one of the most dangerous places in the world to be a human rights defender. Ethnic leaders and local community leaders, including members of local *Juntas de Acción Comunal*, are at particular risk. The United Nations verified 105 cases of murders of

human rights defenders in 2023 due to their work.²¹ Colombia's Constitutional Court declared "an unconstitutional state of affairs" regarding the situation of violence affecting human rights defenders.

The Petro administration implemented an emergency plan proposed by human rights defenders to increase their protection and adopted presidential directive 07 instructing senior government officials and security force officers to support and guarantee the work and legitimacy of human rights defenders, as well as launching an action plan for guarantees for women human rights defenders. In September 2023, a key commitment of the peace accords advanced with the publication of a plan to dismantle illegal armed groups, including paramilitary successor groups and their financial backers.²² These paramilitary successor groups have been behind many attacks against human rights defenders.

Nonetheless, the government's actions to protect human rights defenders are not sufficient. The National Protection Unit's efforts remain limited, more reactive than preventive, and collective protection measures are inadequate. Despite repeated requests from human rights networks, the Petro administration has not effectively convened the National Round Table on Guarantees for human rights defenders, although some local level roundtables were reactivated. The Attorney General's office made some limited progress on prosecuting material authors of murders of human rights defenders, but few intellectual authors have been convicted.

Failing to address the dangers faced by human rights defenders undermines the whole accord. According to the UN Secretary General, "the active participation and strong ownership by local actors have been a defining feature of the Colombian peace process and a determining factor in the progress made. Committing to the success of the Final Agreement must, under no circumstances, become an existential threat."²³

Ethnic Chapter

The accords' Ethnic Chapter is an unprecedented inclusion of ethnic issues in a peace agreement—yet the chapter has yet to meet its potential. The creation of a new Ministry of Equality and Equity offers hope for institutional advancement on racial and gender equity. The office of Vice President Francia Marquez identified 9 priorities for Ethnic Chapter implementation and signed agreements with various state agencies to accelerate implementation by 2026. The priorities were to accelerate: PDET initiatives for ethnic peoples; access to land; drinking water and sanitation; prevention of gender-based violence; strengthening of self-protection mechanisms; prevention of recruitment by illegal armed groups; humanitarian demining in ethnic territories; crop substitution; and collective reparation and returns for ethnic peoples who are conflict victims. In 2024, the Petro administration issued a decree to spur formalization and acquisition of land for Afro-Colombian community councils.24



International Conference of Afrodescendant Women. Credit: Official Photographer of the Colombian Presidency. July 2023.



Weaving peace. Credit: Official Photographer of the Colombian Presidency. July 2023.

Despite these steps, implementation of the Ethnic Chapter continues to lag. According to the United Nations High Commissioner for Human Rights, collective titling has advanced but there has been no progress in fulfilling "Immediate Action Plans" for communities at risk. The Kroc Institute notes that both cross-cutting peace accord issues, ethnic rights and gender, lag in implementation, with only 13 percent of ethnic stipulations and 12 percent of gender stipulations completed. Indigenous persons and communities remain highly vulnerable, lack protection, lack adequate access to health and education, suffer from insecure land titles, and face violence and discrimination. The new Ministry of Equality and Equity must overcome its low level of budget execution. Afro-Colombian organizations critique the Petro administration for inadequate consultation

with the Special High-level Body on Ethnic Peoples (IANPE), set up as part of the peace accords to monitor the chapter's implementation. Most damagingly, ongoing armed conflict further victimizes Afro-Colombian and Indigenous people and is an obstacle to implementation of the 2016 accords.

Drug Policy Chapter

The 2016 peace agreement is the only peace accord in history to include a drug policy chapter. This was necessary as drug trade profits fueled the conflict, inequality and exclusion drove poor farmers to plant coca, and enforcement often came down hardest on the small producers. One of the major accomplishments of the Petro administration in implementing this chapter was the creation of a new National Drug Policy for 2023-2033, developed with broad input from Colombian society, which incorporated the major tenets of the drug policy chapter and represents a real departure. According to Insight Crime, "Instead of cracking down on the lowest levels of the drug trade, such as growers, Petro's initiative seeks to directly confront Colombia's sophisticated drug trafficking networks." It prioritizes working with farmers to help them transition to legal economies, emphasizing voluntary eradication and public investment in rural communities; using a public health approach towards consumption; curbing illicit drug production's deforestation impact; and targeting the finances of criminal groups, by combatting money laundering, corruption, and ties between drug traffickers and security forces and local and national government officials. President Petro is also playing a leading role in international fora in seeking to encourage more humane and effective drug policies at a global level.

Yet as under previous governments, the Petro administration's implementation of this chapter otherwise progressed at a slow pace, particularly in the implementation of development programs for small farmers. Armed conflict and bureaucratic obstacles hampered progress. While the Petro administration claims gains in increased interdiction, with a 13 percent increase in 2023 over the previous year, its policies have yet to rein in increasing coca production.²⁸

Negotiations with the ELN Advance, Despite Roadblocks

For successive Colombian governments, negotiating with the ELN guerrillas has been especially tricky, particularly given their decentralized structure. The Petro administration's peace talks with the ELN, launched in November 2022, overcoming numerous obstacles, have advanced farther than any previous negotiations. Given the ELN's substantial size, base, and ability to wreak damage on infrastructure and communities, reaching a successful accord and demobilization of this largest remaining guerrilla group would be a major milestone in building

a more complete peace.

