



University College
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Persistence of Human Rights violations in Colombia:

A pre - and post peace treaty analysis

Author: Gerardo Enrique Vasquez Gamarra

Supervisor: Dr. Kjell-Åke Nordquist

University College Stockholm

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ABSTRACT

Latin American politics in recent years has caused a stir worldwide. Amid social uprisings, power fluctuations between opposing political thoughts, cases of corruption, and human rights violations, one of the cases that stands out the most in the region is the Colombian one. Colombia is a country that has experienced an internal conflict for more than 50 years, where numerous human rights violations have been perpetrated, by different actors within the war. This conflict has created not an internal bilateral war between guerrillas and the government but a multilateral one where paramilitary groups, drug trafficking gangs, and criminal gangs attack the government and each other, contributing negatively to the conflict within the country.

The Colombian government managed to sign a peace agreement with the largest guerrilla group in the country (FARC-EP) to end the country's armed conflict, and for the peace agreements to serve as an example for possible dialogues with other armed groups outside the law so that peace involves everyone in Colombia. However, the results afterward are not the most favorable. Human rights violations persist, and in some specific cases, they have increased from what was reported before the signing of the treaty. We will analyze what these internal and external factors are to the conflict that has generated and still generate the violation of human rights in Colombia, despite having signed a peace agreement and having sold it to the world as the most important political achievement in its history, but which in practice is overshadowed by the continuous crimes that continue to be committed in this country.

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ABBREVIATIONS

AGC	Autodefensas Gaitanistas de Colombia (Gaitanista Self-Defense Forces of Colombia).
AUC	Autodefensas Unidas de Colombia (The United Self-Defence Forces of Colombia).
CIA	Central Intelligence Agency.
CIDH	Comisión Interamericana de Derechos Humanos.
DEA	Drug Enforcement Administration.
ELN	Ejército de Liberación Nacional (National Liberation Army).
HRW	Human Right Watch.
FARC-EP	Fuerzas Revolucionarias de Colombia – Ejército del Pueblo (Revolutionary Armed Forces of Colombia).
FBI	Federal Bureau of Investigation.
JEP	Justicia Especial para la Paz (Special Justice for Peace).
M-19	Movimiento 19 de abril (19th of April Movement).

INTRODUCTION

Research problem

During the last 60 years, Colombia has been a country plagued by violence, there have been different confrontations between the armed forces and illegal armed groups such as guerrillas, self-defense groups, drug trafficking organizations, and criminal gangs, among others. The different governments fought the violence propagated by these groups with more violence, generating multiple armed conflicts within the Colombian territory. As a result, numerous human rights violations were committed among combatants and non-combatants alike.

"In 1999, the then-president Andres Pastrana decided to start peace talks with the Revolutionary Armed Forces of Colombia FARC-EP guerrilla group, the largest and oldest guerrilla group in Colombia, in order to end the frontal war that existed with this group¹. However, the talks failed as the guerrilla did not respect the preliminary agreements of the ceasefire and took advantage of the demilitarized zones that the government had granted them in San Vicente del Caguán². Despite this failure, in 2010, under the mandate of Juan Manuel Santos, the Colombian government decided to restart peace talks with the guerrilla, which were ultimately finalized with the signing of the peace treaty in 2016."

At this point, my research begins in this document, given that even after the signing of the peace agreements in Colombia, violence in the country continues, and human rights violations are still present today. Between 1985 and 2018, 450.664 people died due to the internal war in Colombia. However, the assassination of social leaders and former combatants after the peace agreement

¹ Kline, Harvey. Chapter 3 "The FARC Negotiations Begin: June 1998 – January 1999". Chronicle of Failure Foretold, The Peace Process of Colombian President Andres Pastrana. Tuscaloosa - Alabama, University of Alabama Press. 2007. Pg 49 – 66. PDF Version. <https://books.google.se/books?id=MdsaSvWyck4C&printsec=frontcover&hl=es#v=onepage&q&f=false> (Accessed April 28, 2023).

² Kline, Harvey. Chapter 6 "The FARC Negotiations End: January – February 2002". Chronicle of Failure Foretold, The Peace Process of Colombian President Andres Pastrana. Tuscaloosa - Alabama, University of Alabama Press. 2007. Pg 112 – 125. PDF Version. <https://books.google.se/books?id=MdsaSvWyck4C&printsec=frontcover&hl=es#v=onepage&q&f=false> (Accessed April 28, 2023).

reached 1,327 people as of 2022. Likewise, there are figures of 8,300 victims of persecution, attacks, harassment, and forced disappearances after the peace treaties were signed in Colombia³.

This leads us to suggest that the peace agreement was insufficient and that other factors lead to the violation of human rights. It is relevant to highlight such cases, given that there is no protection from the Colombian state and people within the country face daily violations of their rights without having the necessary protection or guarantees to live with dignity.

Therefore, this study aims to answer the following research question: Why do human rights violations persist in Colombia after the signing and implementation of the peace treaty? To obtain an answer, it will be necessary to identify both internal and external reasons for the peace treaty, and answer the following questions:

- Has the implementation of peace treaties in Colombia served to minimize human rights violations?
- What are the factors that lead to human rights violations in Colombia after the signing of the peace treaty?
- Are there protection and guarantees of human rights in Colombia?
- What is the international perception regarding human rights violations in Colombia in the post-conflict era?

Aim and research question

To identify the factors that cause human rights violations in Colombia, it is necessary to analyze the social context before, during, and after the peace treaty was signed. Similarly, it is essential to review the peace agreement, transitional justice, and the amnesties granted by the government to those who had already committed crimes against humanity and human rights violations.

External aspects beyond the bilateral war between the military forces and the FARC-EP guerrilla group must be considered and analyzed. The role of drug trafficking in Colombia, organized

³ La comisión. Cifras de la Comisión de la Verdad presentadas junto con el Informe Final. Comisión de la verdad. 2022. <https://web.comisiondelaverdad.co/actualidad/noticias/principales-cifras-comision-de-la-verdad-informe-final> (Accessed April 28, 2023).

criminal gangs, and other guerrilla groups such as the National Liberation Army ELN or FARC-EP dissidents must be examined.

Finally, it is important to highlight the Colombian government's nefarious involvement in human rights violations during this entire time, both directly and indirectly, with examples such as the "false positives" cases between 2002 and 2010⁴ and the violations of rights during the social uprisings in 2019 and 2021⁵.

Relevance for the humanitarian action

The protection of human rights is not only the responsibility of a country's current government but also part of the agenda of the United Nations and the countries that make it up. "Considering that the promotion and protection of human rights is a matter of priority for the international community and that the Conference affords a unique opportunity to carry out a comprehensive analysis of the international human rights system and the machinery for the protection of human rights, to enhance and thus promote a fuller observance of those rights, in a just and balanced manner," as described in the Vienna Convention of 1993⁶.

For this study, it is necessary to highlight the relevance of the Colombian case to the international community, given that it seeks to end one of the longest internal wars in modern times. The implementation of a peace treaty and transitional justice are tools that help the international community understand how peace treaties should be implemented in future conflicts, and how to improve shortcomings that may arise around these events, serving as an example for future

⁴ Orozco, Juan, and Mariani, Pascale. Who gave the order? Investigating Colombia's "false positives" scandal. France 24. 2022. <https://www.france24.com/en/tv-shows/reporters/20221209-who-gave-the-order-investigating-colombia-s-false-positives-scandal> (Accessed April 28, 2023).

⁵ Kenneth, Roth. Colombia, events of 2021. Human Rights Watch. 2021. <https://www.hrw.org/world-report/2022/country-chapters/colombia> (Accessed April 28, 2023).

⁶ Vienna Declaration and Programme of Action. Adopted by the World Conference on Human Rights in Vienna on 25 June 1993. United Nation. 1993. PDF version. <https://www.ohchr.org/sites/default/files/vienna.pdf> (Accessed April 28, 2023).

generations as it was the cases of South Africa in 1994⁷, Guatemala in 1996⁸, Northern Ireland in 1998⁹, or Nepal in 2006¹⁰.

From an academic standpoint, we must analyze this case to understand the social behavior surrounding the signing of the peace treaty in Colombia and observe its consequences thereafter. Additionally, it serves as a reference for comparative studies on how negotiations were conducted, how peace treaties were developed and implemented, and how guarantees were provided for the protection of human rights.

