



In the Shadow of “No”: Peace after Colombia’s Plebiscite

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Executive Summary

Defeat by a wafer-thin margin in the October 2016 plebiscite on the peace agreement between the government and the Revolutionary Armed Forces of Colombia (FARC) insurgency shocked Colombia's society and political establishment, as well as the accord's international backers. With the signed document suspended while rebel combatants tentatively gathered in sites across the country, prospects for an end to 52 years of armed conflict initially darkened. A revised accord, with numerous changes demanded by opposition leaders, was unveiled less than two months later, but the illusion of consensus was short-lived. Indignant that it was not able to review the new text and incensed that though many of its proposals were included, a few key ones were not, the opposition decried the agreement and its ratification in Congress. Peace with the guerrillas is again set to polarise parties and candidates in elections in 2018. A swift, effective start to implementation of the accord is needed to reverse public wariness and political resistance.

Victory in those elections for opponents of the peace agreement would be the harbinger of major challenges to the deal's sustainability. Concentration of FARC combatants is underway, albeit problematically and with delays, and the six-month timetable for the handover of weapons has been set in motion. However, funding gaps, administrative delays and the political balance of power ahead of 2018 threaten to curtail transitional arrangements and structural reforms aimed at remedying the root grievances of the conflict. The opposition could financially starve institutions, programs or policies in the peace agreement if it comes to power. The terms of transitional justice, measures on rural reform and land access, and community-based approaches to removing coca crops and establishing alternative income-generating activities could all be in danger.

Defending the agreement will be an intrinsic part of the political battle ahead. Persuading a distrustful, urbanised public to give its backing depends in the immediate term on what happens in and around FARC cantonments. Over the next year, successful implementation will be the best way to bolster popular and political support and make it politically costly for opponents to reverse the peace process. Transparency in handover of weapons, full apologies for past crimes, continued progress on humanitarian actions such as de-mining, increased results in the search for victims of forced disappearance and eventual cooperation with the Special Jurisdiction for Peace would underline the insurgents' commitment to peace and the dangers of reneging on the agreement.

Violence on the ground will also affect support for the agreement in the short term. FARC leaders and troops fear betrayal by the state, and some may seek to hedge their bets in face of the visible opposition from significant political forces. Promised peace talks with the country's second insurgency, the National Liberation Army (ELN), have not begun, and various armed groups appear to be behind dozens of killings of social leaders that constitute a new wave of terror in remote rural communities. Only resolute commitment by the state to prevent battles for control of illicit economies and protect civilians and ex-combatants will give peace real local-level meaning.

The international community should continue its political support, using its delegates and special envoys to maintain dialogue with all sides and exerting discrete pressure when necessary on opposition leaders to preserve crucial parts of the agreement that could be in jeopardy. It should refrain from making calls for renewed aerial fumigation of coca crops and instead give the agreement on illicit drug substitution a real chance to have effect. It must also use its financial assistance to establish mechanisms for moving resources quickly on behalf of effective implementation on the ground, helping resolve and learn from problems as they arise.

Recommendations

*To build political support for sustainable implementation
of the new peace agreement*

To the government of Colombia:

1. Strengthen dissemination of the peace agreement in both rural and urban areas, while increasing protection rapidly for social leaders under threat until the agreement on security guarantees can be implemented.
2. Establish and fund new institutions and commissions tasked with key roles to implement the peace agreement quickly, while strengthening nascent and galvanising existing bodies to generate early peace dividends for victims and conflict-zone communities.

To the government of Colombia and the FARC:

3. Continue with the established weapons handover schedule despite delays in FARC arrival at cantonment sites, while adopting a proactive communication strategy, including documenting evidence of the FARC laying down weapons and engaging in reinsertion and of progress on other aspects of implementation.
4. Keep victims at the centre of the process as implementation begins, increasing cooperation in the search for victims of forced disappearance, releasing all children age fifteen and under in FARC ranks and continuing public apologies for notorious crimes committed in the war.
5. Explore space for dialogue with the opposition on implementation.
6. Prioritise improving security for local leaders in the short term with preventive measures, training and strengthened security schemes, while also setting up institutions for protection of FARC members.
7. Include local and regional authorities more directly during the arms abandonment process and planning of other implementation aspects.

To the opposition:

8. Reinitiate dialogue with the government on implementation and increase the frequency, strength and level of its denunciations of violence against social leaders.

To the international community:

9. Continue peace process support by maintaining delegates and special envoys during implementation, supporting citizen security and sustaining funding for international actors with important post-conflict roles, such as the UN High Commissioners for Human Rights and Refugees among other key players.
10. Press the government and FARC to keep their commitments on time and to involve local actors more extensively.
11. Continue dialogue with the opposition so as to press for support especially of at-risk parts of the peace agreement, such as rural development, political participation, transitional justice and humanitarian measures.

12. Make more frequent public statements showing concern for the killing of social leaders and demanding progress in protection and justice.
13. Support new agreements for major alternative development investments to tackle illicit drug production before pressing for more direct eradication.

To the UN mission:

14. Finish deployment as quickly as possible, including of the civilian component, to prepare for and receive FARC fighters as they gather in cantonments for weapons handover.
15. Adopt a proactive communications strategy, publishing frequent updates on FARC concentration and weapons handover, using media beyond regular official reports.
16. Press the government and FARC to follow the schedule for weapons handover in the peace agreement, despite early and likely future delays.

Bogotá/Brussels, 31 January 2017

In the Shadow of “No”: Peace after Colombia’s Plebiscite

I. Introduction

When Colombians voted in October 2016 on the peace agreement between the government and the Revolutionary Armed Forces of Colombia (FARC), the “no” vote edged the “yes” by less than half of one per cent, with a 37 per cent turnout.¹ An intense process of high-level political dialogue ensued, leading to a new agreement that the government, FARC and many in civil society defend. Voicing dismay at the government, which it accuses of undermining democracy, the opposition has also united, but with the aim of rejecting the new agreement.

Congress has ratified the accord, and the start of the calendar for the insurgency’s weapons handover was set for 1 December, initiating the countdown for the 15,000 FARC combatants and militia members to gather in 26 cantonments across the country. The opposition, despite the Constitutional Court having allowed the congressional ratification procedure, has argued that by relying on the previously established pro-government majorities in both houses of the legislature, President Juan Manuel Santos cheated the people. Attempts to persuade it to support the new agreement have failed.

The context in which peace is to be implemented is far from hospitable. The government will struggle, even with international aid, to fund all the activities envisaged. New institutions the accord requires – some already created – are skeletal, sorely understaffed and unable to undertake the programs they are designed for, such as the Agency for Territorial Renovation; other official bodies, including the attorney general’s office, have proposed policies contrary to those in the agreement.² Violence against local social leaders has increased, raising doubts about peace benefits and leading to further polarisation between supporters and opponents. The peace process with the National Liberation Army (ELN), Colombia’s second largest insurgency, is yet to begin.

Political support for the peace agreement is weak and will most likely flag as the presidential election campaign begins later this year that will bring a new leader to office in 2018. Full implementation is thus far from guaranteed. Even so, the government and FARC have a window of opportunity to build support via implementation over the next eighteen months that would raise the political cost of not continuing the process from mid-2018 onwards.

¹ For previous Crisis Group work on the peace process, see Latin America Reports N°s 58, *Colombia’s Final Steps to the End of War*, 7 September 2016; 53, *The Day after Tomorrow: Colombia’s FARC and the End of the Conflict*, 11 December 2014; 51, *Left in the Cold? The ELN and Colombia’s Peace Talks*, 26 February 2014; 49, *Transitional Justice and Colombia’s Peace Talks*, 29 August 2013; 45, *Colombia: Peace at Last?*, 25 September 2012; and Briefing N°32, *On Thinner Ice: The Final Phase of Colombia’s Peace Talks*, 3 July 2015.

² Crisis Group telephone interview, high-level diplomat, Bogotá, 28 November 2016; interview, government official, 9 December 2016.

The research for this approach included extensive interviews with members of the opposition, FARC and government negotiating teams, members of the Tripartite Mechanism to monitor and verify the ceasefire, pro-peace agreement leaders and politicians, political and legal experts and members of the international community close to the peace talks.

II. Getting to a New Agreement

The journey from plebiscite to new peace agreement hinged on various decisive moments. The starting point was the document’s narrow defeat on 2 October, leading to a complex shift in the balance of political power. Neither government nor opposition could claim a clear mandate. Tensions worsened as renegotiation began on a new text, ending with the crafting of an accord that lacked the stable, sustainable political base that opposition support would have added to that of pro-peace political parties, many victims’ organisations and civil society.

A. What Explains the Plebiscite Result?

The surprise result stemmed from the diversity and levels of commitment of voter bases in the opposition and pro-accord movements. A combination of ex-President Álvaro Uribe’s devoted support, anti-“gender ideology” churchgoers and the most right-wing elements of the divided Conservative party made up the majority of those who rejected the agreement.³ Though he remains extremely divisive, Uribe’s support is stable and high. His followers tend to be more active in promoting their views and encouraging others to vote than those who favour the accords. Uribe backers are in general also more inclined to vote than other groups. The plebiscite was ideal for mobilising his committed base, as it loathes the FARC, rejects its participation in politics and fears Colombia turning into *chavista* Venezuela. The “religious vote”, primarily concerned about an alleged “gender ideology” smuggled into the agreement, is assumed to have been higher than in previous elections and fundamental to the result. Finally, an unknown part of the “no” vote derived from disinformation targeted at voters according to their region and income level.⁴

The high-level battle also favoured the opposition. Ex-President César Gaviria, leading the “yes” campaign, was unable to counter opposition arguments effectively, and no strong, unifying figure similar to Uribe emerged. Vice President Germán Vargas Lleras, a candidate for the role given his power and direct experience of guerrilla violence, was almost completely silent and, if anything, gave indirect support to the opposition.⁵ “Yes” campaign strategies were also questionable. President

³ “Gender ideology” is the phrase used by groups who claim the accord looks to convert children into homosexuals, attacks the traditional family and seeks to take away parents’ right to educate their children in traditional ways. They say the ideology is in those parts of the agreement that promote special treatment for lesbian, gay, bisexual, transgender and intersex (LGBTI) victims of the conflict. Crisis Group interview, pastor opposed to peace accord, Bogotá, 3 November 2016.

