

Colombia, the peace process and the political participation of the armed groups

By Felipe Gómez Isa

■ Executive summary

One of the key indicators to determine the degree of success of any peace process is the stable participation in national politics of former members of armed groups in rebellion against the state. In the case of Colombia, the traditionally exclusive nature of its political system explains why both the enlargement of spaces for democratic participation and the political participation itself of the Revolutionary Armed Forces of Colombia – People’s Army (FARC-EP) have become key issues to be discussed at the talks in Havana. It would be highly desirable for the obstacles and reticence evinced by specific political sectors to be overcome so that the current peace process can result in both the political participation of the demobilised members of the FARC-EP and greater democracy in Colombia.

We would rather see Timochenko in Congress than be spraying the hills of Colombia with bullets.
Humberto de la Calle¹

As pointed out in the General Agreement for the Termination of Conflict and the Construction of a Stable and Lasting Peace (Acuerdo General para la terminación del conflicto y la construcción de una paz estable y duradera), a document signed jointly by the Colombian government and the Revolutionary Armed Forces of Colombia – People’s Army (FARC-EP) in August 2012, it “*is important to enlarge democracy as a precondition to achieving a solid basis for peace*” (emphasis added). One of the structural reasons underlying the armed conflict in question is the nature of the Colombian political system itself, which is exclusive in the extreme (Pécaut, 2003). Therefore, the issue of opening the scope of political participation to include the diverse political and social stakeholders involved is one of the key, albeit extremely complex, elements of the current peace process.

The political participation of former “freedom fighters” is often one of the elements that most facilitate the achieve-

ment of a peace agreement (Weinstein, 2006), and this must be understood as a process that enlarges the opportunities for political and institutional participation in post-conflict scenarios if the aim is truly to attain a sustainable and lasting peace (De Zeeuw, 2008: 16).

Factors that enable political participation

The new international context that emerged after the cold war and the completion of the Central American peace accords are powerful forerunners in favour of turning the FARC-EP into a political movement instead of a rebel group. At this point in time, the possibility of achieving a socialist revolution by violence is materially impossible (Velásquez, 2012: 49). On the contrary, there are a number of examples, such as those provided by Venezuela after the Bolivarian Revolution, Ecuador under Rafael Correa, and Uruguay in the times of former Tupamaro member José Mujica, that prove that the political arena may be the best space to fight for political and social change. It is highly significant, therefore, that the Venezuelan administration is one of the facilitators of the current peace process.

¹ De la Calle is the leader of the Colombian government’s negotiating team for the current peace process with the FARC-EP.

When the achievement of peace is the result of an agreement between conflicting parties it is most probable that the agreement in question will include, as one of its main lines of action, the participation in politics and policymaking of former rebels. This happened in the cases of the Farabundo Martí National Liberation Front in El Salvador and the Irish Republican Army in Northern Ireland (Arnson, 1999). And it is especially the case when the rebel groups are revolutionary in nature, as is the case with Colombia's FARC-EP. Despite the gap between rhetoric and reality, the FARC-EP's objective remains a deep and far-reaching social and political transformation of Colombian society. This explains why the organisation's evolution into a political movement with access to institutional political action will be decisive.

The experience of the Patriotic Union

This is not the FARC-EP's first attempt to make a bid for participation in domestic politics. The *Acuerdos de La Uribe* or Ceasefire and Truce Agreements between the Belisario Betancur administration and the FARC-EP in 1984 resulted in the creation of the political party *Unión Patriótica* (Patriotic Union, or UP), in which a variety of political forces converged to allow for the gradual incorporation of the guerrillas into the country's political scene (Matta Aldana, 2002). Regrettably, the UP experience came to an abrupt halt as a result of the dirty war waged against it by the state, which resulted in the quasi-systematic extermination of UP members and its political leaders.² There is fairly generalised agreement that this annihilation of the UP cannot be replicated if the aim is truly to achieve a successful agreement for peace with the FARC-EP. Thus, the issue of security guarantees for those entities seeking to participate in the political arena is one of the FARC-EP's most important claims. As set forth in Item 2 of the General Agreement for the Termination of Conflict and the Construction of a Stable and Lasting Peace, which is devoted to "political participation", it is a precondition that "rights and guarantees for the exercise of political opposition activities be granted ... under equal conditions and with the pledge of safety" as part of the agreement to achieve peace.

