

## The Colombian Peace Talks: Lessons from other negotiations\*

ReD Policy Briefing

15 May 2013

### Executive Summary

On 13 March 2013 the group Rodeemos el Diálogo (ReD), LSE Colombian Society, and Colombian Chevening Scholars, successfully held a conference on the Santos-FARC peace talks at LSE. They conceived the conference as a non-partisan initiative to show support for the negotiations. The twofold aim was to offer a better understanding of the peace talks and to draw lessons from El Salvador, Guatemala, Nepal, and Northern Ireland. The conference not only achieved such aims, but also exemplified how civil society can informally participate in the negotiations. Such participation is important in preparing the ground for civil society's direct participation in the post-agreement phase. Although the road ahead is difficult, there seems to be a general agreement that the opportunity for ending the armed conflict between FARC and the Colombian government is real. Three important elements will ensure reaching a final agreement: President Santos must show leadership, FARC has to review its maximalist negotiation strategy, and Colombian society needs to gain ownership.

### The road to Havana

Today many Colombians remain sceptical and pessimistic towards the Santos-FARC peace talks taking place in Havana, Cuba. Even though around one million people participated in the peace demonstration on 9 April 2013, a large percent of Colombians are not willing to make concessions to FARC. This exemplifies the scepticism and the absolutist positions held by sectors across Colombian society. Yet Colombians' distrust is not directed towards FARC exclusively; the Colombian military's poor human rights record also raises suspicions about the talks. After 30 years of failed peace processes between FARC and the Colombian government, Colombians' disbelief is understandable. However, the road to Havana suggests that the talks are a unique opportunity to end the conflict between the parties.

Paradoxically, the staunch critic of the Havana negotiations, former President Alvaro Uribe (2002-2010), began to pave the road to peace. Following contacts between Uribe and FARC, President Juan Manuel Santos (2010-2014) opted for a political solution to the conflict that

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\* This briefing has been prepared by Andrei Gomez-Suarez, member of Rodeemos el Dialogo (ReD) and Associate Researcher at the Sussex Centre for Conflict and Security Research (SCSR). The briefing is based on the conference: "The Colombian Peace Talks: Lessons from other Negotiation Processes" held at the London School of Economics and Political Science (LSE) on 13 March 2013. This event was the result of a joint 'networking-for-peace' effort between the group *Rodeemos el Diálogo* (ReD), the LSE Colombian Society, and the Colombian Chevening Scholars (2012-2013). The event was sponsored by the London School of Economics Annual Fund, the Chevening Scholarship Program and the global risk consultancy Control Risks (see Annex 1 for the list of participants). A full podcast of the conference is available at <http://echo.lse.ac.uk/ess/echo/presentation/dbc1cea3-3800-42b7-90fb-f38e90090732> and the scripts of the presentations will be soon available at [www.rodeemoseldialogo.blogspot.co.uk](http://www.rodeemoseldialogo.blogspot.co.uk). The analysis contained herein does not reflect the views of the participants in the above-mentioned conference and/or the position of convenors and-or sponsors. The author would like to thank to all the people who contributed and suggested ways of improving this briefing; nevertheless all the mistakes remain his own.

meant a different foreign policy. To begin with Santos sought to break Colombia's diplomatic isolation from its neighbours; after rebuilding relations with Venezuela, he found that there was large international approval for the peace talks, not only from Latin American countries, but also from the US. The support of Chavez and other leftist Latin American leaders reinforced FARC willingness to start preliminary negotiations. Six months of uninterrupted secret talks in the presence of international observers, showed that the time was ripe to begin formal negotiations.

Colombian public opinion should bear in mind the long road to Havana when assessing the outcomes of each round of discussions. Meanwhile the negotiation teams should draw on lessons from other peace processes. Looking into other peace processes would help rectify misunderstandings between the parties and design a final agreement that could be realistically implemented.