⁴ “La estrategia del Sí tuvo muchos desaciertos”: Francisco Gutiérrez”, *Semana*, 8 October 2016. Jennifer Cyr and Carlos Meléndez, “Colombia’s right-wing populist movement defeated the peace deal. Here’s how we know”, *The Washington Post*, 4 October 2016. The director of the “no” campaign said different messages were used for distinct population sectors to encourage anger-based voting. These included claims the FARC would receive impunity; images of Santos and FARC leader Timochenko together; that subsidies and pensions for the poor and elderly would be cut; and Colombia would turn into Venezuela. Juliana Ramírez, “El No ha sido la campaña más barata y más efectiva de la historia”, *La República*, 5 October 2016.

⁵ Vargas Lleras said he supported the agreement, with misgivings on certain issues. The Uribe argument of supporting peace but with changes was conceptually similar, and Vargas Lleras’s lack

Santos's and other establishment-based parties focused on regional and local politicians, depending mainly on political machines, powerful families and coalition-building, which proved less effective in a single-issue plebiscite than in regular elections and were not even fully activated. Civil society, while vocal, again showed its historical weakness at mobilising votes. Finally, some pro-accord voters may have been complacent due to polls pointing to a big victory.

Areas of higher poverty tended to vote for the accord, except in Bogotá where lower-income groups were strongly “no”. The periphery – defined by measures of typical rural attributes or state capacity – also tended to back the agreement. It has been argued that areas with higher victimisation levels in the armed conflict tended to vote “yes”, but that argument hinges on how victimisation is measured.⁶

The opposition's victory meant its proposals for a new agreement had to be taken into account if the process was to be saved. Early on, some opposition leaders argued that any new accord required their approval. But the close result also allowed the politically-weakened government to divide the opposition (or isolate Uribe) by absorbing some concerns, while maintaining the risky option of a new plebiscite, a tactic that deprived foes of an absolute veto. Moreover, at various stages, the opposition showed itself to be divided. It was not until a new agreement was reached and ratified in Congress, despite the omission of certain of its key concerns, that the opposition could unite in indignation.

B. *Positions for a New Agreement*

Shortly after the plebiscite, the political and social actors who actively opposed the original agreement handed in their proposed changes. The first document with the entirety of their proposals presented in Havana to the FARC contained more than 260 items from at least ten sources.⁷ Part, especially those touching on rural reform, reflected political interests rather than the concerns of many “no” voters. Despite the diverse, in some cases contradictory universe of proposals, there was a handful the opposition considered indispensable.

The most politically important were unmistakeable. There was a consensus that punishments in the Special Jurisdiction for Peace (SPJ) – the system devised to mete out transitional justice for serious crimes committed during the conflict – must be harsher, especially (in some cases exclusively) for the FARC. The SPJ, the opposition argued, should become part of the normal judicial system. There was near agreement that the Armed Forces must receive preferential treatment, though what that entailed differed between factions. The opposition shifted from demanding permanent prohibition from political office for those convicted of crimes against humanity and war crimes to a ban until sentences were completed.

of campaigning, plus some ideological similarities with Uribe, may have led part of his base to vote “no”. He is due to step down in March 2017 to begin campaigning for the presidency.

⁶ Leopoldo Fergusson and Carlos Molina, “Un vistazo a los resultados del plebiscito”, *La Silla Vacía*, 4 October 2016. If victimisation is measured solely by displacement, there is a clear correlation with “yes” votes, but not when it is measured more generally.

⁷ “Santos no recibe más propuestas sobre el acuerdo de paz”, *El Espectador*, 20 October 2016. “Propuestas de Gobierno”, Government of Colombia (GOC), 23 October 2016.

All opposition groups agreed that there should be no amnesty for drug trafficking, the FARC should hand over its assets to be used as reparations to victims, and FARC use of such resources for political activity should be explicitly prohibited. The opposition was also united in demanding the agreement not have constitutional rank.⁸ Private property, it insisted, must be explicitly respected. Finally, concerns were expressed over “gender ideology” and its alleged effects on what was argued to be traditionally defined family and society.⁹

The government responded by identifying those it considered easy to resolve, those that were difficult but not impossible and those that were held to be completely unviable. The opposition then argued that ruling out anything meant Santos was opening the door to “cheating” “no” voters by discarding key proposals that were inconvenient. Nonetheless, Santos sent his negotiators to Cuba with orders to take tougher stances on certain points, leading to friction with the FARC on the political participation issue, for example.¹⁰

Once renegotiations began in Cuba, attention turned to the FARC’s reaction. Soon after the plebiscite, the group announced it was committed to peace and, in a 7 October communiqué, to adjusting the agreement so that it could earn broad-based political backing.¹¹ But it also said it could not yield on eligibility for office, which it considered the essence of the negotiations: converting an armed insurgency into a peaceful political force. It also continued to reject prison sentences, insisting that any harsher punishment must be applied to all actors in the conflict, and opposed including the SPJ within the ordinary justice system. The FARC (and government) disagreed with the proposal to give landowners a permanent assumption of good faith in all land purchases, thus allowing them to avoid prosecution if the land had been stolen without their direct participation. Lastly, it pushed hard for the accord to have constitutional force, but eventually gave way.¹²

C. *Three Renegotiations*

A new agreement depended on three negotiation processes. The first was between the opposition and government. In public, both spoke of productive talks; in reality, there was a mutual lack of confidence. The government believed the opposition wanted to drag talks on into the 2018 presidential election, while the opposition was unsure the government would genuinely represent its positions in Havana. After an

⁸ The constitutional rank, or bloc, is the series of norms not in the constitution but used as parameters for constitutional control of law, such as treaties. “Sentencia C-067/03”, Constitutional Court, 2003.

⁹ Crisis Group interviews, opposition representative and negotiators, Bogotá, 19, 20 October, 8, 11 November; Christian pastor, Bogotá, 3 November; senior diplomat, 11 November, all 2016. “Propuestas de Gobierno”, op. cit.

¹⁰ “Santos dice que algunas propuestas para acuerdo de paz son inviables”, *El Tiempo*, 20 October 2016. “Santos quiere hacer conejo con el acuerdo: Alejandro Ordóñez”, *El Espectador*, 3 November 2016. Crisis Group interview, senior diplomat, Bogotá, 4 November 2016; opposition negotiator, Bogotá, 8 November 2016; FARC negotiator, Havana, 28 October 2016.

¹¹ “Comunicado conjunto: Acuerdo Final, plebiscito y cese al fuego”, GOC and FARC-EP, 7 October 2016.

¹² Crisis Group interview, FARC negotiator, Havana, 28 October 2016.

early back-and-forth, the opposition handed in a document with all its original proposals, some of which were watered down to show flexibility.¹³

The second track involved civil society supporters of the peace agreement and the government, as well as on occasion the FARC. Not so much a negotiation as a defensive move by the pro-agreement camp, organisations, movements and leaders met with Santos to urge him to find a new accord quickly and to retain the original principles. A series of marches across the country and creation of a Peace Camp in Bogotá’s central Bolívar Plaza kept pressure on all sides.¹⁴ Some movements travelled to Havana to urge the FARC to persevere in its search for peace.

The third and final negotiation was between the government and the FARC. The government negotiators returned to Havana on 21 October and began a first round of talks, each one lasting roughly twelve hours. After these, the team returned to Bogotá to update the opposition. On 29 October, a new round began with the FARC, eventually leading to the announcement of a revised accord on 12 November. The latter talks had their difficult moments, particularly over FARC’s future political participation.¹⁵

During the negotiations with the FARC, a stable line of communication was established to keep opposition leaders up to date. However, concern that the government was not properly representing opposition positions was never fully dissipated. The “no” leaders expected further discussion on the new agreement before it was signed, but this never happened. With a few key concerns not addressed and amid politically motivated allegations that the revisions were little more than cosmetic, the opposition finally united against the document.¹⁶

Throughout the renegotiation, the government and FARC felt under great time pressure due to concern the bilateral ceasefire could fall apart, despite an early consensus between them and the opposition that it was necessary. A new, detailed protocol included the pre-grouping of FARC fighters. With the government paying for FARC sustenance after 30 days, maintenance of the cessation of hostilities was possible, but the ceasefire was designed to last only three months.¹⁷ On 13 November, the army killed two FARC fighters carrying out extortion activities on pretext of being ELN in Santa Rosa del Sur, a southern Bolívar province municipality.¹⁸ While this event highlighted the ceasefire’s fragility, it also showed the robustness of the Tripartite Mechanism.¹⁹ Both parties immediately turned to it to investigate, and it

¹³ Crisis Group interview, opposition negotiator, Bogotá, 8 November 2016.