The first reparation measure for the systematic extermination of UP members and of the UP as a political organisation has been the re-establishment of its legal status, of which it was deprived by the National Electoral Council (Consejo Nacional Electoral, or CNE) in 2002. In July 2013 the Council of State declared null and void the decisions issued by the CNE depriving the UP of its legal status. The fundamental argument upheld by the Council of State is that, in view of the *force majeure* that confronted the party as a result of "the extermination of its leaders, candidates and elected representatives, as well as of many of its members ... it could not participate [in the 2002 elections] under equal conditions". Thus, the decision taken by the

CNE was not in accordance with the law and deserved to be overturned, which in legal terms means that the UP never lost its legal status (Council of State, 2013).

Other measures are being endorsed, such as those to advance the resolution of the case regarding the obliteration of the UP and its members, which is currently being judged by the Inter-American Court of Human Rights, and the economic and political redress of the UP (Quiroga, 2011). In this second case this implies the handover to the party of the posts held by the murdered victims and steps to overhaul a political system that consented to the systematic persecution of thousands of political opponents.

Therefore, if the FARC-EP were to decide to seriously consider its political participation, and if the state provides sufficient guarantees in terms of safety and security, not only the UP, but also other political coalitions created recently could serve as a "landing strip" for the demobilised members of the FARC-EP (Lozano Guillén, 2012: 52). Among these alternative groups are *Marcha Patriótica* and other similar entities.

Proposals regarding political participation

The General Agreement for the Termination of Conflict and the Construction of a Stable and Lasting Peace itself includes the issue of "political participation". Among the issues to be discussed the following are explicitly laid down: "the rights and guarantees necessary for the exercise of political opposition ... specifically with a view to new movements that may surface following the signing of the Final Agreement"; "access to the media"; the establishment of "democratic mechanisms necessary for citizens' participation, including direct participation" and, finally, the adoption of "effective measures to foster greater participation of all the sectors in question, including the most vulnerable groups, in national, regional and local policymaking and politics, all on an equal footing and with guaranteed safety". We are clearly seeing proposals that aspire to a comprehensive revamping of the Colombian political system that will result in a more participative, more inclusive structure and system that will make space available for the new – and not-so-new – social and political movements that might emerge from the peace process.

As to the issue of political participation, a very relevant event took place in April 2013: the holding of the Forum on Political Participation organised by the United Nations and Colombia's *Universidad Nacional*. The forum benefitted from the participation of political parties, social bodies, political groups, academics, NGOs and the media. Its objective was to discuss the issue of political participation and send the conclusions of these discussions to the talks in Havana; this took place in May 2013.

² The State of Colombia has acknowledged before the Inter-American Court of Human Rights that it is "responsible at an international level for the violation of the right to life of Senator Cepeda Vargas, by omission or commission, because two Army sergeants committed the murder" (IACHR, 2010: para. 67).

An issue on which there was broad agreement in the forum was the one that dealt with the need to enlarge the democratic spaces available in the Colombian political system, since political participation and democracy are not merely formal concepts of processes that result in participation in a given election (Foro sobre Participación Política, 2013: 44).

One of the main flaws inherent to the Colombian political system is in fact the lack of a political opposition that does more than just pay lip service to formalities (Comisión para el Estudio de la Reforma de los Partidos Políticos, 1995). Thus it was that the approval of the Statute for the Opposition was proposed. This statute was, in the first place, supposed to grant the necessary guarantees for the relevant exercise of political opposition; it was also to study the issue of access to information and the media. Contact with the media is crucial, since they are extremely concentrated in Colombia and have been essential instruments for social and political polarisation, as well as for the undermining of social and political groups that oppose the establishment (Foro sobre Participación Política, 2013: 32).

This statute was also to allow the opposition access to the state's various executive entities. This is key in order to open up spaces for participation by the opposition. Thus far these entities have been in the hands of government coalitions as a result of the so-called "bureaucratic agreements or covenants" that empty them of their true *raison d'être*. Among the entities that the opposition should be able to participate in and utilise are the Committee on Foreign Affairs; the Board of the National Bank of the Republic of Colombia; the National Electoral Council; and the executive organs of the Attorney General's Office, the Office of the Comptroller General, the Ombudsman's Office, the Office of the Prosecutor and the bodies guaranteeing territorial control (Foro sobre Participación Política, 2013: 31).

Another issue fraught with complications that might potentially hinder the peace negotiations, especially in view of the strongly presidential nature of the Colombian political system, is the introduction of changes in the election laws. The majoritarian electoral system favours the major political parties, because it limits minority political groups' access to power. On occasion, these smaller groups are unable to pass the 3% threshold needed by law in Colombia to have a presence in the Congress and Senate. This explains the proposal to bring this requirement down to 2% and to introduce a mixed electoral system that would allow for a certain degree of proportionality (Foro sobre Participación Política, 2013: 10). This would offer greater opportunities to minority political bodies.