Human rights protection in Colombia

The legislative system in Colombia is quite particular. Despite being a legal system based on "Civil Law," it is influenced by legal trends such as the French, Italian, and Chilean's legal systems. It also receives a huge influence from the "Common Law system" of Anglo-Saxon countries. The Colombian legal system is hierarchical, as described by Hans Kelsen in his book Pure Theory of Law, where the norms that are part of a legal system are related to each other. However, there is a hierarchy principle, whereby lower norms must follow rules established by higher norms¹¹. In this case, the Colombian constitution prioritizes all the norms of the legal system, followed by the international treaties signed by the Colombian state throughout its history enter, creating the constitutional block. Finally, there are laws established by Congress, decrees issued by the president, judgments, and other norms, as seen in the graphic below:

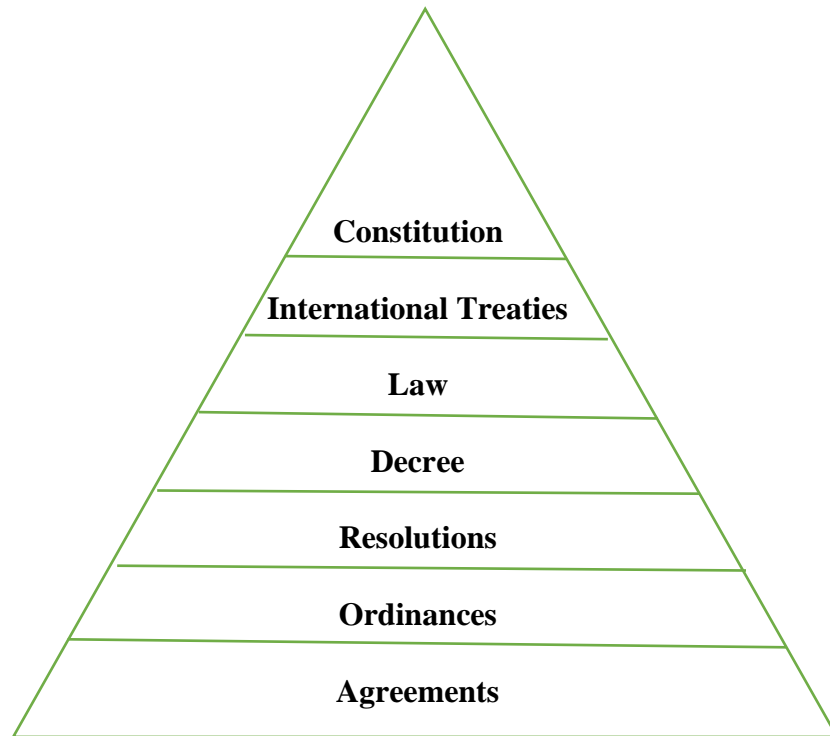
⁷ National Peace Agreement South Africa. 1994. PDF version. <https://www.peaceagreements.org/viewmasterdocument/462> (Accessed May 2, 2023).

⁸ United Nations. Procedures for the establishment of a firm and lasting peace and progress in fashioning a region of peace, freedom, democracy and development. 1997. PDF Version. https://peacemaker.un.org/sites/peacemaker.un.org/files/GT_961229_AgreementOnFirmAndLastingPeace.pdf (Accessed May 2, 2023).

⁹ The Northern Ireland Peace Agreement (The Good Friday Agreement). 1998. PDF version. https://peacemaker.un.org/sites/peacemaker.un.org/files/IE%20GB_980410_Northern%20Ireland%20Agreement.pdf (Accessed May 2, 2023).

¹⁰ Comprehensive Peace Agreement between the Government of Nepal and the Communist Party of Nepal (Maoist). 2006. PDF version. https://peacemaker.un.org/sites/peacemaker.un.org/files/NP_061122_Comprehensive%20Peace%20Agreement%20between%20the%20Government%20and%20the%20CPN%20%28Maoist%29.pdf (Accessed May 2, 2023).

¹¹ Kelsen, Hans. Chapter 9 "The hierarchical structure of the legal order". Pure theory of Law. Buenos Aires, Eudeba. 1960. PDF Spanish edition. <https://bibliotecavirtualceug.files.wordpress.com/2017/05/libro-teoria-pura-del-derecho-hans-kelsen.pdf> (Accessed May 2, 2023).



The above leads us to understand that there is a great interest on the part of the Colombian state to prioritize and harmonize human rights with national legislation. Such is the case that within the national constituent assembly of 1991, replacing the 1886 constitution, the constituents decided to incorporate human rights within the Colombian constitution, leaving said rights as fundamental for every Colombian citizen or person within the country¹². These rights are directly protected by different types of legal actions, the most well-known being the "Acción de Tutela", through which citizens who feel that their fundamental rights have been violated can access justice in an immediate and fast manner for prompt protection of their rights.

"Every person shall have the right to tutelage to claim before the judges, at any time and place, through a preferential and summary procedure, by himself or through someone acting on his behalf, the immediate protection of his fundamental constitutional rights, whenever these are violated or threatened by the action or omission of any public authority. The protection shall consist of an order for the person against whom the tutelage is requested to act or refrain from

¹² Constitución Colombiana. 1991. PDF version. <https://www.acnur.org/fileadmin/Documentos/BDL/2001/0219.pdf> (Accessed May 2, 2023).

*acting. The decision, which shall be immediately enforceable, may be appealed to the competent judge and, in any case, he shall refer it to the Constitutional Court for eventual review"*¹³.

Likewise, there are actions of compliance, habeas data, or group actions that work together for the protection of fundamental rights in Colombia. Within the Colombian judicial system, there was a division of jurisdictions so that judges specialize in the protection of specific rights. However, any judge in the country can carry out any process to protect fundamental rights, ultimately reaching the Constitutional Court as the highest body of fundamental rights protection.

The Colombian state has signed and ratified agreements, treaties, and conventions throughout its history in favor of human rights and their protection, such as the International Covenant on Civil and Political Rights (1966), the American Convention on Human Rights, "San Jose Pact" (1969), the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (1984), the Inter-American Convention on the Forced Disappearance of Persons (1994), the Convention on the Elimination of All Forms of Discrimination against Women (1979), the Convention on the Rights of the Child (1989), the International Convention on the Elimination of All Forms of Racial Discrimination (1965), the Convention relating to the Status of Refugees (1951), the Inter-American Convention Against Terrorism (2006), and the ILO Convention No. 29 on Forced or Compulsory Labor (1930)¹⁴.

Therefore, we can conclude that the Colombian state is a guarantor of human rights and has built its legislation under the guidelines of international treaties and in favor of the protection of citizens' fundamental rights. Unfortunately, this broad legal and protective system exists only on paper, far from the reality Colombians experience daily with multiple human rights violations.

Early research

The Colombian case draws attention in the academic community. Several texts about the peace process in Colombia have been written, as well as the human rights violations that occurred before

¹³ Constitución Colombiana. Art.,86 "Acción de tutela". PDF versión. <https://www.acnur.org/fileadmin/Documentos/BDL/2001/0219.pdf> (Accessed May 2, 2023).

¹⁴ Cancillería Colombiana. Colombia frente a los instrumentos internacionales en materia de derechos humanos y derecho internacional humanitario. 2014. https://www.cancilleria.gov.co/sites/default/files/colombia_frente_a_los_instrumentos_internacionales_de_derechos_humanos_y_dih-feb2014_3.pdf (Accessed May 2, 2023).

and after it. In Sweden, according to the Digital Scientific Archive (DIVA acronym in Swedish), over the last ten years, more than 200 theses related to Colombia have been written, of which more than 50 have a direct or indirect relationship with the aforementioned issues¹⁵. Master theses such as Carl Vosloh Zea's at Uppsala University, on "Criminal organizations territorial control and violence against civilians"¹⁶ or Ida Emilia Frost's at Umeå University, on "intersectional peace"¹⁷ not only served as academic documents that helped with the research of the present document but also as an inspiration for its development.

Additionally, different books recount the adversities experienced in Colombia in terms of human rights, but perhaps one of the most outstanding is "The Battle for Peace" (LA BATALLA POR LA PAZ), written by former president Juan Manuel Santos in 2019, which relates firsthand how negotiations with the FARC-EP took place, how the peace agreements were developed, and finally how they were initially implemented with the guerrillas.

On the other hand, countless non-academic articles and documents have contributed to the discussion and research of this case. Specific and/or annual reports by non-governmental organizations that have conducted thorough field research to gather relevant and truthful information about the reality of human rights in Colombia. Similarly, journalistic articles from both national and international media outlets contribute to the collection of evidence that allows readers to build a better understanding of the situation in Colombia, being able to compare different sources and points of view on the same subject. However, one must pay slight attention to this type of source to avoid falling into fake news, argumentative fallacies, or simple political and/or ideological biases that distort the truth of what is happening in Colombia.

¹⁵ Digitala Vetenskapliga Arkivet (DIVA). http://www.diva-portal.org/smash/resultList.jsf?dswid=8247&language=en&searchType=UNDERGRADUATE&query=&af=%5B%5D&aq=%5B%5B%7B%22freeText%22%3A%22human+rights+in+colombia%22%7D%5D%5D&aq2=%5B%5B%5D%5D&aqe=%5B%5D&noOfRows=50&sortOrder=author_sort_asc&sortOrder2=title_sort_asc&onlyFullText=false&sf=all (Accessed May 7, 2023).

¹⁶ Vosloh, Carl. Criminal organizations territorial control and violence against civilians. Department of Peace and Conflict Research, Uppsala Universitet. 2022. <http://www.diva-portal.org/smash/get/diva2:1702257/FULLTEXT01.pdf> (Accessed May 7, 2023).

¹⁷ Frost, Ida. INTERSECTIONAL PEACE, Opportunities and Limitations of the Colombian Peace Agreement for Transforming Violent Normative Practices. Umeå University. 2020 <http://www.diva-portal.org/smash/get/diva2:1451145/FULLTEXT01.pdf> (Accessed May 7, 2023).