### **The Havana negotiations: challenges and contested outlooks**

The Havana negotiations are only the beginning for Colombia to start dealing with serious challenges. Deep structural and institutional reforms are required if Colombia is to build peaceful state-society relations. Therefore, despite analysts' agreement on the importance of keeping the Havana negotiations confidential, there is a general call for the participation of civil society in building peace. The negotiation teams face the challenge of democratising the peace process, without opening up the negotiation table, to get to a final peace agreement. Colombians must support such an agreement but only the negotiating parties can opt for the substitution of violence for politics.

The outlook of different sectors supportive of the talks varies significantly. Sectors of Colombia's human rights community have particularly strong concerns about the 'juridical framework for peace' (*Marco jurídico para la paz*) and issues related to military justice. The 'juridical framework for peace' opens the door for a transitional justice strategy that offers special treatment to both state and non-state actors. It enables the creation of a law to prioritise the investigation of systematic crimes carried out during the conflict and to establish in which cases the prosecution of the perpetrators could be suspended or alternative punishment offered. The human rights community's concern is that senior military officers and FARC commanders involved in gross human rights violations could benefit from a legal amnesty. The military justice system reform that occurred in a parallel track intensified the concern that impunity would be the price of peace. The reform establishes that only military tribunals can investigate state security officers involved in crimes committed during active duty or infractions to International Humanitarian Law. The reform raises the issue that a military justice system – with poor records of independence and impartiality, and serious levels of impunity and leniency – is nowadays exclusively entitled to know about the gross human rights violations and crimes of war committed by its own members. This confirms, according to the human rights community, that the transitional justice strategy aimed at non-state actors was complemented by the expansion of the military justice system.

Some influential political analysts consider the talks problematic because the government's peace strategy is based on the assumption that peace will materialise after signing an agreement. Such an assumption permitted the whitewash of massive human rights abuses and the largest money laundering in Colombian history during the previous negotiation with paramilitary groups. This underpins the concern that the current negotiations cannot address the root-causes of conflict because Santos does not have a comprehensive state-building policy. Therefore an eventual demobilisation of FARC could create an empty space in the

countryside to be filled by other armed actors that would continue using violence as a political and/or economic strategy. These influential pundits are also concerned that FARC's determination to confront the Colombian state through a struggle by all means, including criminal and violent, lacks any kind of legitimacy, does not represent most Colombians, and has undermined the chances for the emergence of a strong democratic 'Left' in Colombia. Despite the talks being an opportunity to move away from the use of political violence, these sectors of public opinion question the extent to which the talks can bring about a truly democratic political system, based on the inclusion of different sectors of Colombian society, rather than to become a quick road to economic and political impunity.

Sectors close to the Santos administration see the peace talks as a real opportunity to disarm and demobilise FARC. They hold that it is likely to end the conflict because progress has been made on the agrarian issue, the communication between the parties has recently improved, and the parties have understood that they depend on each other. However, they consider that important challenges remain. First, the heavy pressure exerted on the negotiations by the Colombian armed forces, as they are not prepared to see their members in jail while the FARC commanders receive beneficial judicial treatment. Second, the forthcoming 2014 elections bring about uncertainty because a new composition of Congress and the race for presidency could de-rail the talks. Third, the confusion generated by carrying out negotiations during the conflict could reinforce not only the distrust between the parties, but also the opposition of powerful sectors of Colombian society, polarising further public opinion.

Some NGOs working with Colombian civil society organisations are optimistic, even though they recognise that the goal of building peace will not be completed in Havana. The peace talks provide an opportunity to open the path for the participation of civil society organisations in the construction of a peaceful Colombia. Such optimism is reinforced because Colombians have started to gain ownership of the talks: individuals have submitted proposals to Havana through the Internet, Congress has organised public hearings, social movements are organising events, and mayors and governors are meeting to participate in consultations.