¹⁴ Crisis Group interview, organiser of the Peace Camp in Bolívar Plaza, Bogotá, 12 October 2016.

¹⁵ Crisis Group interviews, high-level diplomat, Bogotá, 4 November 2016; FARC negotiator, Havana, 28 October 2016.

¹⁶ Crisis Group interviews, opposition negotiators, Bogotá, 8, 11 and 30 November 2016.

¹⁷ Crisis Group interview, member, UN mission, Bogotá, 9 November 2016. “protocolo para el cese al fuego y de hostilidades bilateral y definitivo (CFHBD) entre el gobierno nacional y las FARC-EP”, GOC, FARC-EP and UN mission, 13 October 2016.

¹⁸ “GOC and FARC-EP violated ceasefire in south Bolívar incident”, Tripartite Mechanism communiqué, 30 November 2016.

¹⁹ The Tripartite Mechanism, which includes the government, FARC and UN mission, is to monitor and verify the ceasefire and weapons handover process. The UN mission is charged with investigating possible violations, helping agree protocols when necessary, assuring the parties fulfil their roles and providing recommendations after violations, among other tasks.

found violations by both sides. Government and FARC language then softened, and no further violent actions took place between them.

D. *The New Agreement*

The new agreement announced on 12 November included numerous changes based on opposition proposals. Some 58 per cent of the opposition’s original public proposals were included completely or partially. Some 58 proposals posited complete changes in form and underlying justification, of which 21 were included completely and six partially.²⁰ Contrary to opposition charges, the revisions were beyond cosmetic.

Most of the opposition’s proposals and wording on Comprehensive Rural Reform were included and/or addressed, such as the rural tax system and legal protection for those who bought land in good faith. The same can be said for proposals and wording on political participation, for example on the role of political parties in designing a new statute for the political opposition.²¹ Some proposals on procedures for ending the conflict and on guarantees for ex-combatants’ security were accepted, though the conditions under which ex-combatants could hold office, including automatic allocation of congressional seats, were not altered. Several proposals on illegal drug cultivation were also incorporated, including a FARC legal commitment to hand over all relevant information about the drug trade, and the state’s right to aerially fumigate coca crops, despite suspension of this method in 2015.

Regarding victims and justice, the FARC is to hand over its whole war economy to provide victims reparations. The SPJ system is to be connected to the penal code and judicial system and not have foreign judges nor give NGO reports the same weight in evidence as information from the state authorities. SPJ courts may rule that FARC drug-trafficking can be interpreted as having been for personal gain, not merely to fund armed political activity. Perhaps most importantly in light of “no” campaign rhetoric, the new accord defines the restriction of liberty of convicted guerrilla combatants as obliging them to reside throughout their sentences within a village, under UN surveillance, while doing reparations-oriented work.²²

Numerous implementation proposals were added, including clauses on the accord’s financial stability; definition of “gender focus” as the “recognition of the equal rights between men and women, the special circumstances of each ...”; and explicit respect for religious liberty.²³ Nor will the agreement have constitutional rank.²⁴ The

²⁰ See “Radiografía del plebiscito y el posplebiscito”, and “Radiografía del nuevo acuerdo: ¿Qué tanto se renegoció?”, both Fundación Ideas para la Paz, n.d.

²¹ Many of victims’ leader Herbin Hoyos’s original proposals on victims’ participation in politics did not make it into the agreement, as they were either already implicitly there or proposed automatic seats in Congress for victims and a party with the same rights as the FARC, among others. The statute for political opposition is a legal measure to outline the special “guarantees for political parties and movements that declare themselves to be in opposition”. “Acuerdo final para la terminación del conflicto y la construcción de una paz estable y duradera”, GOC and FARC-EP, 24 November 2016, p. 37.

²² Ibid.

²³ Ibid., p. 193.

²⁴ Sources for this information include a comparison of the new accord, GOC and FARC-EP, op. cit., and the first document used in Havana to discuss opposition proposals, “Propuestas de Gobierno”,

government and FARC argued they made changes to 56 of 57 topics discussed with the opposition; FARC political participation was the exception.²⁵

op. cit.; and “Sistematización opciones y propuestas voceros del no y lo acordado en el nuevo acuerdo”, Oficina del Alto Comisionado para la Paz, 22 November 2016. For just changes, see “Documento de trabajo: cambios, precisiones y ajustes”, Office of the High Commissioner for Peace, 12 November 2016. Pablo Abitbol, “Comparación anterior y nuevo Acuerdo Final Gobierno de Colombia – FARC-EP”, n.d.

²⁵ “Logramos precisiones y cambios en 56 de los 57 temas abordados en nuevo acuerdo’: Santos”, *El Espectador*, 12 November 2016.

III. Peace Toward 2018

All opposition leaders and the government negotiating team met the evening of 21 November in Bogotá.²⁶ It started poorly, and ended worse. Perceptions differed on whether changes had been made to key parts of the accord; whether the new agreement was to be discussed with “no” leaders before signing; and over the way forward. They settled for complete disagreement: the opposition publicly rejected the accord, backtracking on some of its offers of greater flexibility. The polarisation created by the plebiscite, after being briefly camouflaged during the renegotiation process, resurfaced intact during the new ratification process.²⁷

A. The Politics of Congressional Ratification

On 29 November, the Senate approved the peace agreement, 75-0; 25 from the opposition took part in debate but abstained, arguing Congress had no legal mandate to approve the accord. The same occurred in the House of Representatives the next day, where the vote was 130-0 (out of 166 taking part). The votes were controversial for reasons that will continue to impair support for the agreement.

Using Congress gave the government and FARC a clear route to ratification, while putting the opposition at a patent disadvantage. The pro-government coalition has a clear majority in both houses, especially on issues relating to the peace process. With Congressional elections not due until 2018, there is no immediate way for the “no” movement to translate its support base into legislative power.

This has led the opposition to argue that the government is undemocratically “imposing” the same peace deal, but the assertion that the congressional ratification is “undemocratic” depends on two claims. The first is that the new accord has only cosmetic changes, which fails to recognise the opposition’s success in getting key proposals into the text. The second contests the government view as to what can be defined legally as a “popular referendum”. The opposition argues that a special congressional vote is not a valid “popular referendum”; the pro-agreement side, including Santos, insists it is. Forced to adjudicate, the Constitutional Court ruled in December that Congress could itself decide on the ratification process.²⁸ The result of these differences is that the opposition has begun to use more extreme language,

²⁶ On the morning of 21 November, the presidential candidates of the Democratic Centre Party met with government negotiators to cordially discuss agreement on implementation. But poor communication from the opposition and differences of opinion on the government side, as well as procedural disagreements, set the tone for the evening meeting. Crisis Group interviews, opposition negotiator, Bogotá, 29 November 2016; political expert, Bogotá, 2 December 2016.

²⁷ “No es No”, *La Silla Vacía*, 22 November 2016; “Comunicado de representantes del No y de las víctimas”, 21 November 2016; Crisis Group interview, opposition negotiator, Bogotá, 30 November 2016.

²⁸ The Legislative Act for Peace’s fifth article required any peace agreement to go through a “popular referendum”, which at the time included the options of local committees, Congress or a new plebiscite. When the act was passed, the “popular referendum” language referred to the plebiscite. The Constitutional Court’s ruling on the Legislative Act avoided answering if Congress was a valid option, letting that body decide. The response in effect was “yes” as Congress activated the fast-track in December. “Comunicado No. 52”, Constitutional Court, 13 December 2016, p. 2.

ratcheting up political polarisation by questioning not just the terms of peace but also the government’s respect for basic democratic tenets.²⁹

The Constitutional Court also allowed Congress to activate the fast-track system laid out in the Legislative Act for Peace for approving the more than 50 laws needed to implement the peace agreement while avoiding the standard four or eight congressional readings of each bill. Considered essential – the FARC even said it would otherwise return to war – fast-track enabled Congress to approve key legislation, including the amnesty law passed at the end of December.³⁰

Avoiding a second plebiscite and securing fast-track procedures for peace agreement legislation have been essential to rapid recovery of the peace process. However, the way in which the government has acted makes rejection of the peace accord and its implementation – partially or wholly – a profitable political platform for 2018, as the opposition will continue to argue there has been no new peace agreement, and that the 2 October plebiscite was thwarted. Implementation in the medium- and long-term thus is at serious risk.

B. To 2018 and Beyond

As in the 2014 elections, peace will be at the heart of the national vote in 2018. The peace agreement will be central in the opposition’s congressional and presidential platforms.³¹ With Uribe and other leading opposition figures set against the peace agreement and portraying themselves as the saviours of democracy, and with Vice President Vargas Lleras another contender, the likelihood of an anti-agreement candidate winning the presidency is high.³² Full implementation of the accord would then be in jeopardy.

Coalition-building will be crucial for the next president and Congress.³³ The numerous possible presidential candidates within the “no” movement, including Marta Lucía Ramírez, Óscar Iván Zuluaga, Iván Duque, Carlos Holmes Trujillo, and

²⁹ See the speeches made by the Democratic Centre Party (DCP) Senators Iván Duque, Carlos Holmes Trujillo and Óscar Iván Zuluaga during the referendum debate in the Senate on 29 November 2016.

³⁰ “Sin ‘fast track’ volveríamos al monte”, *Semanas Video*, n.d.

³¹ Crisis Group interviews, opposition negotiators, Bogotá, 11 and 30 November 2016.

