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Colombia's Peace Process Advances Despite Fast-Track Ruling, U.S. Interference

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Amid growing difficulties, the government of President Juan Manuel Santos and the Fuerzas Armadas Revolucionarias de Colombia (Revolutionary Armed Forces of Colombia, FARC) continue taking steps they committed to in the historic peace accord signed in 2016 after nearly four years of negotiations ([NotiSur, April 28, 2017](#)). The agreement came after more than a half century of bloody war that killed hundreds of thousands, left many others maimed and mutilated, and displaced millions.

Sectors on the extreme right, however, are using everything at their disposal to derail the peace process. Their leader, former President Álvaro Uribe (2002-2010), already announced that if his party, Centro Democrático (Democratic Center), wins the country's 2018 elections, it will void everything that was agreed upon.

The justice system—from the high-level Corte Constitucional (Constitutional Court) to first-instance judges—has also challenged the peace process, undermining its credibility and putting it at serious risk politically. “[The judiciary] has dealt a heavy blow to public confidence in Santos and the guerrillas,” the weekly newsmagazine *Semana* argued recently, citing various sources. “They didn’t hesitate to use the Corte Constitucional to overturn the fast track, a key element of the accord,” said lawmaker Ángela Robledo. “It was the biggest blow yet to the process, as evidenced by poll numbers showing that 65.2% of Colombians distrust the peace efforts.”

The fast track, established via a 2016 legislative act, is a mechanism that allowed expedited approval of laws and constitutional reforms needed for the implementation of the peace process. The radical right hopes that without it, the Santos government and the FARC will be unable to move forward.

Last month’s decision by the Corte Constitucional to overturn the fast track had an immediate impact by delaying one of the key components of the peace accord: the handing over of weapons by the FARC to UN representatives. But on June 7, the guerrillas did finally begin disarming, which Santos said, was something that “would have been unimaginable just five years ago.” Two weeks later, on June 20, the FARC surrendered the last of its weapons, demobilizing once and for all, and thus ceasing to exist as an armed force.

The group is now looking forward to entering formal politics. Earlier in the year, on April 4, the former rebels began debating what they call the “61 Theses of April,” a series of documents around which they hope to form a political party when they gather, starting Aug. 7, for an inaugural convention.

Uribe, for his part, has praised the role played by the Corte Constitucional, Colombia’s highest authority on constitutional law, and heavily criticized the FARC’s political project. But he has also had to turn his attention elsewhere—from politics to crime—to plan a defense for Santiago Uribe, his younger brother, who like so many other members of his family (his deceased father, two other brothers, a cousin, a sister-in-law, and a niece) is accused of involvement in drug trafficking and

financing paramilitary groups. In the meantime, the US Department of State and its ambassador in Bogotá, Kevin Whitaker, kicked off a new phase in their old policy of interfering in Colombian affairs.

Looking to Lenin

The FARC's planning process is loaded with symbolism. April 4—the day they began debating their “61 Theses”—marked the 100th anniversary (according to the old Russian calendar) of the moment that Vladimir Lenin presented a series of directives aimed at launching the second phase of the Russian Revolution. He did so upon returning to Petrograd (now Saint Petersburg) following a period of exile in Switzerland.

The thrust of Lenin's “April Theses,” the FARC recalls, was that councils of workers (soviets) should seize power. The FARC's own “April Theses” call for the establishment of “a party based on Marxism, Leninism, Bolivarian liberation ideas and, in general, sources of critical and revolutionary thinking of the people.”

Aug. 7, the planned date of the FARC's first political convention, is also historically significant. On that day in 1819, liberation forces won the Battle of Boyacá, fought about 150 km from Bogotá. The battle was part of a campaign launched by Simón Bolívar 77 days earlier in Venezuela that resulted in the mass surrender of Spanish troops. It was a decisive step toward establishing the independence of the Viceroyalty of New Granada, an area containing what is now Ecuador, Colombia, Venezuela, and Panama.