CONCEPTUAL FRAMEWORK

Guerilla's Role in the human rights violations

To understand the role of the FARC-EP and other guerrillas in Colombia, it is necessary to know their origins and the reasons that motivated the formation and creation of this guerrilla group. The FARC-EP was founded by Jacobo Arenas and Pedro Marin, better known by the alias Manuel Marulanda Vélez or Tirofijo, leading the creation of this armed group in response to the extreme violence that arose in Colombian territory between the traditional political parties known as liberals and conservatives. Socialist ideology and revolutionary movements in Cuba were influential in the consolidation of this guerrilla group, intending to get social equality, economic justice, workers' rights, and non-intervention by the United States in Latin America¹⁸.

However, to execute their ideas of change, the FARC-EP needed economic power to cover the costs of organization and the war that would come with the national government. The main business in which this guerrilla group has been involved is drug trafficking. Since the 1980s, the FARC-EP maintained relationships with different drug cartels in Colombia, such as the Medellín Cartel or the Cali Cartel. However, upon seeing the enormous business that was drug trafficking in Colombia, the guerrilla group decided to carry out the management of the cultivation, production, and distribution of cocaine themselves, generating direct wars with the different Colombian mafia cartels. At the same time, this revolutionary group, as they called themselves, asked the government for money to finance their fight and their causes. Upon perceiving the government's refusal, the famous kidnappings began in the 1990s. Kidnappings were not only conducted on military personnel, police officers, politicians, or other public figures but also on wealthy individuals whom they extorted in exchange for money to finance their revolution. Among the most notorious kidnappings were the more than 65 police officers and soldiers kidnapped in the Mitú case in

¹⁸ Sandford University. Revolutionary Armed Forces of Colombia FARC. 2019. <https://cisac.fsi.stanford.edu/mappingmilitants/profiles/revolutionary-armed-forces-colombia-farc> (Accessed May 2, 2023).

1998¹⁹, the kidnapping of presidential candidate Ingrid Betancourt in 2002²⁰, the hijacking of the Avianca plane in 1999 with more than 46 people on board²¹, the kidnapping of three US military personnel in 2003²², and the kidnapping of 12 deputies in the Valle del Cauca in 2002, who were subsequently murdered²³.

In response to the abuses carried out by the guerrillas throughout the national territory, paramilitary groups were also born, consisting of civilians and former members of the military and police forces, who sought to protect local communities from the guerrilla attacks of the FARC-EP and the ELN. Initially, this was the idea, but unfortunately, over time, they became involved in drug trafficking, extortion, and multiple human rights violations, losing their legitimacy and becoming another criminal organization in Colombia.

During this armed conflict, the FARC-EP has committed multiple human rights abuses such as assassinations, forced disappearances, kidnappings, forced recruitment of minors, forced displacement, and torture, among others, within this war of multiple actors.

Finally, in 2016, the government of Juan Manuel Santos decided to hold peace talks with the FARC-EP in order to put an end to the constant and latent war that Colombia had been living through for more than 50 years. The guerrilla group then split into two: those who accepted and adhered to the conditions of the peace treaty (which we will review later) and those who considered that laying down their arms was not an option and continued to commit crimes from the country's jungles, creating with it the second Marquetalia, in honor of the place where the FARC-EP was founded in 1964²⁴.

¹⁹ St. Edwards University. FARC – The Revolutionary Armed Forces of Colombia. 2015.

<http://sites.stedwards.edu/craigc-crij4347asp2015/central-south-america/farc/> (Accessed May 2, 2023).

²⁰ News Wires. Ingrid Betancourt faces ex-FARC captors nearly 20 years after kidnapping. France 24. 2021 <https://www.france24.com/en/americas/20210624-ingrid-betancourt-faces-ex-farc-captors-nearly-20-years-after-kidnapping> (Accessed May 2, 2023).

²¹ Terror on flight 9463. The guardian. 1999. <https://www.theguardian.com/theguardian/1999/apr/28/features11.g23> (Accessed May 2, 2023).

²² Spencer S, Hsu. FARC guard sentenced to 27 years for 2003 kidnapping of Americans. The Washington Post. 2015. https://www.washingtonpost.com/local/public-safety/farc-guard-sentenced-to-27-years-for-2003-kidnapping-of-americans/2015/11/10/7db90b88-87da-11e5-be8b-1ae2e4f50f76_story.html (Accessed May 2, 2023).

²³ El caso de la asamblea del Valle. Centro Nacional de memoria histórica. 2019. <https://centrodememoriahistorica.gov.co/micrositios/diputados-del-valle/> (Accessed May 2, 2023).

²⁴ Segunda Marquetalia. Insight Crime. 2022 <https://es.insightcrime.org/noticias-crimen-organizado-colombia/segunda-marquetalia/> (Accessed May 2, 2023).

The human rights violations committed by the FARC-EP during this long-armed conflict were minimally reduced in a chapter of the peace agreement, where the guerrilla accepts and submits to transitional justice in order to guarantee the truth, justice, reparation, and non-repetition of the events. As a result, the FARC-EP committed to recognizing and assuming responsibility for the crimes committed, including human rights violations, seeking alternative sentences to imprisonment.

On the other hand, we have the ELN (National Liberation Army), the second-most main guerrilla group in Colombia, who, like the FARC, have decided to undertake a revolutionary struggle to seek political change in Colombia. The ELN was founded in 1964, but unlike the FARC, which was born as a peasant guerrilla group, the ELN was founded by university students, priests, and labor leaders headed by Fabio Vásquez Castaño, Francisco Galán, and Camilo Torres Restrepo, in response to the situation of poverty, social exclusion, and political repression in Colombia²⁵.

The ELN did not evolve or become as strong as the FARC-EP did. However, like the other guerrilla group, they carried out multiple violent acts against the civilian population, extortion, assassinations, kidnappings, torture, etc. The ELN did not participate in the peace agreement negotiations with President Juan Manuel Santos. However, he attempted to negotiate peace in 2017, which was unsatisfactory due to the change in government and the few intentions presented by that guerrilla group to sign the peace agreement. Currently, there are preliminary negotiations between the government of President Gustavo Petro and the ELN to reach a peace agreement.

Paramilitary's role in the human rights violations

The begging of paramilitary groups in Colombia occurred around the same time as the guerrilla groups in the 1960s and 70s. Their origin was a response to the formation of guerrilla groups in the country. Therefore, their main objective was to directly combat the guerrillas and their leftist ideology that could affect people in different regions of the country.

²⁵ Stanford University. National Liberation Army ELN. 2019. <https://cisac.fsi.stanford.edu/mappingmilitants/profiles/national-liberation-army-eln#:~:text=In%20July%201964%2C%20the%20insurgent,announced%20themselves%20as%20the%20ELN.> (Accessed May 2, 2023).

There are different paramilitary groups in this history that, in one way or another, negatively contributed to the violation of human rights in Colombia for many years. The paramilitary group with the hugest impact on the Colombian internal war was the United Self-Defense Forces of Colombia (AUC), led at the time by Carlos Castaño. Similarly, there are the Gaitanista Self-Defense Forces of Colombia (AGC), better known as the Clan del Golfo, who's turned to criminal activities since the mid-2000s and constantly commit crimes and violations of human rights in Colombia. We can also mention the Rastrojos, another paramilitary group consolidated in 2000, whose functioning was similar to that of the other two groups.

Like the guerrillas, paramilitary groups were born with a marked political ideology, but opposite to them, and in the same way, they needed to finance their military objectives through drug trafficking. Within the multilateral war that the paramilitary groups waged against the guerrillas, the national army, and drug trafficking bands, paramilitary groups committed relevant human rights violations. Examples of this are the Bojayá massacre in 2002, where the AUC launched a bomb cylinder inside a church during a religious celebration, killing over 100 people²⁶. The Aro's massacre in 1997, where 17 defenseless peasants were brutally killed by the AUC²⁷. The Clan del Golfo faces legal proceedings in Colombia for the sexual exploitation of minors, illegal recruitment of minors, kidnappings, extortion, drug trafficking, arms trafficking, and killings of social leaders and human rights defenders²⁸.

With the above, we can conclude that paramilitaries are another factor that contributes to human rights violations in Colombia, and we should not solely focus these violations on the guerrillas. Finally, we will review another factor that connects all these illegal groups, which is drug trafficking as the essential reason for human rights violations.

²⁶ Verney, Marie. Colombian town slowly returns to normal five years after massacre. United Nation Refugee Agency. 2007. <https://www.unhcr.org/news/latest/2007/5/4638b06c4/colombian-town-slowly-returns-normal-five-years-massacre.html> (Accessed May 2, 2023).

²⁷ Consejo de redacción. El Aro: la historia detrás de la masacre. Consejo de redacción. 2020 <https://consejoderedaccion.org/sello-cdr/investigacion/el-aro-la-historia-detras-de-la-masacre> (Accessed May 2, 2023).