³² Colombian presidential politics is a mix of traditional patronage networks and political identities, powerful families and opinion-based voting. Uribe will be able to mobilise perhaps around four million supporters for his preferred candidate. Vargas Lleras has the highest favourability of any politician (61 per cent), followed by Uribe (57 per cent), though recent scandals in his Radical Change party, may weaken him. Nonetheless, his patronage networks are unmatched. Marta Lucía Ramírez, Conservative party, had a good first round in 2014, and has a favourable rating of 41 per cent, but her party is regionally weak. On the pro-agreement side, the likely Liberal party candidate, Humberto de la Calle, has a 54 per cent rating. His party, though, can no longer count on votes from its 2014 alliance with Cambio Radical and is still weakened by old divisions. The Greens and Democratic Pole are relatively weak. “Gallup Colombia Poll #116”, December 2016. “Elecciones Presidenciales: Resultados”, Registraduría Nacional del Estado Civil, s.f.

³³ Alliances are a constant in presidential elections, as parties make agreements after the first round to support one of two remaining candidates. In 2018, many coalitions will likely already exist due to shared positions on the peace agreement. After the plebiscite, the power of various actors within those coalitions is hard to judge and not static.

Alejandro Ordóñez, as well as Vargas Lleras, will make competition within and between parties fiercer than normal. In general, the Democratic Centre Party (DCP) starts with an edge, as its vote threshold is high, and Uribe, though barred from a new term, enjoys a certain cult of personality.³⁴ It is difficult to imagine a realistic scenario in which the DCP candidate does not make it to the second round of voting. As other opposition contenders look to increase their vote share, they have tended to portray themselves more radically as saviours of democracy and security.³⁵

Vargas Lleras will be something of a wildcard. Though he keeps a low profile on the peace issue, the influence of his Radical Change party and the extent of his political patronage networks mean he commands many votes. He regards as his main opponent Humberto de la Calle, the most likely Liberal Party candidate, who, as the government’s chief negotiator with the FARC, is a staunch defender of the peace agreement. However, Vargas Lleras and Uribe have a poor relationship, despite certain gestures from the latter that could be interpreted as an invitation to an alliance.³⁶ A possible outcome is a second round in the presidential election pitting the DCP against Vargas Lleras, with neither candidate strongly for implementing the whole peace agreement.³⁷ If he does not reach the second round, Vargas Lleras’s support would likely be decisive for the winner. He currently appears inclined more toward the DCP than pro-peace agreement parties.

Evangelical Christian churches will also be another major player in the run-up to the election. They are believed to have provided between one and two million votes to the “no” camp, and various religious leaders expect to play a central part in 2018.³⁸ The Christian “no” vote, however, is not homogeneous. While references to lesbian, gay, bisexual, transgender and intersex (LGBTI) issues in the peace agreement were ripped out of context and used to anger most Evangelical voters, there is less consensus among these Christian communities on other issues, such as justice, the truth commission and land ownership. Some pastors and followers but not all seem interested in political influence.³⁹

³⁴ “La estrategia del Sí tuvo muchos desaciertos”: Francisco Gutiérrez”, *Semana*, 8 October 2016; Crisis Group interview, political expert, 10 November 2016.

³⁵ Alejandro Ordóñez has charged that because of how the peace accord was handled, Santos is consolidating a “dictatorship”. “En Colombia estamos ‘desde hace rato en una dictadura’: Alejandro Ordóñez”, *Oiga Noticias*, 26 October 2016. Marta Lucía Ramírez has called for a Constitutional Assembly to “redefine the functioning of established state organs, such as the presidency, Congress and the Courts”. “Colombia se está adentrando en una crisis de legitimidad institucional”, Ramírez, 22 December 2016.

³⁶ Tatiana Duque, “La estrategia disidente de Vargas”, *La Silla Vacía*, 28 November 2016; Crisis Group interview, high-level diplomat, Bogotá, 4 November 2016.

³⁷ Crisis Group interview, pro-accord senator, Bogotá, 30 November 2016. Vargas Lleras never had a strong position on the accord; recent information suggests he may oppose. Tatiana Duque, “Así se prepara Vargas Lleras para cuando le llegue su hora”, *La Silla Vacía*, 15 January 2017.

³⁸ Natalio Cosoy, “El rol de las iglesias cristianas evangélicas en la victoria del “No” en el plebiscito de Colombia”, BBC Mundo, 5 October 2016; “El voto evangélico, clave en la victoria del ‘no’ en el plebiscito de Colombia”, *El País de España*, 13 October 2016. There is no way of knowing how many votes the churches provided, though they are widely credited with contributing two million to the “no” campaign. Some church actors did favour “yes”, but they are perceived as a minority.

³⁹ “Cristianos: ¿el poder decisivo en la política?”, *Semana*, 29 October 2016; Crisis Group interview, Christian pastor involved in post-plebiscite negotiations, 3 November 2016.

Crafting coalitions will also be a priority for parties looking to defend the peace agreement. Numerous parties favour peace but by themselves do not provide enough votes to secure a second-round candidacy, as their support is scattered. Creating a pro-agreement alliance would be a step toward assuring that a candidate willing to implement the accord reaches the second round. But such a coalition would feature a wide array of groups that disagree strongly on other issues.⁴⁰

The pro-agreement coalition would feature the Green Party, a force whose ability to mobilise votes is likely larger than its current representation in Congress; the Liberal and U parties, in which Santos has his roots and currently belongs respectively, and which are unlikely to make it to the second round, having done so in 2014 only because of their alliance with the Radical Change party in the first round; and what remains of the divided, left-leaning Democratic Pole party. Pro-agreement candidates will also have to find the right balance between supporting the accord and distancing themselves from Santos. The tax reform passed toward the end of 2016, which hiked value-added tax by three percentage points, the troubled economic conditions due to declining oil revenues and the president’s unpopularity make it essential that candidates who favour the peace process differentiate themselves from him and his government on other issues.⁴¹

Coalitions will also be decisive for forming a majority in Congress.⁴² The plebiscite result suggests the DCP could well increase its Senate representation. In the House of Representatives, however, it may find the going harder. Others tend to have greater regional success, including the Conservative, Liberal and U parties.⁴³ To form congressional majorities, the DCP must count on other parties, making preservation of opposition unity vital for it. Pro-agreement parties will also seek to stay united on the issue to keep their congressional numbers.⁴⁴

If the opposition does take power with a mandate against at least part of the peace agreement, implementation of the most contested areas could end. One option would be to modify laws that were impossible to change when they were originally passed due to the fast-track. Another would be to starve politically and financially key in-

⁴⁰ Crisis Group interview, pro-agreement senator, Bogotá, 30 November 2016. For example, Jorge Robledo, Democratic Pole party senator and its possible presidential candidate, favours the accord but strongly opposes the government’s new tax bill, which parties that also support the deal back. “La peor reforma tributaria imaginable: Robledo”, Jorge Robledo, official website, 20 October 2016.

⁴¹ President Santos’s 60 per cent disapproval rating, “Gallup Colombia Poll #116”, December 2016, is likely to worsen after a very unpopular tax reform in December. In 30 November Bolívar Plaza protests, when the House of Representatives voted on the new peace agreement, some accord protesters also held signs and chanted against the tax reform, believing it was connected to paying for peace and FARC reincorporation.

⁴² Eighteen parties are in Congress; five parties competed in the first round of the last presidential election. Regionally-based small parties can amass just enough votes to enter Congress but not enough to be on the presidential ballot. See “Partidos y Bancadas”, Congreso Visible, s.f. “Elección de presidente y vicepresidente – primera vuelta”, Registraduría Nacional de Colombia, s.f.

⁴³ Crisis Group interview, political expert, Bogotá, 10 November 2016. In the House of Representatives, the DCP has nineteen seats, six from Antioquia, five from Bogotá and eight from different departments. It has only one governor (Casanare). All but one of 27 Conservative party deputies are from outside Bogotá, as are 36 of 39 Liberals and 35 of 37 U party deputies. See “Elegidos Congreso de la República 2014-2018”, Registraduría Nacional, s.f.

⁴⁴ Crisis Group interview, opposition negotiator and senator, Bogotá, 30 November 2016.

stitutions, programs or policies. By underfunding them or undercutting their political importance, it could quickly make the accord an irrelevance.

The government has tried to prevent this by tabling a bill that would oblige future governments to implement the peace agreement, but this could be repealed or ignored after a shift in the balance of power.⁴⁵ Pressure from abroad and vocal parts of Colombian society, however, might make it prohibitively costly to jettison the agreement. In that case, a commitment to continue implementing key parts of the agreement, such as transitional justice and humanitarian mechanisms, and not undo progress on other points, could be a viable goal for renewed dialogue between the government and opposition throughout 2017.

⁴⁵ “Proyecto de acto legislativo 01 de 2016 senado”, law proposed by Interior Minister Juan Fernando Cristo, 19 December 2016.

IV. Implementation and its Effect on Political Support

During 2017, congressional and presidential support for the agreement will be strong and stable. But popular support for its implementation is fragile and uncertain beyond the short term, putting full application of the accord at risk. A small window exists during which implementation could decisively shift backing in either direction, depending on success in carrying out fundamental parts of the pact and altering conditions in conflict-affected territories.