Political participation of the FARC-EP

Any possible political participation by the FARC-EP in political life after a hypothetical peace agreement has been

reached has become the subject of very heated debate within the current negotiation process (Guarín, 2012: 23). The administration of Álvaro Uribe (2002-12) and its policy upholding *democratic security* defined the FARC-EP as a terrorist organisation, but under President Juan Manuel Santos the group is characterised as "a political stakeholder rebelling against the state" (Santana Rodríguez, 2012: 16).

This new perception of the status of the FARC-EP paves the way for the designation of the crimes it has committed as *offences inspired by political motives*, a process that has left a long legal and political wake in Colombia's history (Tarapués, 2011). As the Constitutional Court of Colombia (1993: 18-19) has pointed out,

offences inspired by political motives should not disqualify [the candidate of the] future from carrying out public functions Talks and conversation with rebel groups would be doomed to fail if the institutional possibility did not exist of a comprehensive return to civilian life, with all the prerogatives of carrying out political functions and exercising political control for those who, foregoing insurrectionary actions, embrace democratic procedures with the intent of thus channeling their concerns and ideals.

In accordance with this approach, in July 2012 the Congress of Colombia approved the Legal Framework for Peace³ with the intention of amending the Constitution and facilitating the negotiation process with the FARC-EP (Gómez Isa, 2013: 2). The document includes an express reference to offences inspired by political motives with regard to the participation in politics of persons having committed those offences. As set forth by transitional Article 67 of the new Constitution of Colombia,

a new statutory law will determine what the offences are that will be deemed associated to offences inspired by political motives with a view to deciding on the possibility of participating in politics. Crimes against humanity and systematic genocide cannot be considered to be offences inspired by political motives, and therefore persons convicted of those crimes may neither be elected nor participate in formal politics.

Thus, what is being attempted is to ensure that there is room for participation in the political arena for those who have in the past fought in the FARC-EP, who were members of its secretariat, and who have since demobilised. But this participation hinges on there being an agreement for peace and on no crimes against humanity or genocide having been committed. Ultimately, this is a balanced approach to the issue of participation in political activities by members of rebel groups, since the main purpose of any peace process must be that these members may become political representatives in their own right.

³ Legal Act 01, dated July 31st 2012, establishing the instruments for transitional justice within the framework of Article 22 of the Constitution and determining other provisions.

Towards a national constituent assembly?

Another issue on which there is currently no agreement within the scope of the talks in Havana is that of the political endorsement of agreements resulting from decisions reached during the talks. There is consensus regarding the advisability of the peace accords benefitting from popular support and the need for them to be accepted by the population at large. This would ensure their democratic legitimacy. However, there is no unanimity that this endorsement should come conjointly with the creation of a national constituent assembly. In view of the nature of the structural changes claimed as part of the peace accords, both the FARC-EP and a substantial number of the political and social stakeholders at the Forum for Political Participation (Foro sobre Participación Política, 2013: 11) believe that a national constituent assembly is the best means to uphold any peace agreement. However, the current administration categorically rejects this request, because it feels that opening this Pandora's box would have unforeseeable consequences.

Conclusion

One of the key indicators to determine the degree of success of any peace process is the secure and stable political participation of former armed groups who have rebelled against the state. This has happened in Central America and in parts of Africa, specifically Liberia and Sierra Leone, where the United Nations has performed a crucial role throughout the entire processes of disarmament, demobilisation, and reintegration into civilian life and political functions of rebel forces. In the case of Colombia, the political "landing" of demobilised members of guerrilla forces has become one of the issues under discussion at the talks in Havana. Should the FARC-EP be offered sufficient guarantees that its members' participation in politics will be secure, thus avoiding a repetition of the tragedy of the UP, and that the future holds a more inclusive and more democratic political system, there is a possibility that the peace process will be unblocked. Ultimately, the peace process should aspire to a farewell to arms and the demobilised members of the FARC-EP participating on an equal footing in politics and policymaking.

The recent joint announcement by the Colombian government and the FARC-EP on November 6th 2013 stated that they had reached an agreement on the issue of "political participation". Firstly, they announced the creation of an integral security system for those who want to participate in politics, which was one of the guerrillas' key demands. Secondly, they announced the adoption of the Statute for the Opposition and the revision of the electoral system, as well as more equitable access to the media. As can be seen, all these measures are aimed at creating more political space for those political parties and social movements that have been systematically excluded from the Colombian political system. This agreement shows that the peace process is moving in the right direction.

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