²⁸ Matute, Gabriela and Velasquez, Melisa. ¿Qué es el Clan del Golfo? Historia y líderes de la nueva generación de narcos de Colombia. CNN Español. 2022 <https://cnnespanol.cnn.com/2022/05/10/que-es-clan-del-golfo-historia-lideres-narcos-colombia-orix/> (Accessed May 2, 2023).

Drug Traffic's Role in human rights violations

It would take us a long time to summarize in the present study the impact that drug trafficking has had on the violation of human rights throughout Colombian history, given the numerous violations that occurred in the country during the height of the cartels and beyond.

Drug trafficking was not only illegal in and of itself, but the way in which this criminal activity was carried out resulted in multiple crimes and violations of the rights of others. During the 80s and 90s, when the Colombian drug trade was of global significance because of the Medellin and Cali cartels, human rights violations in Colombia were unprecedented. Multiple cases of murder, kidnapping, extortion, recruitment of minors, forced displacement, etc. directly affected the society and minority groups such as indigenous people, peasants, underage, or Afro-descendants²⁹. The Colombian government was unable to stop this violence peacefully. The constant terrorist attacks perpetrated by the different cartels, especially the Medellin cartel, added up to victims over the years. These attacks were violent tactics intended to intimidate society and authorities to gain control over the decisions that the government in power might take against them. Despite direct efforts to combat drug trafficking with the army, national police, and international cooperation (Central Intelligence Agency CIA, Federal Bureau of Investigation FBI, Drug Enforcement Administration DEA), it seemed that it was not enough to stop the Medellin cartel led by Pablo Escobar.

As mentioned, the guerrilla groups attempted to establish relationships with different drug cartels. Initially, the FARC-EP requested economic assistance from the Medellin cartel to support their revolutionary cause. At first, the cartel viewed the guerrilla group as an insurgent group that would only be at war with the State and would not interfere in their business. However, the guerrillas decided to engage in the production and exportation of cocaine, which directly affected the interests of the cartels. This sparked a war for the control of the cocaine production zones and the different drug trafficking routes. As a result, human rights violations intensified, with more confrontations occurring between the cartels and guerrillas in rural and urban areas, as well as between the cartels

²⁹ Human Rights Developments. Human Rights Watch. 1992. <https://www.hrw.org/reports/1992/WR92/AMW-04.htm> (Accessed May 2, 2023).

and the government. Additionally, the paramilitaries decided to work together with the cartels for a while to attack the FARC-EP, adding another group to the multifaceted war³⁰.

After the death of Pablo Escobar in 1993 and the capture of the Rodriguez Orejuela brothers in 1995, the two most important cartels in Colombia were gradually dismantled. However, the drug trafficking business in Colombia continued with new actors, and crimes and human rights violations persisted in the country. It was at that moment when the paramilitaries gained greater prominence in the crime scene. They focused more on the drug trafficking business than their original cause of ending the guerrilla movement. Mexican cartels arrived in Colombia seeking to take control of drug trafficking routes, new insurgent groups emerged, and the Valle del Cauca Cartel was created. Meanwhile, the guerrillas continued their "revolutionary" struggle while also engaging in criminal activities. In the face of all these scenarios, the Colombian government failed to provide ideal and adequate protection of people's rights in the country. Instead, the government began to carry out acts that would, in the not-too-distant future, lead to human rights violations by the national army.

Government's Role in human rights violations

The role of the different governments in Colombia is not favorable when it comes to protecting human rights. Despite implementing a legal system for the protection of rights, as seen earlier, in practice, violations constantly occur in the national territory, and the government does not execute the protection policies that it has in its laws.

Additionally, it is essential to emphasize that the government has always been infiltrated by different illegal groups at every stage of history. For example, Pablo Escobar became Senator of the Republic while he was the head of the Medellin Cartel³¹; Senator Alberto Santofimio worked together with the Medellin Cartel³²; the ex-congressman Álvaro García Romero and Ciro

³⁰ Uribe, Carlos. Colombia, Identity and National Character. Revista de Investigaciones de la Escuela de Ciencias Sociales, Artes y Humanidades - UNAD. 2018. <https://hemeroteca.unad.edu.co/index.php/desbordes/article/view/3225/3213> (Accessed May 2, 2023).

³¹ Redacción El Tiempo. Del sicariato barrial al Congreso: la oscura vida política de Pablo Escobar. El Tiempo. 2021 <https://www.eltiempo.com/cultura/gente/pablo-escobar-como-fue-su-vida-politica-620562> (Accessed May 2, 2023).

³² Alberto Santofimio: el brazo político de Pablo Escobar que ordenó el asesinato de Luis Carlos Galán. La República. 2022. <https://larepublica.pe/datos-lr/respuestas/2022/09/24/colombia-alberto-santofimio-el-brazo-politico-de-pablo->

Rodríguez were convicted for receiving financial and political support from the AUC³³; the ex-governor of Caquetá Luis Francisco Cuellar, was financed by the FARC-EP³⁴; and there are multiple examples of how different actors in the conflict have permeated the government to protect their criminal interests. Therefore, it is even more challenging for people who want to combat criminality to do so, if there are members within the higher echelons of the government and armed forces who have been bribed, corrupt, and do not protect the interests of society that they once promised to safeguard when they were appointed as public officials.

On the other hand, one of the cases that have had the most impact on the violation of human rights in Colombia is the so-called "false positives". Between 2002 and 2008, members of the national army and national police carried out extrajudicial executions against civilians, making them pass for members of the guerrilla group to obtain incentives and rewards. The majority of the victims were young people from low-income backgrounds who were deceived in urban areas, then taken to conflict zones and presented as guerrillas killed in combat. More than 6.400 cases of false positives were reported, and pressure from human rights protection organizations such as Human Rights Watch, Amnesty International, and CIDH, among others, launched campaigns denouncing the different violations committed by the Colombian military forces, for investigations to be initiated and justice to be done for the victims and their families³⁵. Currently, several members of the army and police have been sentenced to prison for this case, and trials for many other people involved in these events are ongoing. However, families demand to know the truth and firsthand knowledge of how these executions were carried out and who gave the orders.

Knowing the above, we understand that the Colombian government has not carried out adequate tasks to protect human rights but rather joins to be another actor in this terrible war with different actors. But in this case, it is the subject with the worst repudiation at the national and international

[escobar-que-ordeno-el-asesinato-de-luis-carlos-galan-narcotrafico-luis-carlos-galan-rodrigo-lara-bonilla-lrtm](#) (Accessed May 2, 2023).

³³ Laverde, Juan. El expediente de Álvaro García Romero y el fantasma de Macayepo. El Espectador. 2022.

<https://www.elespectador.com/judicial/alvaro-garcia-romero-y-el-fantasma-de-macayepo/> (Accessed May 2, 2023).

³⁴ Secuestro de gobernador asesinado por las Farc tenía fin político y económico. Semana. 2010. <https://www.semana.com/secuestro-gobernador-asesinado-farc-tenia-fin-politico-economico/124420-3/> (Accessed May 2, 2023).

³⁵ On Their Watch. Evidence of Senior Army Officers' Responsibility for False Positive Killings in Colombia. Human Right Watch. 2015. <https://www.hrw.org/report/2015/06/24/their-watch/evidence-senior-army-officers-responsibility-false-positive-killings> (Accessed May 2, 2023).

level, since the function of the State with its military forces is to protect society and not to selectively murder people.

Mismanagement of resources, corruption, lack of guarantees and access to justice, and few opportunities to generate progress indirectly affect people's rights and violate their fundamental rights. There are more than 8 million displaced people in Colombia due to the war, and the government does not provide effective assistance that truly guarantees the right to housing, honor, and food to these individuals. Although programs have been created to help these victims, it must be realistic that only a small percentage receives these benefits from the state. An example of this was the case of Agro Ingreso Seguro AIS in 2006, where the government creates subsidies for Colombian farmers in order to provide technical and financial assistance to the agricultural sector, but these funds are diverted to politicians, private companies, and individuals who do not meet the application requirements for the subsidy, more than 200 billion pesos were stolen³⁶. Or the case of the Compensation Funds in 2016, where the directors of these organizations created ghost companies to divert the funds and resources of the workers associated with this group, thereby affecting the right to education, health, and housing of all members. It is estimated that the theft exceeded the sum of 4.6 billion pesos³⁷. Cases like these are frequent in Colombia, to the point where it almost seems like a daily occurrence for Colombians, who must work hard and pay their taxes so that they are stolen or mismanaged by unscrupulous people within the government, and that will ultimately affect the rights of citizens directly or indirectly.

Implementation of the peace process and transitional justice

Since taking office in 2012, former Colombian President Juan Manuel Santos considered achieving peace in Colombia as one of his main objectives. For this reason, he decided to advance peace agreements with the FARC-EP in Havana-Cuba, considering that by doing so outside of Colombia, he would have the support of the international community and at the same time, would not have to

³⁶ Redacción Judicial. Andrés F. Arias: Corte Suprema confirma que es culpable de irregularidades en AIS. El Espectador. 2023. <https://www.elespectador.com/judicial/andres-arias-corte-suprema-confirma-que-si-es-culpable-de-irregularidades-en-ais/> (Accessed May 2, 2023).