A. FARC Concerns

The effect on the FARC of political opposition to the peace agreement is likely to become more pronounced in coming months. Throughout the ceasefire, and particularly since the plebiscite, it has faced the risk of increased internal strains. The ceasefire violation in southern Bolívar is telling: the front operating there was unable to control its fighters or had simply continued extortion. A later expulsion of five mid-level commanders in the eastern plains, including Gentil Duarte, who had been put in charge of the faction of the First Front that supported the peace agreement, shows the strains at that level, whether due to political uncertainty, connections to lucrative illegal economies or both.⁴⁶

The political climate fosters one concern above all within the FARC: that the government will not fulfil its part of the accord. While the group, in its tenth conference in September 2016, ratified the whole peace agreement by consensus, the possibility of returning to the battlefield resurfaced in December, when Timochenko reminded fighters they might have to prepare for “plan B”: resumption of war. Such threats could increase if implementation is jeopardised.⁴⁷

FARC dissidents could cause violence, which would produce a chain reaction on implementation and national political support for the agreement. There have already been reports of First Front violence in Guaviare and Vaupés.⁴⁸ Dissidence in the ranks of the Daniel Aldana Front has been confirmed in Tumaco, though it is not clear whether this is related to the peace process or a schism caused by the character of the front (formerly a mobile column). The death of Don Y, a leader of the dissident faction, at the hands of the FARC in November showed how infighting can lead to violence.⁴⁹ With other armed groups looking to take over Tumaco, home to a dense concentration of coca crops, increased violence there is probable. The removal of five commanders, plus a skirmish between eight dissident members of the 14th

⁴⁶ Crisis Group interview, Tripartite Mechanism member, Bogotá, 9 November 2016. “FARC-EP separa a 5 mandos de sus filas”, FARC-EP, 16 December 2016. In June 2016, a First Front faction in Guaviare announced it would not be part of the agreement. FARC leadership then selected Duarte, a Central High Command member, to lead the part that still supported the peace accord.

⁴⁷ Crisis Group interviews, FARC members, Yarí plains, 15-25 September 2016. “Timochenko alerta a la tropa de las Farc: preparamos el plan B”, *Las 2 Orillas*, 8 December 2016.

⁴⁸ “Defensoría alerta sobre reclutamiento forzado y extorsiones de bloque disidente de las Farc en Vaupés”, *El Espectador*, 11 November 2016.

⁴⁹ “‘Don Y’, el disidente de las Farc que azota a Tumaco”, *La Silla Pacífica*, 31 October 2016; “Las Farc mataron a ‘Don Y’”, *La Silla Pacífica*, 16 November 2016. Eduardo Álvarez, “Disidencias de las FARC: ¿Por qué lo hacen? ¿Qué tan peligrosas son?”, *Razón Pública*, 14 November 2016.

front and pro-agreement members of the Teófilo Forero mobile column, provide further examples.

After the weapons handover finishes, the possibility of FARC members returning to violence could grow, through dissidence or individual desertion from the reincorporation program. That program for ex-fighters is notably weak when it comes to a specific approach for mid-level commanders, who are used to handling large sums of money and enjoying political and military power. Many key details of the reincorporation process will only be decided after the census of FARC combatants is finished and Ecomun – the cooperative business the FARC is to run for their reintegration – is created. The political and humanitarian costs of fighters leaving the process to return to violence would be extremely high.⁵⁰ The already-established National Reincorporation Council and Ecomun will have key roles in keeping fighters involved.

In the immediate future, the first, most critical part of the timetable for both guerrillas and government is the weapons handover to the UN mission.⁵¹ The end of FARC existence as an armed organisation is the crux of the peace agreement and was the government’s principal argument to muster support for quick renegotiation after the plebiscite. Typically, many challenges arise in such processes, including delays, logistical issues and incomplete handover of weapons, and these have already affected FARC concentration. Arms abandonment by the FARC will likely face other problems that the opposition could easily highlight to argue the process is faltering. Discovery of hidden arms, for example, would fuel a wary public’s mistrust. At the same time, lack of medium- and long-term political support for the agreement increases the possibility parts of the FARC will hedge their bets on peace and so risk further undermining public backing.⁵²

A pressing reason for the FARC to prevaricate in this way is the killing of and threats against local social leaders. At least 90 killings and more than 230 threats were recorded in 2016.⁵³ It is imperative that the government protect civilians in targeted communities, irrespective of who is doing the killings or whether paramilitaries are behind the wave of violence. If the hypothesis that armed groups moving into new territory and seizing control over illicit economies explains part of the killings, the government must make substantial progress on filling the power vacuum left by the FARC.⁵⁴ Until then, the continued killing heightens the risk of fragmentation within the FARC and undermines the perceived benefits of peace locally.

The agreement on security guarantees, for the FARC and other activists and political actors locally, needs to be enforced quickly and effectively. The government

⁵⁰ “Lo que tiene que pasar este año para aterrizar los acuerdos”, *La Silla Vacía*, 10 January 2017. For more on FARC reincorporation, see Crisis Group Report, *Colombia’s Final Steps*, op. cit.

⁵¹ On D-Day +90, FARC combatants will have to hand over 30 per cent of their weapons; on D-Day +120, another 30 per cent; and on D-Day +150, the remaining 40 per cent. By D-Day +60, the FARC will have had to hand over all light weapons, grenades, munitions and militia arms.

⁵² Crisis Group interview, opposition negotiator, Bogotá, 30 November 2016; Pro-agreement senator, Bogotá, 30 November 2016. For more on the arms handover process, see Crisis Group Report, *Colombia’s Final Steps*, op. cit.

⁵³ Armando Neira, “Asesinatos de líderes sociales, el lunar que deja el 2016”, *El Tiempo*, 28 December 2016. Eduardo Álvarez, “Quién sigue matando a los líderes sociales en Colombia?”, *Razón Pública*, 28 November 2016.

⁵⁴ Crisis Group interview, high-level diplomat, Bogotá, 28 November 2016.

should start by strengthening existing individual and collective protection schemes and work with local leaders on steps they can take to mitigate risks. This can be done while the FARC security system is set up during the weapons handover process. Opposition leaders should also increase the frequency and volume of their condemnations of such violence and clearly distinguish their arguments against the peace deal from the actions of violent saboteurs at the local level.⁵⁵ The international community, already highly concerned by the violence, could raise the international visibility of these attacks by more frequent public condemnations and calls for justice.

B. *Planning Successful Implementation*

Weapons handover began poorly. Shockingly little had been done to install adequate infrastructure in the cantonment sites, causing delays in the first steps of the process.⁵⁶ FARC fighters will gradually move from the pre-grouping sites as the 26 cantonments are finalised. By mid-January, land to house combatants had been rented in only seventeen. Only in two, Putumayo and Policarpa, Nariño, were FARC fighters able to stay and build the facilities they need to live. According to the government, preparation of cantonment infrastructure is moving fast.⁵⁷ A renegotiated protocol has established that delivery of the materials needed to finish construction and the complete concentration of the FARC are to be accomplished by 31 January.⁵⁸

While the first three deadlines – FARC concentration, destruction of unstable weapons and transfer of personal and militia-members’ small weapons to the cantonments – were not met, the government has insisted the rest of the handover process will go as scheduled. These targets could easily encounter problems, but it is essential they are met according to the accord’s terms to prevent feeding public mistrust of the group. To avoid this, fighters who arrive first in cantonments could be part of the 30 per cent to hand over their weapons at D-Day +90.

The UN mission and the Tripartite Mechanism to verify and monitor the ceasefire and weapons handover have key roles.⁵⁹ The former has already been engaged in verifying ceasefire violations but has also become entangled to some degree in a few incidents of improper behaviour. Though they were not directly involved, the governor of Antioquia’s accusations that under-age prostitution and heavy drinking by many FARC members in town centres suggested lack of clear information on the ceasefire process. The Tripartite Mechanism later confirmed there was no prosti-

⁵⁵ This is not to say there is a connection between the opposition and this violence, but rather that perpetrators might be using opposition arguments to justify their actions.

⁵⁶ “Comunicado Conjunto N° 10”, GOC and FARC-EP, 28 December 2016.

⁵⁷ “Gobierno acelera el paso para dejar listas las zonas veredales de Farc”, *El Tiempo*, 10 January 2017; “El 90% de los miembros de las Farc está a 10 km de zonas de desarme”, *El Tiempo*, 10 January 2017.

⁵⁸ “Acta de acuerdos de trabajo entre el gobierno nacional y las FARC-EP”, GOC and FARC-EP, 17 January 2017.

⁵⁹ “UN: First 2 Deadlines in Colombia Cease-Fire Can’t Be Met”, *The New York Times*, 11 January 2017. “Ya tenemos 17 zonas arrendadas y 8 en trámite”: Carlos Córdoba”, *Semaná*, 10 January 2017.

“Para evitar más muertes, Sergio Jaramillo propone acelerar implementación de acuerdos”, *El Espectador*, 16 November 2016; “Intervención del Presidente Juan Manuel Santos en el acto de la Firma del Nuevo Acuerdo de Paz con las Farc”, Presidencia, 24 November 2016.

tution but verified a case in which a FARC member violated protocol, leaving the cantonment without permission and drinking and arguing with a civilian in a small hamlet. The governor toured the cantonments after the DCP openly supported him and subsequently backtracked on his original accusations. Still, the Tripartite Mechanism, including the UN mission, in effect became the arbiter between political rivals.⁶⁰

More publicly, images of UN mission staff dancing with FARC members on New Years’ Eve led to an opposition outcry and claims that the mission’s credibility and impartiality had been impaired. The members involved were removed, though some questioned whether the incident had not been overblown.⁶¹

In its first report, which gained limited media and public attention due to the focus on the alleged scandals, the UN mission stated that 280 observers were in the country, with the number to increase to 450 in January, though the civilian component has lagged behind deployment of the military. A balance between the civilian and military parts of the mission is essential, especially in maintaining strong relationships between the mission, local authorities and communities. By 7 December, the mission had also successfully monitored 183 movements of FARC fighters and dealt with 27 requests for verification, only nine of which could be investigated as eighteen were not within its mandate.⁶²

The troubled start to concentration of FARC forces should not obscure the importance of the mission’s role in the future handover of weapons. Complete deployment of personnel across all cantonment sites and regular release of updates to the media beyond its regular reports, with consent of the government and FARC, would help enhance the mission’s effectiveness and public standing, as well as the public’s perception of progress. The mission should also work closely with the government and FARC to push them to follow the weapons handover schedule laid out in the peace agreement, despite early delays.