### **Difficult trade-offs**

These four different outlooks show that there is a number of trade-offs with respect to issues of justice, political participation, timing of the peace talks, and the parties' negotiation strategies.

- Justice *versus* impunity: Previous peace processes in Colombia show that it is necessary to strike a balance between justice and impunity. In this difficult quest, it is paramount to keep the focus on guaranteeing the rights of victims. The 'juridical framework for peace' aims to ensure guarantees of non-repetition and the right of victims to truth, justice, and reparation to the greatest extent possible. However, if there is too much emphasis on justice there is a risk that the negotiations come to an end before reaching an agreement.
- The expectations of the Colombian military *versus* the expectations of FARC: Just as FARC is unwilling to surrender without achieving social and political participation and some level of institutional reform, the Colombian military does not want to see their members in jail and the power they gained in the last fifteen years diminished.
- Rhythm of peace talks *versus* timing of electoral politics: FARC's tradition of operating on a long-term strategy is an issue for the rhythm of the talks, which have their own

pace but are constrained by the timing of the forthcoming 2014 elections. It is important to synchronise developments in Havana with the political process in Colombia to ensure the success of the peace talks.

- FARC's maximalist demands *versus* Santos's minimalist offers: FARC has been asking for more civil society participation, a constituent assembly and a bilateral ceasefire, but the Santos administration has remained hesitant about bringing civil society in and has opposed the constituent assembly and a ceasefire. The parties should take advantage of the recent 'half-time' to gain momentum in the negotiations.

### **Lessons from other negotiations**

Thus far, the Havana negotiations have been mainly managed by Colombians. However, the negotiation teams should pay attention to lessons from other peace processes. Although the talks are different from Central America (late 1980s to mid-1990s), Nepal (2006) and Northern Ireland (1994-1998), important lessons can be drawn from these processes.

- The Central American experience shows that the cost of peace is usually underestimated and the unwillingness of elites to pay for peace usually results in greater socio-economic inequality and the rise of criminal violence. Therefore the negotiation teams should consider asking Congress to pass a bill for the creation of a peace tax. The peace tax could be a first important step on the long road to building lasting peace.
- Contrary to the Salvadorian and Guatemalan experience, the Colombian negotiations are rightly focusing on the agrarian issue. Hence, the negotiation teams could provide a framework to avoid the potential collapse of the peasant economy and the subsequent escalation of violence. This means that issues of inequality and poverty in rural development would be prioritised rather than neoliberal formulas based on mining and agro-industry.
- As the peace process in Nepal shows, agreeing a neutral language between the parties is central for reaching an agreement. Terms commonly used by government officials can be charged with negative connotations for the insurgents. Therefore the Havana negotiation teams should strive to find a language that allows them to de-escalate verbal aggression and understand each other's points.
- The Northern Ireland experience shows that the parties must be persuasive in defending the talks and building international support for peace. Therefore the Colombian negotiation teams need to not only get Colombian public opinion on their side, but also, following the death of Hugo Chavez, to find a key international partner for the future of the peace talks.
- The case of Northern Ireland suggests that Colombian negotiators should keep in mind that disarmament, demobilisation and reintegration (DDR) processes are more than technical exercises; they are deeply political. It is therefore important to start building a political process to support DDR ahead of the signing of the agreement.
- In Nepal the international community undermined the peace process by trying to impose deadlines on the parties, while in Northern Ireland similar deadlines played a

key role in finding an agreement by helping build trust and breaking the deadlock between the parties. In the case of Colombia the international community should continue to play a facilitation role, but be ready to support the post-agreement phase both financially and politically.

### **Nurturing hope and working for peace**

Colombians' pessimism is understandable. However, they should nurture hope. Past failures should not eclipse today's possibility of ending the armed conflict. It would be remiss to infer from previous peace processes that today's negotiations repeat the past. Colombians have the capacity for innovation and change, as the transformation of Santos's and FARC's discourses have demonstrated. Hence, the challenge for Colombians is to be open to the possibility that this peace process is different.

