

Rejection of the "Peace" Accords with the FARC: What's Next for Colombia?

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Oct. 4, 2016 -- On October 2, by a very narrow margin, Colombians voted to reject the agreement that their government had negotiated with the Fuerzas Armadas Revolucionarias de Colombia (FARC) that would have formally ended that group’s 52-year long struggle to overthrow that nation’s government. The result came as a shock to many both within and outside Colombia, given that polls taken shortly before the referendum predicted the accord would pass by an almost two-to-one margin.[3]

(http://144.99.215.155/banner/#_ftn3) Indeed, in our confidence that the referendum would pass, had written and were waiting to go to press with a detailed article on the outlook for post-agreement Colombia.

Interpreting the results

The October 2 vote does not reflect Colombia’s rejection of peace, but

rather, of an accord that many Colombians believed would bring neither peace nor justice. Colombians have long become accustomed to the breach between the erudite discourse of their leaders, and the realities of their daily lives. The rejected 297-page long accord was a good example of this contrast. Beyond the language used by the government to encourage acceptance of the agreement, a number of its provisions threatened to both worsen the security situation and exacerbate the difficulties of the Colombian economy.

In the agreement, the FARC had committed to demobilize less than 6,000 combatants, when the total number of guerrillas, including affiliated forces, were estimated to be 15,000 or more. The agreement had thus presented the risk that a significant part of the FARC's clandestine networks would have remained active following the demobilization process. In addition, the agreement committed to the distribution of some 9 million hectares of land, requiring the expropriation of numerous private properties that likely would have significantly expanded social conflict in the rural areas. Finally, the cost of implementing the accord was calculated to be around US\$30 billion over ten years-- a figure which is not realistic at all given the situation of the Colombian economy, which is already under severe fiscal pressures, due to low international oil prices and other factors.,,

Further adding to the understanding by Colombians that the agreement would not have brought "peace," the nation's other principal terrorist group, the Ejercito de Liberacion Nacional (ELN), with its 2,500 armed combatants, was clearly poised to continue the fight, and indeed was already moving into areas vacated by the FARC. In a post-agreement environment, the ELN was likely to become even stronger in military terms through flows of FARC personnel and material into its own organization.

Colombians were further aware that former FARC members not participating in the accords would create a new generation of criminal bands which would increase the threat represented by such groups that already are a public security menace just as violent as the FARC and ELN.

On October 2, not enough Colombians could suspend disbelief, based on the experiences of their adult lives, that, in the words of the referendum, the

agreement would “end the conflict and construct a stable and enduring peace (http://www.nytimes.com/2016/10/03/world/colombia-peace-deal-defeat.html?_r=0).” Controversial elements of the agreement, such as providing 10 non-elected seats for members of the FARC in the Colombian Congress for the periods following the 2018 and 2022 elections, a transitional justice system which many believed would allow the FARC to avoid serious punishment for serious crimes committed during the conflict, and the payment of benefits to demobilized fighters that exceeded what many Colombians themselves earned, certainly helped mobilize Colombians against the accord as well.

The vote highlights the strength of Colombian democracy and institutions, despite their imperfections. It is notable that some 13 million ballots were cast, and yet definitive results were available within two hours of the election. The result was decided by a difference of less than half a percentage point (50.2% to 49.8% (http://www.nytimes.com/2016/10/03/world/colombia-peace-deal-defeat.html?_r=0)), and yet within minutes of the confirmation of results, President Santos publicly accepted the defeat of the core initiative of his presidency. Santos did not claim fraud, or try to rally his supporters to protest the results, or ask the Supreme Court to declare a recount.

An ambiguous strategic scenario

The rejection of the accords unleashes a significant wave of uncertainty in Colombia, but we believe, presents a strategic situation less grave and more manageable, than had the accords been approved.

Although President Santos declared that he will continue to honor the ceasefire currently in place with the FARC, and although the leadership of the FARC has declared their desire to continue to work toward peace,^[4] (http://144.99.215.155/banner/#_ftn4) it is likely that a significant number of FARC middle rank cadres will opt for leaving the peace process, uncertain as to what will come. The ultimate result will be an ambiguous situation from juridical and strategic points of view.

As seen from his initial pronouncements, President Santos will likely

continue the ceasefire with FARC (http://www.china.org.cn/world/Off_the_Wire/2016-10/03/content_39420117.htm) while he works toward a new agreement. By implication, he will not authorize military operations in the areas where FARC units are located in order to avoid an incident which breaks the fragile truce. Yet not doing so will allow FARC dissidents to operate with almost complete impunity in these areas. Indeed, within the new background of uncertainty, such impunity will increase incentives for FARC units to continue illicit activity, such as narcotrafficking, since doing so will pose relatively low risks.

As such illicit activities continue amidst the cease-fire, the position of the Colombian government will become increasingly difficult. Even if the breakaway factions of the FARC are not openly attacking Colombian targets, President Santos will come under increasing pressure to enforce the law.

Although the internal cohesion of the FARC has always been limited, particularly with respect to fronts such as the 1st and 7th whose autonomy was bolstered by significant income from narcotrafficking, the rejection of the accords will make it even less manageable as a single organization. While, as seen in early declarations, the leadership of the organization will remain committed to negotiations seeking a new deal with the government, the new uncertainty will decrease the number of middle rank commanders willing to take the risk of participating in the demobilization process, preferring a continued existence outside the law, living off of illicit activities.

The attempt to find a new route to peace with the FARC, including bringing others into the process such as political rival Alvaro Uribe and his party Centro Democrático, will consume significant amounts of the administration's time and political capital through the end of the President's term in August 2018. However capable the Colombian security forces, this distraction will probably impair the development and implementation of new initiatives against Colombia's other security challenges, including the ELN, and the BACRIM, even as the continuing collapse of Venezuela makes a security and refugee crisis on Colombia's eastern border an ever greater possibility.