³⁷ Redacción Blu Radio. Fiscalía pone lupa sobre casos de corrupción en cajas de compensación familiar. Blu Radio. 2016. <https://www.bluradio.com/nacion/fiscalia-pone-lupa-sobre-casos-de-corrupcion-en-cajas-de-compensacion-familiar> (Accessed May 2, 2023).

demobilize military forces from any zone in Colombia, so as not to repeat the demilitarized zones that occurred during President Andres Pastrana's administration. Additionally, the President considered that specific points to negotiate should be established, so that the negotiation would not be prolonged, and there would be no insecurity in thinking that Colombia's political, economic, or military system would change as a result of the peace agreement. Finally, the most crucial aspect to define was "how to achieve the maximum justice that allows us to have peace," as the President stated in a national broadcast in July 2015³⁸, giving an impulse for society to accept and contribute to the creation of the peace process.

The peace process had ups and downs during the negotiations, as it was not easy to agree after more than 50 years of war with the FARC-EP. But perhaps the moment when the peace process was most in danger was with the plebiscite vote to which it was presented. On October 2, 2016, Colombians went to the polls to vote "yes" or "no" on the question "Do you support the final agreement for the termination of the conflict and the construction of a stable and lasting peace?" The result of the plebiscite was surprising as the "No" won with 50.22% of the votes against 49.78% for the "Yes"³⁹. In other words, Colombian society was not in agreement with the signing of the peace treaty. However, the government ignored the result and continued with the peace agreement, making some arrangements for the document, and finally signing and ratifying it in the Congress of the Republic on November 29, 2016⁴⁰.

The peace treaty had the following central axes:

- Ending the war.
- Truth, justice, and reparations for the victims.
- Fighting against drug trafficking.
- Improving opportunities for the countryside.
- More participation and democracy.

³⁸ Santos, Juan. Alocución del Presidente Santos sobre el proceso de paz con las Farc - 12 de julio de 2015. Presidencia de la Republica. 2015. <https://www.youtube.com/watch?v=ZFb8Ta2Es08> (Accessed May 2, 2023).

³⁹ Colombia referendum: Voters reject Farc peace deal. BBC News. 2016. <https://www.bbc.com/news/world-latin-america-37537252> (Accessed May 2, 2023).

⁴⁰ Colombian Congress ratifies new FARC peace accord. BBC News. 2016. <https://www.bbc.com/news/world-latin-america-38165752> (Accessed May 2, 2023).

- Implementation of the final agreement⁴¹.

Taking up the president's words, his greatest concern as head of the government in peace negotiations was to maximize justice, that is, to obtain the truth about the crimes committed, administer justice in each of the cases, and seek comprehensive reparation for the victims and their families. The government also intended for society not to feel that the multiple crimes committed by the FARC-EP would go unpunished as a result of the peace agreement. Therefore, transitional justice was born within the peace treaty, under the Special Jurisdiction for Peace (JEP). It is important to highlight that "crimes against humanity, genocide, serious war crimes, hostage-taking or other serious deprivation of liberty, such as the kidnapping of civilians, torture, extrajudicial executions, forced disappearance, rape and other forms of sexual violence, forced displacement, and recruitment of minors following the provisions of the Rome Statute shall not be subject to amnesty or pardon (or equivalent benefits)"⁴². It will be the JEP that will judge and sanction the aforementioned cases.

Additionally, a commission is created for the Clarification of Truth, Coexistence, and Non-Repetition, "which is an independent, transitory, and extrajudicial mechanism that seeks to contribute to the satisfaction of the right of victims and society as a whole to the truth"⁴³. And in turn, a Unit is created to search for missing persons in the context and due to the armed conflict.

At the time, it was believed that the signing of the peace agreements would finally end the armed conflict in the country. However, not all members of the FARC-EP decided to demobilize and submit to transitional justice; on the contrary, some of them decided to continue their illicit activities within a new FARC-EP, and other dissidents joined the ELN, paramilitary groups, or other criminal groups.

⁴¹ Cartilla ABC del Acuerdo Final. Cancillería Colombiana. 2016. PDF version. <https://www.cancilleria.gov.co/sites/default/files/cartillaabcdelacuerdofinal2.pdf> (Accessed May 2, 2023).

⁴² Cartilla ABC del Acuerdo Final. Cancillería Colombiana. 2016. Pg. 20 – 21. PDF version. <https://www.cancilleria.gov.co/sites/default/files/cartillaabcdelacuerdofinal2.pdf> (Accessed May 2, 2023).

⁴³ Cartilla ABC del Acuerdo Final. Cancillería Colombiana. 2016. Pg. 19. PDF version. <https://www.cancilleria.gov.co/sites/default/files/cartillaabcdelacuerdofinal2.pdf> (Accessed May 2, 2023).

METHOD AND MATERIALS

Human rights before the peace process

As has been explained throughout this text, Colombia is a country where human rights violations have constantly occurred. The civilian population is the most affected by the violence. According to the Unit for Comprehensive Victim Care and Reparation, between 1985 and 2013, around 166,069 cases of civilians losing their lives due to armed conflict were reported excluding the database from 1958 to 1984. The number of combatants killed is around 40,787, increasing the total number of deaths to approximately 220,000. As a result of this, it was reported that "81.5% of these deaths correspond to civilians and 18.5% to combatants; that is to say, approximately eight out of every ten deaths have been civilians, and therefore, they non-combatant individuals according to International Humanitarian Law are the most affected by the violence"⁴⁴.

(for reasons of copyright law, the imagen is missing from the electronic edition. You can find it in the reference link)

Cases of civilians losing their lives due to armed conflict. Informe General del Centro Nacional de Memoria Histórica. 2013. (Statistics of the number of deads according to the general information of Centro Nacional de Memoria Histórica. The red color is civils by the register of the single registry of victims. The green color is civils by the Historic Memorial Group. The blue color is fighters)⁴⁵.

Similarly, according to Bulletin #1 on Victims of the Armed Conflict generated by the Social Promotion Office of the Ministry of Health and Social Protection, the number of people affected by the armed conflict amounts to 8,045,476 as of December 31, 2019. "This figure represents 16% of the total national population. Antioquia (19.1%), Valle del Cauca (7.2%), Bogotá (5.5%), Bolívar (5.2%), Nariño (4.7%), and Cesar (4.5%) are the territorial entities with the highest number

⁴⁴ Ministerio de Salud. Informe General Centro Nacional de Memoria Histórica. Boletines poblacionales: Población Víctima del Conflicto Armado Ministerio de Salud. 2020. Pag 3. PDF version. <https://www.minsalud.gov.co/sites/rid/Lists/BibliotecaDigital/RIDE/DE/PS/boletines-poblacionales-victimasI-2020.pdf> (Accessed May 2, 2023).

⁴⁵ INFORME GENERAL Centro Nacional de Memoria Histórica. Centro Nacional de memoria histórica. 2013. Pg.36. PDF version. https://centrodememoriahistorica.gov.co/descargas/informes2013/bastaYa/capitulos/basta-ya-cap1_30-109.pdf (Accessed May 2, 2023).

of victims of the armed conflict. Nearly half of the total registered individuals (46.2%) are concentrated in these areas."⁴⁶.

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Victims of the Conflict Armed by a territorial entity. Ministerio de Salud Colombia. Informe General Centro Nacional de Memoria Histórica. 2020.⁴⁷ (The statistics reflect the number of human rights victims in Colombia in each territorial entity)

There are many victims of the armed conflict in Colombia, and human rights violations extended throughout the Colombian territory. Forced displacement and homicides were the most frequent crimes. However, kidnappings, massacres, and forced disappearances were among the main crimes committed in Colombia, as shown in the following graph.

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Victims of the armed conflict in Colombia. Informe General del Centro Nacional de Memoria Histórica. 2013. (Statistic shows the most common crimes committed in Colombia between 1980 and 2012. The brown color is massacred. The yellow color is kidnappings. The red color is homicides. The blue color is a forced disappearance. The green color is forced displacement)⁴⁸

⁴⁶ Ministerio de Salud. Informe General Centro Nacional de Memoria Histórica. Boletines poblacionales: Población Víctima del Conflicto Armado Ministerio de Salud. 2020. Pag 4. PDF version. <https://www.minsalud.gov.co/sites/rid/Lists/BibliotecaDigital/RIDE/DE/PS/boletines-poblacionales-victimasI-2020.pdf> (Accessed May 2, 2023).

⁴⁷ Ministerio de Salud. Informe General Centro Nacional de Memoria Histórica. Boletines poblacionales: Población Víctima del Conflicto Armado Ministerio de Salud. 2020. Pag 4. PDF version. <https://www.minsalud.gov.co/sites/rid/Lists/BibliotecaDigital/RIDE/DE/PS/boletines-poblacionales-victimasI-2020.pdf> (Accessed May 2, 2023).

⁴⁸ INFORME GENERAL Centro Nacional de Memoria Histórica. Centro Nacional de memoria histórica. 2013. Pg.36. PDF version. https://centrodememoriahistorica.gov.co/descargas/informes2013/bastaYa/capitulos/basta-ya-cap1_30-109.pdf (Accessed May 2, 2023).