A robust communications strategy for when the FARC hands over weapons is crucial to gain support for the process. The opposition has not made the early delays the focal point of its complaints, concentrating instead on the relationship between the UN, the government and FARC. Its grievances have been based on mistrust of the guerrillas, which would only be fuelled by an insufficiently transparent weapons handover. To overcome scepticism, the FARC would be well advised to drop its long-held misgivings and allow publication of photos of fighters handing over weapons to the UN mission. Its new media savviness, which has bolstered its poor public image, and

⁶⁰ “La pelea entre las FARC y el gobernador de Antioquia”, *Semana*, 28 December 2016. “Mecanismo de monitoreo y verificación comunicado de prensa”, Misión de la ONU en Colombia, 30 December 2016. “Uribe dice estar dispuesto a acompañar al gobernador de Antioquia a sitios de preconcentración”, RCN, 29 December 2016. “Así avanza la polémica revisión de las zonas de concentración en Antioquia”, *Semana*, 7 January 2016.

⁶¹ “Misión de la onu en colombia separa a observadores de su servicio”, Misión de la ONU en Colombia, 5 January 2016. Marta Ruiz, “El episodio de los verificadores: un escándalo desproporcionado”, *Semana*, 6 January 2017.

⁶² “Primer informe de actividades del MM&V”, Mecanismo y Monitoreo y Verificación, 30 December 2016.

its interest in generating political capital suggest it may do so.⁶³ The cost of not doing so could be proliferation of claims that the FARC have held back some weapons.

The handover is due to end six months after D-Day, but the Special Jurisdiction for Peace (SPJ) will not be operating by then. Given that justice was one of most controversial items in the peace accord, opposition scrutiny of the transitional justice system and misgivings about the SPJ will be prominent in the year’s debate. That benefits for FARC fighters, such as amnesties, security measures and reincorporation money will be provided early on, while SPJ sentences will be handed down much later, could create an impression that the FARC is being rewarded without having fulfilled any judicial or truth obligations.⁶⁴ As Congressional and presidential campaigns enter their final stretch, the SPJ will likely be hearing its first cases. How it handles them and how the accused behave toward the courts, will surely be closely scrutinised by the opposition and voters.

The FARC should cooperate as much as possible with transitional justice mechanisms, including the SPJ, the truth commission and efforts to find remains of victims of forced disappearance. By proving commitment to fulfilling their obligations even at personal cost, FARC leaders could sway opinions on peace and undercut opposition arguments. Not doing so or using the new judicial mechanisms to defend its war effort, point fingers and/or deny responsibility in high-profile cases would strengthen opinion against the guerrillas and the peace agreement. Members of the Armed Forces must also appear before the SPJ so as not to fuel a perception it is a mechanism aimed only against the FARC and protects state officials.

Public apologies for major war crimes should also remain part of FARC and government approaches to building support for the deal. FARC has apologised for killing eleven deputies in 2007; it should do the same for bombing the Nogal club in Bogotá in 2003. But these should not be public shows of remorse for political purposes.⁶⁵ More generally, the focus on and participation of victims in early implementation and other peace activities should remain central, including efforts to find victims of forced disappearance and cooperation with the truth commission. Not doing so would undermine the argument that victims were central to the negotiation and the agreement’s legitimacy. Matters have been made more complicated since the plebiscite by disputes between different opposition and pro-agreement actors over the right to represent victims, a contest that will inevitably continue into the election season.⁶⁶

The government also needs to continue educational work to create ownership of the accord by local and regional communities, as well as urbanites. Generating that sense would increase the political cost of non-implementation or diluting content. The opposition showed in the plebiscite that connecting the accord to people’s

⁶³ Crisis Group interviews, FARC negotiator, Havana, 9 June 2016; high-level diplomat, Bogotá, 28 November 2016. “Nueva estética de las Farc, ¿Estrategia mediática o cambio verdadero?”, *Semana*, 12 November 2016.

⁶⁴ Crisis Group interview, member, international community, Bogotá, 14 December 2016.

⁶⁵ The public apology in La Chinita for a 1994 massacre had much show and little substance according to an attendee. Crisis Group interview, diplomat, Bogotá, 21 October 2016.

⁶⁶ Opposition actors claimed to speak for FARC victims, including Sofía Gaviria and Herbin Hoyos, as did government and pro-peace agreement leaders.

everyday lives, accurately or not, was an effective strategy.⁶⁷ Proactive communication to show progress in implementation would be equally important.

A number of other important efforts related to the agreement, especially demining, will also be measures of tangible progress. It was recently announced that after 46 devices were destroyed over more than a year, Orejón, in Briceño, Antioquia, no longer has any landmines.⁶⁸ Such efforts, as well as coca crop substitution pilots and other quick-impact projects by different institutions, can help communities feel that peace has brought a major material change in their daily lives and create an expectation of economic and institutional development to come. The 700 projects that the post-conflict ministry recently announced it will begin or carry out in the first 100 days of peace, in addition to its Rapid Response Plan, will be crucial, but there is still a lack of financial and political backing within the government. Adequately managing local communities’ expectations will thus be essential.

Lastly, creation of a space to reinitiate and maintain political dialogue with the opposition on implementation should also be explored. This might begin by inviting “no” leaders to meetings on verification and/or implementation issues and help channel political debate toward serving the stability of the peace process rather than undermining it.⁶⁹

C. *Peace and Other Armed Groups*

Implementation of the renegotiated peace agreement faces major challenges at the regional and local levels due to the presence of other armed groups, which will in turn influence national support for the process. Foremost among these groups is the ELN, whose own putative peace process was not aligned with the FARC’s. Negotiations have not begun, though they are scheduled to start on 7 February.⁷⁰ Trying to implement the FARC accord where the ELN is active poses acute dilemmas.

ELN violence will affect the government’s ability to implement the peace, especially as the group is expanding its presence and still operates in many priority conflict-affected areas, such as Catatumbo and Arauca (both on the Venezuelan border), as well as Cauca, Nariño and Chocó. Even aspects of the deal that have broad support are affected by the ELN presence, as shown in the Santa Rosa del Sur incident.⁷¹ Establishing an effective state presence where control is still contested by armed groups will be costly in lives and resources. The integrity of peace with the FARC will also be at stake in areas where little is likely to change in terms of violence, such as

⁶⁷ Crisis Group interviews, political activist and university professor, Bogotá, 16 November 2016; opposition negotiator, Bogotá, 30 November 2016. “El No ha sido la campaña más barata y más efectiva de la historia”, *La República*, 5 October 2016.

⁶⁸ Deicy Johana Pareja M., “El Orejón, la vereda que es ejemplo del desminado humanitario”, *El Tiempo*, 22 December 2016; “Vereda Orejón, municipio de Briceño (Antioquia)”, Dirección Contra Minas, n.d.

⁶⁹ Crisis Group interview, opposition negotiators, Bogotá, 8 and 30 November 2016.

⁷⁰ “Fase pública de diálogos con el ELN se inicia el 8 de febrero”, *El Espectador*, 18 January 2017.

⁷¹ “Tripartite Mechanism Communiqué: Government of Colombia and FARC-EP violated ceasefire in south Bolívar incident”, Tripartite Mechanism, 30 November 2016. The FARC fighters involved in the incident had presented themselves as ELN combatants, leading the army to attack them in the belief it would not be violating the ceasefire.

Arauca, Cauca and Catatumbo.⁷² The situation is aggravated where the FARC and ELN have made agreed or coordinated a transfer of territorial control, such as Cauca and Nariño.⁷³

Effective implementation of the FARC accord is also important to convince the ELN it can trust the government to fulfil agreements it signs with insurgents. After the plebiscite, the group internally questioned the merits of trusting the government to deliver on its promises, exacerbating mutual wariness that in any case has tended to be worse than what existed between government and FARC at the start of their negotiation.⁷⁴ Any further deterioration in ELN confidence in the state would imperil the possibility of a peace accord with it in the near future. It would also be calamitous with regard to public support if ELN presence became a reason for failure to implement the FARC agreement, which in turn would lead the ELN to continue to mistrust the government’s ability to deliver on peace.

Other armed groups, such as neo-paramilitaries and the remnants of the Popular Liberation Army (EPL) will also create difficulties for implementation on a local level.⁷⁵ Both have been moving into areas of former FARC control for some time and will continue to do so unless stronger judicial, political and law-enforcement action is taken against them. Colombia is witnessing a resurgence in coca cultivation, and crop substitution programs designed by the peace accord will take time to have an effect.⁷⁶ If other armed groups take control of areas with illicit crops before the state can, they could directly stimulate new dynamics of violence and influence the success or failure of crop substitution.