Six cycles of talks so far have been held in Mexico, Cuba, and Venezuela (see LAWGEF's timeline of negotiations). Broad-ranging civil society participation in the process was agreed to and launched in 2023, and more than 50 meetings involving over 4,000 people and 2,000 civil society organizations have taken place.29 The talks have garnered international support, with Brazil, Cuba, Chile, Mexico, Norway, and Venezuela acting as "guarantors" of the peace process while Germany, Switzerland, Sweden, and Spain are "accompanying" countries. In 2023 the United Nation Security Council expanded the UN Verification Mission's mandate to monitor the ELN-government ceasefire with a potential expansion to monitor a ceasefire with the Estado Mayor Central if such an agreement is reached.30 The government-ELN ceasefires are also monitored by Colombia's Catholic Church, which has provided steady support for these negotiations.



Petro holds up a peace sign at a May Day march. Photo Credit: Official Photographer of the Colombian Presidency. May 2024.

While a detailed picture of a future peace accord has not yet emerged, general themes have been agreed to, including participation of Colombian society in the construction of peace; democracy for peace; transformations for peace; victims; end of the armed conflict, and the accords' implementation plan. Preliminary agreements include commitments to carry out "humanitarian actions" in eight zones affected by the conflict to protect communities, to establish an observatory over paramilitary structures in order to avoid the recycling of violence, and to improve prison conditions.

Yet it has not been easy. Acts of violence by ELN members have at times imperiled the talks, most notably the ELN's kidnapping of the father of Colombian soccer star Luis Diaz in October 2023, which resulted in the Colombian government suspending the talks. In February 2024, the Colombian government and the ELN agreed to extend the ceasefire for 180 days, after the ELN agreed to end kidnapping for ransom during that period. In May 2024, the ELN threatened to resume kidnapping; the government warned that negotiations would be suspended if it did and talks tentatively resumed. While reduced fighting between the Colombian government and ELN have resulted in lower levels of violence, the ELN continued to war with other illegal armed groups and commit violent acts against civilians, including kidnapping, child recruitment, and extortion. President Petro publicly cautions that continuing talks depend on the ELN showing its willingness to "definitively renounce violence."31

Other Negotiations under "Total Peace"

President Petro's "total peace" policy, which includes simultaneous negotiations with multiple armed groups, is intended to address the chronic problem seen throughout Colombia's history – that when one group is removed from the battlefield, others expand to fill the gap. This makes sense in theory but has proven daunting to manage. While the process with the ELN has received considerable political support within Colombia from diverse political sectors and a broad range of civil society actors, negotiations with some other illegal armed groups are more controversial.

A major critique of "total peace" has been objections to government negotiations with groups like the Clan del Golfo (also known as the Gaitanistas) that are seen as largely criminal, tied to organized crime and drug trafficking, and lacking the political will to demobilize. Colombia's divided Congress as well as the Colombian Constitutional Court have set certain limits to negotiating with these "non-political" illegal armed groups. The human rights observatory of Colombia's main human rights network noted that "the Golf Clan ... doesn't seem to have the smallest intention of abandoning its illegal business nor its process of expansion and territorial control." Yet as the International Crisis Group observes, the group's growing control over territory means that "if they remain outside peace talks, they could undermine negotiations with other groups or capitalize on their demobilization." Talks with the Gulf Clan were broken off though the government has left the door open to future negotiations.

A second critique is that the Petro administration agreed rapidly to ceasefires, without securing sufficient concessions, without consultation with the communities affected and without consequences for continued violence and ceasefire violations. The Colombian government ombudsman's office expressed this concern in February 2024, asserting that the ceasefires in 2023 failed to be met with real signs of peace from illegal armed groups. In a visit to five areas affected by conflict in May 2023, meeting with over a hundred representatives of local human rights groups, LAWGEF heard similar concerns, finding that while human rights and community activists supported the goals of the total peace policy, they perceived that the way the policy was carried out was chaotic and placed their communities in danger. These human rights defenders called for greater consultation and input from local communities and groups when the government is negotiating agreements that affect their areas, local involvement in monitoring and verifying ceasefires, and greater protection for communities and social leaders.

Challenges for advancing peace

The ongoing human rights violations by illegal armed actors, including the ELN; the Gulf Clan; the Estado Mayor Central, a faction of the FARC that refused to demobilize in 2016; the Segunda Marquetalia, a faction of the FARC that rearmed after the 2016 accords; and others, make advancing negotiations very challenging. Colombian human rights groups, while strongly supporting the negotiations with the ELN and generally supporting the goals of total peace, emphasize that the government must hold these armed actors to account—they must cease attacks on communities and human rights defenders, end kidnapping and child recruitment, and respect international humanitarian law. Human rights groups stress the importance of including affected communities, human rights defenders, and victims in negotiation processes. They also call for enforcing the "humanitarian accords" such as

"humanitarian zones" which are minimal agreements to protect communities that both illegal and legal armed actors should respect.³⁴

In November 2023, after the ELN's kidnapping of the soccer star's father, the Petro administration replaced the High Commissioner for Peace, appointing Otty Patiño, perhaps reflecting these critiques. While the government remains committed to the "total peace" policy, it may now be more ready to demand accountability from its negotiating partners, suspending ceasefires following violations, as it did temporarily in October 2023 with the ELN and in March 2024 with the Estado Mayor Central.

The signing of the 2016 accords while historic were only one stop along the way towards a more consolidated peace in Colombia. The path ahead is difficult, but it merits and needs the international community's support.

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