It was necessary to find a prompt solution from the government and try to guarantee people's rights to the maximum. Different state institutions such as the "Defensoría del Pueblo" or the "Procuraduría" (governmental institutions that protect human rights in Colombia) were making their maximum efforts to guarantee the rights of society. However, it was difficult when the government's practice was already permeated by corruption, and judges were threatened with death when they had to judge a crime related to illegal groups.

One of the first solutions that brought more controversy in Colombia was the so-called "Convivir", which were private security groups for the protection of the civilian population in areas where the government had no control or could not easily provide protection from criminal groups, guerrillas, or drug trafficking. The goal was for the Convivir to be a bridge between society and government forces, working together for the protection of people's rights and security, so the government tried to regulate the creation of the Convivir through different laws to give legality to their actions.

Rapidly, what seemed like a solution became a new problem for the government, since the Convivir had been infiltrated by paramilitary groups, and their goal of protecting society was put on the back burner, only seeking the security of wealthy people, important businessmen, and companies in the region. The Convivir facilitated in different regions the paramilitary groups to commit crimes such as extrajudicial executions, forced disappearances, torture, and threats to the life and integrity of people⁴⁹. One of the most notorious cases was the Mapiripan massacre in 1997. A group of more than a hundred paramilitaries arrived in the Mapiripan-Meta area, where they used official State vehicles and slept in military barracks. They carried out a massacre with a list of those who were possibly guerrillas, people who collaborated with the guerrillas, or perhaps those who were simply sympathetic to their political beliefs. Torture, beheadings, and dismemberment were part of the AUC's actions throughout the Mapiripan area. The Colombian State was condemned by the Inter-American Court of Human Rights in 2005 for "violations of the victims' rights to life, integrity, and freedom"⁵⁰.

⁴⁹ Inter-American Commission on Human Rights. Organization of America States. <http://www.cidh.org/countryrep/colom99en/chapter.4f.htm> (Accessed May 2, 2023).

⁵⁰ Zafra, Gustavo. Judgment of September 15, 2005, Case of the "Mapiripán Massacre v. Colombia". Inter-American Court of Human Rights. 2015. https://www.corteidh.or.cr/docs/casos/articulos/seriec_134_ing.pdf (Accessed May 2, 2023).

Another attempt by the government to stop the war was the creation of the Law of Justice and Peace in 2005. Ex-president Alvaro Uribe Velez implemented this law for members of paramilitary groups to demobilize with a reduction in sentences in exchange for confessing their crimes and making reparations to the victims. This transitional justice had two sides: on the one hand, the demobilization of 31,000 paramilitary members was achieved, which was quite significant for the impact of the war. Likewise, different crimes committed by the paramilitaries were revealed by knowing the truth and contributing to justice for the victims. Similarly, comprehensive reparations were made to the victims, granting land restitution, compensation, and guarantees of non-repetition. However, the other side was the strong criticism from the opposition to the government and human rights organizations, who claimed that the law only helped the paramilitaries to clear their criminal record for ridiculous sentences. In other words, the Law of Justice and Peace left many cases perpetrated by the paramilitaries with impunity and did not achieve adequate justice. NGOs such as Amnesty International presented opposition papers to the situation that was happening in Colombia at that moment, “The Justice and Peace law grants procedural benefits, such as significantly reduced prison sentences, to members of illegal armed groups who are implicated in human rights abuses and who have agreed to demobilize. The legislation gives judicial investigators only 36 hours to charge suspects, and only 60 days to investigate a case, even if it involves war crimes or crimes against humanity. The limited timeframes set by the legislation open the door for investigations to be dropped, even if the combatants are involved in human rights abuses. This could, in effect, grant many demobilized guerrillas or paramilitaries de facto amnesties”⁵¹. Likewise, from academia, the development of the Law of Justice and Peace was observed, considering that it is an advance for the development of peace but not a guarantee of justice. “the historical evolution of the peace vs. justice debate, the arguments made by the proponents of justice won mostly because victims’ rights trumped States’ political/policy aims of peace. Yet, when peace is elevated to being recognized as a right it dramatically alters the equation since it requires the balancing of competing fundamental rights”⁵². This debate about justice and peace would be reflected again in the peace process signed with the FARC-EP, which we will review later.

⁵¹ Colombia: The Justice and Peace law will benefit human rights abusers. Amnesty International. 2005. <https://www.amnesty.org/en/wp-content/uploads/2021/08/amr230302005en.pdf> (Accessed May 2, 2023).

⁵² Laplante, Lisa. A Balancing Act: The Right to Peace and Justice. Harvard Law Journal. https://harvardilj.org/2019/09/a-balancing-act-the-right-to-peace-and-justice/#_ftn71 (Accessed May 2, 2023).

Human Rights after the peace process

Seven years have passed since the signing of the peace agreements between the national government and the FARC-EP guerrilla, and we can now analyze the effects and consequences of the peace treaty from the perspective of human rights. To begin, we will analyze the statistics presented by the Unit for Victims on February 28, 2023. It is noteworthy that the number of victims due to the armed conflict has increased, compared to the graph previously presented by the Ministry of Health and Social Protection, which gave us a total of more than eight million victims in 2019, and now we have an estimated 12 million four years later. The affected people have suffered acts of terrorism, harassment, threats, forced displacement, kidnapping, enforced disappearances, etc., which are continued crimes that were analyzed before the signing of the peace treaty, leading us to think that the peace treaty did not contribute positively to peace and the cessation of human rights violations.

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Victims of the conflict armed in Colombia. Reporte víctimas del conflicto armado. 2023⁵³. (Orange represents the number of people victims of each right violation, and blue represents the number of the violation events)

According to a report prepared by Amnesty International in 2022, violations of international humanitarian law persist in the national territory, with confrontations between dissidents of the FARC-EP and the government continuing to leave fighters and civilians dead, as well as cases of forced displacement. Human rights defenders continue to be affected by threats, harassment, attacks, and murder for their work. The excessive use of force by authorities in protests held in the country seems to be a normal occurrence now when it should not be. Gender-based violence, killings of indigenous leaders, arbitrary detentions, sexual crimes, and many other crimes continue,

⁵³ Red Nacional de Información. Reporte víctimas del conflicto armado. Unidad para las Víctimas. 2023. <https://www.unidadvictimas.gov.co/es/registro-unico-de-victimas-ruv/37394> (Accessed May 2, 2023).

which should have been exponentially minimized after the signing of the peace treaty, but that was not the case⁵⁴.

While the peace treaty helped with the demobilization of thousands of combatant guerrillas and is in the process of seeking justice and reparations for victims, the negative consequences that would result from destabilizing it would undermine the ideal of peace that was intended. Guerrillas who decided to lay down their arms and demobilize have been killed by dissidents of the FARC-EP or members of paramilitary groups, as they were left in a state of military defenselessness, and the government did not provide adequate accompaniment and protection to these individuals. The areas that were previously occupied by the FARC-EP are now under the control of their dissidents, the ELN, or paramilitary groups.

Additionally, in 2021 Colombia experienced perhaps the most violent protests in its history, according to a statement by the Office of the United Nations High Commissioner in December 2021. "The UN Human Rights Office in Colombia received allegations of the deaths of 63 people in the context of the protests. To date, the Office has verified 46 deaths, of which 44 were civilians and two were police officers. Of the documented deaths, 76% of the victims died from gunshot wounds. According to the information collected and analyzed by the Office, there are reasonable grounds to believe that, in at least 28 of these deaths, the perpetrators were police officers and that, in at least 10 of these 28 deaths, members of the National Police's Mobile Anti-Disturbance Squadron (ESMAD) were involved. Non-state actors are reported to have killed ten people, while there is insufficient information to establish the authorship of the deaths of eight people"⁵⁵.

Economic difficulties, corruption and mismanagement of resources, the poor healthcare system, and dissatisfaction with government policies led society to take to the streets to protest, but it ended up in a constant war between protesters and ESMAD members. National and international organizations seeking the protection of human rights strongly denounced the police's excessive use of force, putting pressure on the government to change its use of force policies and to carry out the

⁵⁴ COLOMBIA 2022. Report 2022/2023. Amnesty International. 2022.

<https://www.amnesty.org/en/location/americas/south-america/colombia/report-colombia/> (Accessed May 2, 2023).

⁵⁵ United Nations. Colombia debe reformar de manera urgente la gestión de protestas para prevenir más violaciones a los derechos humanos – Informe de Naciones Unidas. Oficina del Alto Comisionado de Derechos Humanos de las Naciones Unidas. 2021. <https://www.hchr.org.co/comunicados/colombia-debe-reformar-de-manera-urgente-la-gestion-de-protestas-para-prevenir-mas-violaciones-a-los-derechos-humanos-informe-de-naciones-unidas/> (Accessed May 2, 2023).

relevant investigations to individualize and determine which police officers committed crimes against protesters.

We can then see that the violation of human rights does not only come from illegal armed groups or criminal gangs but also from the government. It is complicated to sustain an ideal of peace when government institutions are not fulfilling their functions as they should, and likewise, there are still people determined to take actions that only seek their benefits regardless of the rights of others.