Yet lessons from elsewhere and the difficult trade-offs show that Colombians must strive to work together for peace. It is important that President Santos lead the peace process more assertively. FARC, in turn, should adopt a more pragmatic stance dropping maximalist demands and showing more willingness to compromise. Colombians of all walks of life need to engage much more with the talks and, especially, the huge challenges that the implementation of a peace agreement will bring.

### **About Rodeemos el Diálogo**

ReD is a group of Colombians, and friends of Colombia, resident in the UK and Europe, who wish to express our interest in, and active support for, the peace negotiations between the Colombian Government and FARC. The name of our group - 'Rodeemos el Diálogo', 'Let us surround the dialogue' - draws its inspiration from a popular Colombian saying referring to the need to provide support to an important cause in difficult times. In our case, we wish - in however small a way, from afar - to express our concern for, and commitment to, the dialogue. In particular, we hope that our group's existence and activities can contribute to the fostering of a conducive international environment for the negotiations, providing moral support during the ups and downs, advances and setbacks, and opposition from extremes on all sides of the political divide that they may undergo. We acknowledge the significance of all parties' openness in pursuing this dialogue, but we are not a political group and do not take sides in the dialogue. All we care for, deeply, is the prospect of a lasting and legitimate peace in Colombia.

As a group, we have two core premises. The first is that we are convinced that the path towards the end of the armed conflict in Colombia can only be assured through negotiations between the Colombian Government and the FARC, which should be based on the principles of truth, justice and reparation. The second is that we believe that a lasting peace in Colombia has to be built on the active participation and wishes of the whole of Colombian society. Our aims are to foster a network of people that believe in a negotiated solution to the Colombian armed conflict, and to provide valuable information for a better understanding of what is involved in the peace negotiations.

We have created the blog [www.rodeemoseldialogo.blogspot.co.uk](http://www.rodeemoseldialogo.blogspot.co.uk) where we post occasional updates and discussion pieces, provide links to different sources of reliable information, and share articles and experiences from other peace processes. We have also organised and participated in conferences and civil society initiatives in the UK to discuss key topics arising from the peace talks. As an open group, we invite Colombians at home and abroad, and international friends of Colombia, to share their ideas with us, and to participate in 'surrounding the dialogue' in the road ahead. For more information, and/or to become involved, please contact us at [rodeareldialogo@gmail.com](mailto:rodeareldialogo@gmail.com).

## **ANNEX 1: Event Programme**

13 March 2013

London School of Economics, Old Theatre, Old Building, Houghton Street, London

### **16:00 – 16:10 Welcome and Convenors' Introduction**

**16:10 – 16:30 Key Note:** Professor Hernando Valencia Villa, Human Rights, Syracuse University

### **16:30 – 18:15 Roundtable discussion: The Santos-FARC Peace Negotiations**

- Enrique Santos Calderón, Member of the Colombian Government Exploratory Negotiation Delegation & Colombian journalist
- Claudia López, Political Analyst, Colombia
- Kristian Herbolzheimer, Director of Philippines and Colombia Programmes, Conciliation Resources
- Chair: Dr Markus Schultze-Kraft, Governance Team Leader and Research Fellow, Institute of Development Studies

### **18:15 – 18:35 Coffee**

### **18:35 – 19:55 Roundtable discussion: Lessons from other negotiation processes**

- Professor Paul Jackson, Birmingham University: Nepal
- Geoffrey Corry, Glencree Centre for Peace and Reconciliation, Ireland: Northern Ireland
- Professor Jenny Pearce, Director of the International Centre for Participation Studies, University of Bradford: Guatemala and El Salvador
- Chair: Professor David Keen, Department of International Development, LSE

**19:55 – 20:10 Final Remarks:** Dr Markus Schultze-Kraft, Institute of Development Studies

### **20:10 – 21:10 Drinks reception**