As a party, the FARC plans to participate in Colombia's 2018 elections. It is guaranteed 10 legislative seats, five in each of the two chambers of Congress. Those seats will be added to the legislature, meaning that for the next two congressional terms (from July 20, 2018, to July 19, 2026), the Senate will go from having 102 members to 107, and the Chamber of Deputies from 166 members to 171.

Words from Washington

Against this backdrop, on June 13, US Secretary of State Rex Tillerson told members of the Senate Foreign Relations Committee in Washington that Colombia should “get back to the [aerial] spraying, back to destroying these fields.” His comments were in reference to Colombian coca plantations and the practice that was in place for years—as part of the Plan Colombia the two countries developed in 1999—of using the controversial chemical glyphosate to eradicate the crops ([NotiSur, Aug. 26, 2005](#)). Glyphosate is an herbicide produced by the multinational biotechnology giant Monsanto. Use of the chemical was suspended in Colombia in 2015 after it was shown to have harmful effects on human health and the environment ([NotiSur, June 9, 2017](#)).

A week earlier, on June 7, Ambassador Whitaker sent a letter to the president of the Corte Suprema de Justicia, Colombia's supreme court, complaining about the release of a FARC fighter that US authorities consider to be “extremely dangerous” and had sought to extradite to the US. In doing so, Whitaker bypassed the Colombian Foreign Affairs Ministry, the normal diplomatic channel for communications of this kind.

President Santos responded shortly after. “Court decisions cannot, nor should be, ignored or challenged either by [Colombian] nationals or foreigners,” he said. Five days after that, on June 14, Colombia's minister of the environment and sustainable development, Luis Murillo, let Tillerson know that “Colombia's decision not to resume aerial spraying of glyphosate is a sovereign one.”

'A done deal'

All of these developments come on the heels of the Corte Constitutional's decision, on May 17—just two weeks before the FARC was scheduled to begin surrendering its weapons—to overturn the fast track. The mechanism obliged lawmakers to approve or reject the major components of the peace agreement in their entirety rather than go through them clause by clause. It also prevented lawmakers from introducing changes not approved by the executive branch. The court determined that aspects of the fast track are unconstitutional, noting, among other things, that it runs counter to the separation of powers by limiting the legislature's ability to modify the material in question.

"By focusing on the tree, the high court lost sight of the forest," Cecilia Álvarez Correa, a former minister of commerce and industry, wrote in a May 21 column for the Bogotá daily *El Tiempo*. "I'd like to know from the magistrates whether it's a violation of the Constitution when Congress votes every year on a budget bill in which not a single period or comma is approved without the express endorsement of the executive."

Tax reforms are dealt with similarly, with Congress only approving taxes that are favored by the president's office, Álvarez Correa argued. "And what about the international treaties?" she asked. "Congress can spend all the time it wants debating and debating, but at the end of the day, the vote comes down to 'Yes, I approve' or 'No, I don't approve.' And there's a natural reason for that: Material that has been negotiated or agreed upon with another party [other countries] based on the special authority conferred on the president can't be unilaterally changed by Congress. Either way, [Congress] does have a lot of power in those cases, in that it can approve or reject an international treaty."

Álvarez Correa said the peace treaty should be considered in this same light. "Only in this case, what's at play aren't Colombia's trade rules, as is often the case with international treaties, but nothing less than peace for all Colombians and the lives of impoverished young people lost in the war," she wrote. "Congress cannot, nor should it, carry out unilateral negotiations with the FARC. It never was authorized to do that. The negotiations are a done deal and are the product of clear and specific powers conferred on the president by the Constitution."

Álvarez Correa, an academic with the Pontificia Universidad Javeriana, went on to say that the fast track is neither new nor alien to Colombian democratic practices. "On the contrary, it's an existing mechanism that doesn't affect either the legitimacy or legality of the material it expedites. Arguing otherwise not only puts similar mechanisms used in our system at risk, but also challenges the essence of law, which ought to be the expression of peace and coexistence between people."

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