In March 2023, the HCHR issued its annual report identifying that in 2022, there were 128 cases of possible massacres in the country, of which 92 were verified and 321 victims were registered. The report also indicates that 82,862 people have been forcibly displaced, an increase from the number recorded in 2021 of 73,974. Additionally, the murder of 50 former FARC-EP combatants was verified, bringing the number of murders to 355 since the peace agreement was signed. There were 115 cases of recruitment of minors by non-state armed groups, 103 cases of murder of members of the public forces by non-state armed groups, sexual violence, gender-based violence, sexual exploitation, and at least 71 cases of murders by the Police and Armed Forces, of which 30 could incur criminal and disciplinary actions⁵⁶.

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The situation of security and human rights figures. Annual report of the United Nations High Commissioner for Human Rights. 2022⁵⁷.

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⁵⁶ “Chapter 4, Territorial violence, security and human rights”. Report of the United Nations High Commissioner for Human Rights on the situation of human rights in Colombia. Human Rights office United Nation. 2023. <https://www.hchr.org.co/wp/wp-content/uploads/2023/03/03-03-2023-informe-anual-Ingles.pdf> (Accessed May 2, 2023).

⁵⁷ United Nation. “Situation of human rights in Colombia in 2022”. Annual report of the United Nations High Commissioner for Human Rights. Human Rights Office United Nation. 2022. <https://www.hchr.org.co/wp/wp-content/uploads/2023/03/Infografias-del-Informe-Anual-2022-en-ingles.pdf> (Accessed May 2, 2023).

The situation in Colombia is not optimistic, as human rights violations continue and are even increasing. Human rights defenders are afraid to continue their work as they are constantly threatened or see their colleagues being killed for simply doing their job. The national government must make changes to human rights protection policies and ensure the safety of these individuals. The peace agreement has made progress in the search for peace, but there are still factors that require greater attention from the government to guarantee human rights in Colombia.

JEP implementation.

The implementation of transitional justice in Colombia has been a legal and political challenge, as the state seeks to ensure justice in all cases but faces social pressure when many of the decisions are not what society expected.

At the moment the Colombian government negotiates the peace agreement with the FARC-EP, both establishing the minimum and maximum sentences, as well as investigation times, trial processes, guarantees of non-repetition, and possible sanctions for each of the cases. Law 1952 of 2019 regulates special jurisdiction for peace in Colombia and decrees in its first article that:

*"The State has the legal duty to guarantee and attend to the rights of victims and with the same intensity, the obligation to prevent new acts of violence and achieve peace in an armed conflict by the means within its reach."*⁵⁹

This means that every case presented to the JEP must be investigated and judged with the same importance and severity, seeking equality among all victims.

⁵⁸ United Nation. "Situation of human rights in Colombia in 2022". Annual report of the United Nations High Commissioner for Human Rights. Human Rights Office United Nation. 2022. <https://www.hchr.org.co/wp/wp-content/uploads/2023/03/Infografias-del-Informe-Anual-2022-en-ingles.pdf> (Accessed May 2, 2023).

⁵⁹ Congreso de Colombia. Ley Estatutaria de la Administración de Justicia en la Jurisdicción Especial para la Paz, Ley 1952 de 2019. Art.1. PDF version. <https://www.funcionpublica.gov.co/eva/gestornormativo/norma.php?i=94590> (Accessed May 2, 2023).

However, for many people, justice is directly related to seeing those who committed crimes and directly or indirectly harmed the civilian population in prison. This idea of justice is not necessarily the one that will be applied for the JEP, since there will be amnesty for certain crimes, and such amnesty will seek "the extinction of the principal and accessory criminal action and sanction, derived from a punishable conduct, and the responsibility derived from the action of repetition when the amnestied has performed public functions" established by Article 41 of Law 1820 of 2016. But also, it establishes that amnesties will not eliminate the obligations of reparation that are imposed in compliance with the integrated system of truth, justice, reparation, and non-repetition⁶⁰.

So, "The JEP was created to satisfy the rights of victims to justice, offer them the truth and contribute to their reparation, to build a stable and lasting peace"⁶¹ and not to directly seek the criminal sanction that would usually be sought for these crimes. The JEP handles 10 major cases, where it investigates, clarifies, and sanctions those responsible for these acts. These cases are:

1. Illegal detentions carried out by the FARC-EP. Kidnappings.
2. Prioritize the situation of human rights violations in the municipalities of Tumaco, Ricaurte, and Barbosa in the department of Nariño.
3. Assassinations and forced disappearances presented as combat casualties by state agents. "False positives."
4. Prioritize the territorial situation in the Urabá region.
5. Prioritizes territorial situation in the northern Cauca and southern Valle del Cauca regions.
6. Victimization of members of the Patriotic Union.
7. Recruitment and use of girls and boys in the armed conflict.
8. Crimes not eligible for amnesty committed by the public force, and state agents in association with paramilitary groups.
9. Crimes against ethnic peoples and territories.

⁶⁰ Congreso de Colombia. Disposiciones sobre amnistía, indulto y tratamientos penales especiales y otras disposiciones, Ley 1820 de 2016. Art40. PDF version. <https://www.funcionpublica.gov.co/eva/gestornormativo/norma.php?i=78875#:~:text=La%20presente%20ley%20tiene%20por,conductas%20punibles%20por%20causa%2C%20con> (Accessed May 2, 2023).

⁶¹ Special Jurisdiction for Peace. JEP Jurisdicción Especial para la Paz. 2022. <https://www.jep.gov.co/JEP/Paginas/Jurisdiccion-Especial-para-la-Paz.aspx> (Accessed May 2, 2023).

10. Crimes not eligible for amnesty committed by the extinct FARC-EP within the framework of the Colombian armed conflict.⁶²

Among the most significant advances to date has been the individual and collective recognition by members of the FARC-EP of crimes such as hostage-taking, kidnappings, murders, torture, cruel treatment, attacks against the dignity of persons, sexual violence, and forced displacement.

According to an infographic produced by the JEP in August 2022, 13,493 individuals have signed commitment and submission agreements, and 334,374 victims within the conflict have been accredited⁶³.

Additionally, the following projects have been created in an effort to redress the harm to the civilian population and prevent future violations of their rights:

- Comprehensive Mine Action Project
- Search for Missing Persons Project
- Sumapaz Project: recognition of the environment as a victim
- Cross-Cutting Project for Memory and Symbolic Reparation.⁶⁴

However, ordinary justice has initiated proceedings against the state for its involvement in different cases where human rights violations have occurred. The Council of State, in a ruling on March 5, 2017, found the state, Ministry of Defense, and National Army administratively responsible for the death of three people in the False Positives cases and ordered them to pay 2.5 billion pesos to the victims' families and to provide integral reparations to the victims⁶⁵.

⁶² The cases of JEP. JEP Jurisdicción Especial para la Paz. 2022. <https://www.jep.gov.co/Paginas/casos.aspx> (Accessed May 2, 2023).

⁶³ Justicia Restaurativa que Transforma, rendición de cuentas 2022. JEP Justicia Especial para la Paz. 2022. <https://www.jep.gov.co/Sala-de-Prensa/Paginas/JEP-rinde-cuentas-2022-Justicia-restaurativa-transforma.aspx> (Accessed May 2, 2023).

⁶⁴ Comunicado 104 DE 2022. JEP Justicia Especial para la Paz.2022. <https://www.jep.gov.co/Sala-de-Prensa/Paginas/Sala-Reconocimiento-jep-remite-exsecretariado-Farc-Tribunal-Paz-secuestros.aspx> (Accessed May 2, 2023).

⁶⁵ Rodríguez, Jaime. Sentencia del Consejo de Estado por acción de reparación directa con radicado N. 73001-23-31-000-2008-00561-01. Consejo de Estado. 2017. https://www.consejodeestado.gov.co/documentos/sentencias/30-11-2017_73001233100020080056101%20.pdf (Accessed May 2, 2023).

Similarly, in 2018, the Inter-American Court of Human Rights found the Colombian state guilty of violating the right to life, personal integrity, personal liberty, honor and dignity, judicial guarantees, and the prevention and punishment of torture⁶⁶.

The contribution to the truth about the events that occurred during the armed conflict has aided in the reparation of the conflict by providing a better understanding of what actually happened. The possibility of obtaining justice, even if it is only symbolic, has been materializing thanks to the trials carried out by the JEP and the various projects aimed at redressing the harm done to society. Therefore, we see a positive change in the violation of human rights thanks to the peace agreements. Although human rights violations persist, there is still a significant group of people who genuinely seek a change in the armed conflict and try to repair all the damage that has been done to society.

⁶⁶ McGregor Eduardo, Grossi Eduardo, Odio Elizabeth, Zaffaroni Eugenio, and Freire Patricio. Judgment of November 20 of 2018, Case of “Villamizar Duran y otros vs Colombia”. Inter-American Court of Human Rights. 2018. https://www.corteidh.or.cr/docs/casos/articulos/seriec_364_esp.pdf (Accessed May 2, 2023).

ANALYSIS

Considering the information previously reported, we can begin to have answers to the questions we asked ourselves at the beginning of this writing and analyze more in-depth the case of Colombia.