Many social movements believe the neo-paramilitaries – mainly the Gaitán Self-defence Forces (AGC) – are behind the recent increase in killings of local activists, whether for political or economic reasons.⁷⁷ Evidence for this is patchy, however,

⁷² Some recent murders in Cauca, where killings have increased, have been attributed to the ELN. “Tres hombres asesinados en zona rural de Silvia, en el norte del Cauca”, *El Tiempo*, 20 September 2016. The ELN has also been accused of “killing communists” in Arauca. Carlos A. Lozano Guillén, “Mirador: Carta a Gabino (I)”, *Periódico Voz*, 2 September 2016.

⁷³ Crisis Group interviews, high-level diplomat, Bogotá, 2 August 2016; government official, Bogotá, 9 December 2016.

⁷⁴ During secret government-FARC talks, the latter concluded that Santos was serious about peace. The ELN, years later and during talks to define a negotiation agenda, argued that Santos represented the same old political elite. This, for some in the ELN, has led to a view that negotiations with the government are the correct path, but not now. See Víctor de Currea-Lugo, “Eln dice estar listo para la paz, entrevista con Antonio García”, *El Espectador*, 9 December 2016. Crisis Group interview, ELN experts, Bogotá, 3 October 2016; Yarí plains, 23 September 2016.

⁷⁵ This report uses the term “neo-paramilitary” instead of criminal bands or Bacrim, per Soledad Granada, Jorge A. Restrepo and Alonso Tobón García, “Neoparamilitarismo en Colombia: una herramienta conceptual para la interpretación de dinámicas recientes del conflicto armado colombiano”, in Restrepo and David Aponte (eds.), *Guerra y violencias en Colombia Herramientas e interpretaciones* (Bogotá, 2009), pp. 467-499. The Libardo Mora Toro front, the remains of the EPL, operates in the Catatumbo region. It is the only dissident front from the 1991 EPL peace process that still exists.

⁷⁶ According to the UN Office on Drugs and Crime (UNODC), coca cultivation in 2015 increased by almost 40 per cent, to 96,000 hectares. “Colombia: Monitoreo de territorios afectados por cultivos ilícitos 2015”, UNODC, July 2016.

⁷⁷ The AGC, also known as the Gulf Cartel, Úsuga Clan or Urabeños, was created and became heavily involved in drug trafficking after the paramilitary demobilisations that ended in 2006.

and there does not appear to be one specific phenomenon or organisation responsible.⁷⁸ The ELN is behind some killings, as in Arauca; local armed groups connected to local political elites play roles in others, such as in Urabá; and in yet other areas, such as Caguán, the possible arrival of new armed groups might be the main factor.⁷⁹ Even so, the sense that political violence is on the rise makes implementation more difficult, not only because of its effect on FARC’s transition to civilian life, but also because community leaders may come to see participation in peace mechanisms as personally risky.⁸⁰

While the agreement includes various initiatives aimed against these groups, including the new investigative unit in the attorney general’s office, and calls for international support to the initiatives, these will be necessary but likely insufficient to constrain new patterns of coercion on the ground. A clear risk exists that implementation of the peace agreement could lead to greater violence in certain areas if the state does not move quickly enough to protect local populations and also to combat neo-paramilitary groups.

There are various explanations for the prospect of a spike in criminal and political violence once the peace accord gets underway. First, armed groups could clash over control of areas the FARC leave, as has occurred between the ELN and AGC. These will be areas with strong illegal economies, trafficking routes and militarily strategic points, such as Tumaco, Chocó and the Nudo de Paramillo, for example. Other reasons are more political. While some concerns of local land-holding elites regarding rural reform aspects were addressed in the new accord, others remain and have led some of those landholders to reject the renegotiated deal.⁸¹ If the relationship between some of these elites and illegal armed groups and/or actors stays in place but is targeted toward the accord’s land distribution terms, violence could well increase, including in areas traditionally vulnerable to land conflict such as Urabá.⁸²

Another possible source of violence prompted by the peace accord’s implementation is continuation of attacks against social leaders due to the perceived imminent opening of the political system regionally and locally, including the sixteen special circumscriptions in Congress for conflict-affected areas.⁸³ Such local, conservatively-

⁷⁸ Some interpret the killings as done by paramilitaries under the direct influence of high-level political opposition, though there has been no evidence connecting the two. See Oto Higuita, “¿Por qué están asesinando a los voceros e integrantes del Marcha Patriótica?”, *Prensa Rural*, 2 December 2016. “¿Quién está ordenando matar a los líderes sociales en Colombia?”, *El Colombiano*, 27 November 2016. Eduardo González, “¿Quién sigue matando a los líderes sociales en Colombia?”, *Razón Pública*, 28 November 2016. Crisis Group telephone interview, high-level diplomat, 28 November 2016.

⁷⁹ Crisis Group interviews, government official, Bogotá, 2 December 2016; political analyst, Bogotá, 9 Jul 2016; high-level diplomat, Bogotá, 28 November 2016. Eduardo González, “¿Quién sigue matando a los líderes sociales en Colombia?”, *Razón Pública*, 28 November 2016.

⁸⁰ This is already a risk, as the renegotiated accord weakens community participation. Juanita León, “La gran diferencia entre el Acuerdo I y el Acuerdo II”, *La Silla Vacía*, 15 November 2016.

⁸¹ Crisis Group interview, government official, Bogotá, 9 December 2016.

⁸² James Bargent, “BACRIM Vuelve a sus Raíces Paramilitares en la Lucha por la Tierra en Colombia”, *Insight Crime*, 19 July 2013.

⁸³ The peace agreement creates sixteen special constituencies in Congress so that conflict-affected regions can have a stronger voice in legislation and policymaking. The idea is that those who run for these seats not be part of established political parties (including that to be established by the

minded political violence has history in Colombia and explains how the paramilitaries gained so much power in the 1980s and 1990s.⁸⁴ A spike of violence in this spirit would be qualitatively similar to that against the Patriotic Union (UP) in those decades, though it is very unlikely to reach the same level. Too many international actors are already concerned and attentive, thus raising its cost.

D. *Institution Building*

Violence and security on the ground are not the only issues that could dent political support for the agreement in 2017. Much of the problem for smooth implementation stems from the institutions meant to manage the war-peace transition. Some national-level ones barely exist beyond paper, with little staff or capacity to execute budgets or projects: these include the National Land Agency, the Territorial Renovation Agency and the Agency for Rural Development.⁸⁵ If unable to execute on the ground, the state will risk losing the chance to gain local legitimacy. Since they are coming into existence at a time of tight caps on public spending, their financial and political support is also very fragile, especially given the current and historical resistance to rural reform. Facing the threat of being starved of resources or steered toward invisibility over time, as has happened with previous rural-focused institutions, they badly need an injection of high-level support, money and staff.⁸⁶

Institutional fragmentation at different levels poses additional dilemmas. Political pressure to combat increasing coca cultivation has led various state actors to adopt rival strategies, some of which could be contrary to the accord’s spirit. This risk will grow if the opposition comes to power in 2018. Local political actors also have insufficient institutional and technical capacity to implement many parts of the agreement, and in some cases, their willingness will be fragile, unless they feel they can obtain financial resources for their regions.⁸⁷

The Rapid Response Plan (RRP), designed by the post-conflict ministry (MPC) but to be implemented with and by various other institutions, needs both political and financial support. The friction between implementing institutions, the MPC and the High Commissioner for Peace’s Office remains a problem, as some institutions feel the latter two overstep their bounds and are too influential. Lack of a clear transition from the RRP to implementation of longer-term aspects of the peace agreement also raises broader concerns.⁸⁸ Stronger leadership from above, complemented by international community pressure, is needed.

FARC), represent isolated regions and give a voice to victims. See “Acuerdo final para la terminación del conflicto y la construcción de una paz estable y duradera”, GOC and FARC-EP, 24 November 2016, p. 54.

⁸⁴ Mauricio Romero, *Paramilitares y Autodefensas (1982–2003)*, IEPRI (Bogotá, 2003).

⁸⁵ Crisis Group telephone interview, high-level diplomat, Bogotá, 28 November 2016.

⁸⁶ For a quick review of land reform and institutional issue literature, see *La política de reforma agraria y tierras en Colombia Esbozo de una memoria institucional*, Centro Nacional de Memoria Histórica (Bogotá, 2013).

⁸⁷ Crisis Group interview, political analyst, Bogotá, 3 December 2016.

⁸⁸ Crisis Group interviews, government official, Bogotá, 9 December 2016; political analyst, Bogotá, 2 December 2016.

V. A Role for the International Community

The international community has focused on supporting the peace process and ensuring it concludes with a feasible, robust agreement. It has done so by providing economic resources for state institutions and civil society actors working on peace issues; political backing for the process; delegates from the guarantor and accompanying nations and special envoys from the U.S., European Union and Germany; and technical support on implementation issues, such as support for local justice mechanisms and formalisation of land titles. Such backing remains essential.

A. *Implementation and Political Support*

In the current political context, a quick start to implementation, with early victories, is ever more required. Though the plebiscite suggested that high-level international support was less effective than anticipated, the delegates and envoys who aided the negotiations should continue to press for the agreement to be carried out. Not only could they be helpful in resolving disputes and influencing the government and FARC, but they will also be able to highlight the broad foreign commitment to peace in Colombia.⁸⁹ The rural reform pact in particular will face political resistance on different levels, and the international community can play a vital role in raising the cost of obstructing or ignoring it. Financial aid and pushing the government to get key institutions functioning would be major contributions.