Has the implementation of peace treaties in Colombia served to minimize human rights violations?

The first thing to determine is the purpose of the peace agreements in Colombia. According to the national government, the motivation was to put an end to the armed conflict and the construction of a stable and lasting peace. The answer to this question is ambiguous and depends on which side of the coin you look at it from. It must be recognized that the peace agreements helped exponentially to reduce the armed conflict in Colombia, considering the disarmament and demobilization of the country's largest guerrilla group. Also, the recognition of victims and victimizers throughout the conflict, the search to redress the damage perpetrated by the guerrilla with the victims, along with integral reparation and the commitment to non-repetition through transitional justice. The participation of the FARC-EP in Colombian politics, creating an opposition party, promoting their political ideas from the Congress of the Republic and not from the jungle with rifles and sowing terror in society. Likewise, it has helped with the strengthening of democracy, the construction of peace, programs for sustainable development, improving Colombia's international image, and above all in the protection of human rights, seeking truth, justice, and reparation for the victims. On the other hand, we see that there has been an increase in human rights violations after the signing of the peace treaties. There are external factors to the agreement that have generated new violations and increased the number of cases in the country. Therefore, we could conclude that the peace agreements helped minimally to reduce human rights violations but were not enough to fulfill the ideals that were expected.

What factors led to human rights violations in Colombia after the peace agreements?

Many factors lead to human rights violations in Colombia, some of which arise from the armed conflict with its different actors, but there are also violations of human rights external to the armed conflict. When we talk about causes or factors as a consequence of the armed conflict, we are talking about what has already been explained before, different armed groups fighting among themselves and against the government to impose political ideologies or control drug trafficking, violating the rights not only of combatants but also of third parties who are affected by the war.

The peace agreement is focused on ending the war with the FARC-EP and serving as motivation to end the conflict with other guerrilla groups, paramilitaries, drug trafficking, and criminal gangs. But the peace agreement did not even achieve its principal objective 100% since not all members of the FARC-EP were demobilized. The lack of opportunities and guarantees from the state led ex-combatants to decide to return to crime, which undermines the stability of the peace agreements and generates new human rights violations when they decide to engage in illegal activities to achieve their objectives. The other actors (paramilitaries, guerrillas, drug trafficking, etc.) continue to commit the same criminal actions as before the signing of the peace agreements. Moreover, as previously studied, the agreements also brought extrajudicial executions, torture, threats, forced displacement, discrimination, and accusations without due process against ex-combatants of the FARC-EP, clear human rights violations.

Now, there are human rights violations in Colombia that are not a consequence of the country's internal armed conflict. Gender violence, discrimination against vulnerable populations (both indigenous and Afro-descendants, LGBTIQ community, migrants, etc.), restrictions on freedom of expression, child exploitation, limited access to basic services in rural areas, police repression, labor exploitation, limited access to justice, among others, are actions generated by individuals or the government itself that result in violations of people's rights.

Is there protection and guarantee of human rights in Colombia?

It is difficult to find a solution to this problem, as there is an evident lack of willingness on the part of politicians and government workers to fulfill their duties properly. Many people just do the basics of their jobs and are unconcerned about the repercussions that their poor work performance

may have. State entities responsible for human rights protection are overwhelmed by the number of complaints they receive and have significant limitations in investigating, punishing, and preventing different human rights violation cases. Likewise, factors such as corruption and political and economic pressures mean that in many cases, people's rights are not adequately protected, nor are they given appropriate support for their respective cases.

Moreover, there is a lack of coaching and sensitization of public officials, military and police forces members on the regulations governing human rights and the principles they must respect when carrying out their public duties.

Access to justice and due process must be checked by authorities, and legal actions against those who have committed crimes that violate the rights of others should not be allowed to expire. Impunity is a recurring factor in Colombia, which not only allows those who violate the rights of others to avoid paying a penalty for their actions but also encourages others to commit similar actions, knowing that there will be no repercussions for their wrongdoing.

Media pressure is very volatile in Colombia. The media, which plays an important role in society, often neglects its social function and focuses solely on generating more money mostly private entities. Putting pressure on the government for human rights violations is news that lasts no more than 48 hours because they need to find a new story that generates greater audience interest and therefore more economic income impact.

Finally, NGOs have played an important role throughout this process, revealing the truth about many of the human rights violations committed in the country. However, the high level of homicides of social leaders and people linked to non-governmental organizations working for social welfare has led many organizations to refrain from doing fieldwork and limit themselves to observing the new situation that Colombia faces from afar.

In 2022, Mr. Gustavo Petro Urrego, the first left-wing president in Colombia and a former active guerrilla of the now-defunct M-19 guerrilla group, took office as president. His political plan and the poor management of the previous presidential term led voters to choose him as president, where one of his principal goals is total peace in Colombia. "The Total Peace policy is a multifaceted effort to minimize violence, protect civilians, and dismantle the numerous armed groups operating

in Colombia"⁶⁷. However, despite the new policies adopted by the government, human rights violations persist, both as a result of the armed conflict and external to it. From this, we can conclude that there is protection, or at least the intention of protection, of human rights in Colombia, but there are no guarantees for it.

What is the international perception regarding human rights violations in Colombia in the post-conflict era?

The first thing that must be highlighted is the strong support from the international community for the Colombian government's intention to stop the armed conflict and reach peaceful solutions through the peace agreement. Such recognition was evident when former President Juan Manuel Santos won the Nobel Peace Prize in 2016 for his fight and constant efforts to build the peace agreement. Throughout this process, different countries have participated, including Cuba, the United States, Norway, Chile, and Canada, among others. Some acted as guarantors or supervisors of the agreements, while others provided economic aid and support for this initiative to generate peace agreements. Similarly, international organizations such as the United Nations, Organization of American States, European Union, World Bank, Inter-American Development Bank, etc., provided technical and financial assistance to the peace agreements.

Despite the adversities faced by the peace agreements, the international community continues to support the Colombian government with the implementation of the agreements, creating programs for the reintegration of guerrillas, developing rural projects for the exploitation of the countryside by farmers, protecting human rights, seeking truth, guaranteeing and preventing the repetition of crimes committed.

The violation of human rights after the peace agreements is an irrefutable fact. Annual reports from organizations such as the UN or HRW in recent years indicate the need to review transitional justice, impunity, and future protection. While attempting to maintain an optimistic outlook, it is recognized that crimes and human rights violations persist. The government is urged to implement new strategies to guarantee the protection of people's rights, reduce conflicts with other actors such

⁶⁷ ¿Qué es exactamente el esfuerzo de paz total de Colombia y cómo avanza?. Washington Office on Latin America. 2023. <https://www.wola.org/es/events/que-exactamente-esfuerzo-paz-total-colombia-avanza/> (Accessed May 2, 2023).

as paramilitarism and drug trafficking, and promote more protection programs for victims of the conflict, as well as provide social, financial, educational, and health support to these people.

CONCLUSION

The research conducted for this document has explored the facts and presented the causes of why human rights violations persist in Colombia even after the signing of a peace agreement in the country, thus achieving the originally proposed objectives.

Likewise, information has been collected and analyzed that contributes to knowledge and the field of study, allowing me to strengthen my understanding of the topic and expose its importance to different future readers.

The research question initially posed, "Why do human rights violations persist in Colombia after the signing and implementation of a peace treaty?" can now be answered based on all the information previously provided and analyzed. In short, the answer to this question would be that in Colombia, other factors contribute to the violation of human rights besides the FARC-EP guerrilla. There is an armed conflict that exacerbates human rights violations, different actors within the war who only seek their interests regardless of the consequences of their actions and if it involves violating the rights of others. Likewise, there are external factors to the war such as corruption, mismanagement of resources, lack of public policies for the protection and guarantee of human rights, limited access to rudimentary services in rural areas, police repression, labor exploitation, limited access to justice, discrimination against vulnerable populations, etc, that contribute every day to the violation of human rights of Colombians.

It is important to remember that there are mechanisms for the protection of fundamental rights in Colombia and that at least on paper, there is an ideal of guaranteeing these rights, despite not always being achieved in practice. The peace agreements did help reduce the war and human rights violations, but at the same time, they opened the door to new criminal groups and new violations against other vulnerable populations. The protection of human rights in Colombia is a complicated task and there are many difficulties in implementing the ideal of the laws in practice. It will require not only an ideological or political change but also a cultural change. It will be necessary for people to stop seeking easy enrichment through drug trafficking, for guerrillas and illegal armed groups to resolve their ideological differences through politics rather than with guns threatening and killing civilians, and for the state to stop lying to the population to hide the misconduct of its military

operations, and to attack the government corruption that bleeds the state's coffers and be able to use such funds to finance health, education, security, employment, housing, environment, among other programs. It is utopian to ask for what is being asked, as world power countries that are called themselves "first-world" present equal or even worse problems in terms of human rights violations. But it is necessary not to give up in the fight for the protection of people's rights, and I hope that this research helps raise awareness among readers about the problems faced in Colombia and that there will be a prompt improvement because we are not the ones who suffer the emotional and/or physical harm that comes with the violation of rights, but rather it is thousands of other Colombians who suffer and we must have empathy and help build a better society.

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