International support can also influence FARC decisions, especially if an opposition government proposes changes to, rejects or is unwilling to implement parts of the accord. Given the group’s concerns with full implementation, a change in government could undermine its commitment to peace, leading to fragmentation as some of the organisation return to organised violence. Pressing the FARC to maintain its commitment to peace will be vital. Here the second UN mission, requested in the peace accord to monitor FARC political participation, reincorporation and security guarantees, will have a vital role in maintaining trust between the guerrillas and government. It will also be politically contentious, as its mandate covers the most controversial issue in the new agreement, namely the FARC’s participation in politics. It will need to be functioning quite soon in order to respond to its mandate; early preparation to take advantage of the period before its mandate begins is essential.

Financial aid will also be vital, especially beyond 2017. Colombia is currently unable to fully afford its post-conflict pledges, something that the international community has committed to make good. In the longer term, financial support might help persuade a new government to honour disputed aspects of the accord. Partners could also work directly with local governments, providing financial and technical assistance and ensuring that political differences between local, regional and national

⁸⁹ The U.S. special envoy to the peace talks, Bernie Aronson, no longer plays this role, and no replacement is in sight. The U.S. Secretary of State nominee, Rex Tillerson, stated in a written response to questions as part of his confirmation process, that the U.S. would have to “review” the new peace agreement to determine which parts it would support. “Trump’s state nominee raises doubts on Colombia peace pact”, *The Washington Post*, 22 January 2017.

levels do not impede implementation.⁹⁰ Finally, international non-state actors will also need funding, such as the UN High Commissioners for Refugees and Human Rights, among others, who have important post-conflict roles on displacement, border issues and violence, all risks to a successful transition from war to peace.

B. *The Special Issue of Drugs*

It is unlikely that a decrease in coca cultivation resulting from application of the peace agreement will occur before 2018. New programs need time and will be largely emasculated if support wavers. Recent coca production increases have made the drug issue important again to preventing violence, but also politically critical. The opposition points to rising hectarage to argue that drug policy is not working due to concessions made to the FARC, including prohibition of aerial fumigation. Drug policy also is a source of tension within the government and between Bogotá and local communities.⁹¹ When published this year, cultivation data will show another increase in 2016, before crop substitution programs derived from the peace deal begin. This may increase calls for traditional policy, including forced eradication. The government plan to substitute and forcefully eradicate 50,000 hectares each in 2017 is probably unreachable and will also create serious tensions on the ground. The forced eradication will also produce unnecessary tension with the FARC and close the state’s window to gain legitimacy in areas highly affected by coca cultivation.

The international community, especially the U.S., should give the agreement on illicit drugs a chance to prove itself and not expect immediate decreases in illicit crop cultivation. The focus should instead be on strengthening interdiction within and outside Colombia and supporting the rapid and effective implementation of the relevant points of the peace agreement. Prioritising such implementation over national and international political interests related to traditional counter-narcotics policy will be critical, not least because returning to costly forced manual eradication, the results of which are easily reversible, is no guarantee of success.

⁹⁰ Crisis Group interview, political analyst, Bogotá, 3 December 2016.

⁹¹ “Procurador colombiano acusa a Santos de proteger cultivos de las FARC”, *El Nuevo Herald*, 18 April 2016; “Uribe considera que fin de aspersiones con glifosato es exigencia de las Farc”, *El Nuevo Herald*, 10 May 2015. Between July and September 2016, protests by coca growers, mainly in Putumayo, lasted 39 days, as peasants rejected the use of fumigation chemicals applied on the ground during manual eradication. Peasants in Putumayo also have voiced concerns over drug policy and implementation of the peace agreements on crop substitution. See “Razones del paro cocalero en Putumayo”, *El Espectador*, 19 August 2016; “Levantan protesta cocalera en Putumayo”, *El País de Cali*, 7 September 2016; Crisis Group interviews, local leaders and coca growers, 20-24 March 2016. Within the government, new Attorney General Néstor Martínez has called for fumigation to be reinstated but with new chemicals. “Fiscal pide volver a la fumigación aérea contra los cultivos ilícitos”, *El Tiempo*, 4 September 2016.

VI. Conclusion

Colombia has signed and ratified the peace agreement, and the whole of the FARC will soon be in cantonment sites, where they will hand over their weapons and begin transition to civilian life. While this is cause for celebration, how peace was signed and approved was highly controversial, and the agreement appears to lack broad, stable, sustainable political support. Implementation is threatened on several fronts, and with a united and strengthened opposition, the future looks somewhat bleak for pro-agreement leaders. The peace deal is likely to be a target for multiple grievances in the 2018 presidential election, which may produce a result not unlike that of the 2 October 2016 plebiscite.

Substantial and rapid progress on implementing crucial aspects of the agreement is needed in 2017 to shift the balance in favour of the accord. The difficult national and local contexts – a financial shortfall, a stuttering peace process with the ELN, weak institutions and internal government rivalries and high levels of targeted killings in rural areas – mean implementation faces concrete threats that have been partly aggravated by political disputes over the peace agreement. If efforts to apply the accord do not overcome these initial hurdles, parts of it may be condemned to failure before they have a chance to succeed. If that happens, FARC commitment to peace, the possibility of a similar negotiation with the ELN and prospects for addressing the root issues in the long armed conflict will all be in doubt. The immediate political battle to finalise the agreement has been won, but it is premature to declare victory for peace.

Bogotá/Brussels, 31 January 2017

Appendix A: Map of Colombia



Appendix B: About the International Crisis Group

The International Crisis Group (Crisis Group) is an independent, non-profit, non-governmental organisation, with some 120 staff members on five continents, working through field-based analysis and high-level advocacy to prevent and resolve deadly conflict.

Crisis Group’s approach is grounded in field research. Teams of political analysts are located within or close by countries or regions at risk of outbreak, escalation or recurrence of violent conflict. Based on information and assessments from the field, it produces analytical reports containing practical recommendations targeted at key international, regional and national decision-takers. Crisis Group also publishes *CrisisWatch*, a monthly early warning bulletin, providing a succinct regular update on the state of play in up to 70 situations of conflict or potential conflict around the world.

Crisis Group’s reports are distributed widely by email and made available simultaneously on its website, www.crisisgroup.org. Crisis Group works closely with governments and those who influence them, including the media, to highlight its crisis analyses and to generate support for its policy prescriptions.

The Crisis Group Board of Trustees – which includes prominent figures from the fields of politics, diplomacy, business and the media – is directly involved in helping to bring the reports and recommendations to the attention of senior policymakers around the world. Crisis Group is chaired by former UN Deputy Secretary-General and Administrator of the United Nations Development Programme (UNDP), Lord Mark Malloch-Brown. Its Vice Chair is Ayo Obe, a Legal Practitioner, Columnist and TV Presenter in Nigeria.

Crisis Group’s President & CEO, Jean-Marie Guéhenno, served as the UN Under-Secretary-General for Peacekeeping Operations from 2000-2008, and in 2012, as Deputy Joint Special Envoy of the United Nations and the League of Arab States on Syria. He left his post as Deputy Joint Special Envoy to chair the commission that prepared the white paper on French defence and national security in 2013. Crisis Group’s international headquarters is in Brussels, and the organisation has offices in nine other locations: Bishkek, Bogota, Dakar, Islamabad, Istanbul, Nairobi, London, New York, and Washington DC. It also has staff representation in the following locations: Bangkok, Beijing, Beirut, Caracas, Delhi, Dubai, Gaza City, Guatemala City, Jerusalem, Johannesburg, Kabul, Kiev, Mexico City, Rabat, Sydney, Tunis, and Yangon.

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January 2017

Appendix C: Reports and Briefings on Latin America since 2014

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Exploiting Disorder: al-Qaeda and the Islamic State, Special Report, 14 March 2016 (also available in Arabic).

Seizing the Moment: From Early Warning to Early Action, Special Report N°2, 22 June 2016.

Left in the Cold? The ELN and Colombia’s Peace Talks, Latin America Report N°51, 26 February 2014 (also available in Spanish).

Venezuela: Tipping Point, Latin America Briefing N°30, 21 May 2014 (also available in Spanish).

Corridor of Violence: The Guatemala-Honduras Border, Latin America Report N°52, 4 June 2014 (also available in Spanish).

Venezuela: Dangerous Inertia, Latin America Briefing N°31, 23 September 2014 (also available in Spanish).

The Day after Tomorrow: Colombia’s FARC and the End of the Conflict, Latin America Report N°53, 11 December 2014 (also available in Spanish).

Back from the Brink: Saving Ciudad Juárez, Latin America Report N°54, 25 February 2015 (also available in Spanish).

On Thinner Ice: The Final Phase of Colombia’s Peace Talks, Latin America Briefing N°32, 2 July 2015 (also available in Spanish).

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Disappeared: Justice Denied in Mexico’s Guerrero State, Latin America Report N°55, 23 October 2015 (also available in Spanish).

The End of Hegemony: What Next for Venezuela?, Latin America Briefing N°34, 21 December 2015 (also available in Spanish).

Crutch to Catalyst? The International Commission Against Impunity in Guatemala, Latin America Report N°56, 29 January 2016 (also available in Spanish).

Venezuela: Edge of the Precipice, Latin America Briefing N°35, 23 June 2016 (also available in Spanish).

Easy Prey: Criminal Violence and Central American Migration, Latin America Report N°57, 28 July 2016 (also available in Spanish).

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