At the same time, the rejection of the accords will increase the probability

that the ELN will cancel or postpone the beginning of their own negotiations with the government, insofar as the defeat has eliminated most of the credibility of the Santos administration as a negotiating partner. Meanwhile, the conflictual relations between ELN and FARC could become more complex and violent. In regions such as Nariño and Arauca, the ELN is recurring to terrorism in order to destroy FARC clandestine networks and reassert control over coca growing areas and other territory with strategic relevance. In this context, it is not clear what it is going to happen in those areas where both guerrilla groups have been collaborating.

The impact on the armed forces and the economy

On the government side, the ambiguous situation into which Colombia has entered also raises concerns about the resources available to Colombian security forces to continue the multi-front struggle against the FARC, ELN, and Criminal Gangs. The Colombian military has come under pressure for significant budget cuts in the name of reaping the nation's "peace dividend." The allocation for investment in the defense budget has dropped from \$995 million to \$355 million between 2013 and 2016. It is not likely that the Santos government will reverse that trend as it seeks to renegotiate the accords, and while it faces severe fiscal pressures from low international prices for petroleum, a significant source of revenue for the Colombian state.

Nor is it clear how the rejection of the referendum will affect ongoing transformation efforts within the Colombian military. While independent from negotiations with the FARC, the missions and associated requirements of the armed forces is affected by the need to prosecute a military campaign against those sectors of the organization which leave the peace process and continue to be involved in criminal activities.

Although the U.S. has pledged to continue to support Colombia following its rejection of the accords, it is unclear whether it is prepared to be as generous in helping it to continue to prosecute the conflict, as it was in supporting the peace.

On the positive side, the rejection of the referendum is likely to avoid or postpone a new wave of conflict in rural areas of Colombia, stemming from

disputes over property rights as the government seeks to re-distribute land. Nonetheless, although the rejection of the referendum stops the implementation of land-redistribution, it does not affect the government's 2011 law for the restitution of land to those forced to abandon or sell their properties during the internal conflict, which has created enormous legal uncertainty over land titles for those considering investing.[5] (http://144.99.215.155/banner/#_ftn5) Such uncertainty has already impeded investment in areas such as the eastern plains, and will likely continue to give pause to those considering acquiring properties in the region for new projects.

The distraction of re-negotiating the agreement with the FARC, in combination with the political damage to the Santos administration from the rejection of the previous deal, is also likely to prevent the government from addressing other serious challenges facing Colombia.

With respect to coca production, with the government's suspension of aerial spraying at the end of 2015, the area under cultivation for coca in Colombia has more than doubled to 159,000 hectares, with a potential production of 420 tons of cocaine. It will be difficult for President Santos to take the politically controversial step to resume aerial spraying with glyphosate, particularly when the FARC objected to its use, and Santos is working to broker a new deal with them. Yet the rejection of the agreement also means that the Colombian government cannot leverage the FARC in its fight against coca production either.

With respect to Colombia's budget and economy, continued low international prices for Colombia's petroleum exports have already created significant deficits in the government's fiscal accounts. It is very likely this tendency will become worse. Sustained low oil prices have effectively paralyzed oil exploration, with a lack of significant new investment to locate new deposits to replace those which are becoming exhausted. As a consequence, Colombia's crude reserves are declining very quickly and the country could become a net oil importer in just a few years. The continuing activities of the FARC, ELN, and Criminal Gangs in the Colombian countryside only compound this situation.

The international dimension

Among Colombia's neighbors, the rejection of the deal is another diplomatic setback for President Maduro's regime in Venezuela. From the beginning of the peace process, the Venezuelan diplomacy supported the negotiations with two goals. On the one hand, to break its increasing isolation in the region. On the other hand, to strengthen the Colombian left as a tool to gain influence over the neighboring country. The result of the Colombian referendum has frustrated these intentions.

Something similar can be said about President Correa of Ecuador. Although Quito has played a more prominent role in the contacts with the ELN, the rejection of the deal with FARC is also setback for Ecuadorian diplomacy and the nation's aspirations to become a regional peace broker.

As during other occasions, it is likely that countries in the region, and perhaps in Europe and other parts of the world, will seek to portray Colombia negatively for having "rejected peace." While initial proclamations will likely use terms such as "concern" and "disappointment," expressing support for the continuation of the process, it is likely that the global left will nonetheless find an opportunity to isolate a key U.S. partner in the region. Yet with relatively pro-West, pro-market governments now in power in Peru, Brazil, and Argentina, and with Venezuela in the midst of a profound crisis, the ability of the leftist governments of the region to use the vote to isolate Colombia is arguably far more limited than it was just a year ago.

The vote in Colombia also occurred at a pivotal moment in the United States, as the North American electorate prepares to choose who will succeed Barack Obama. While many in the Obama administration may be disappointed that "peace in Colombia" will not be part of the outgoing administration's legacy, it is more important now, than ever, for the United States to stand with its partner, and the decisions that it has made through an admirably democratic process. The people of Colombia have chosen faith in their security and other institutions, rather than compromise, to bring to justice those who have waged a 52-year war against the Colombian people. Both Colombia's principles and democracy were on display October 2nd. For the many flaws in Colombia's institutions and socioeconomic system,

Colombia has once again demonstrated itself a capable and honorable partner with which the United States can and should work to build a more secure, just, and prosperous region, and world.

Let there be no misunderstanding. The rejection of the agreement with FARC involves significant risks to the security of Colombia. Yet there is a strong case to be made that the threat to the stability and prosperity of the Colombia would have been much greater had the agreement had been approved. Yet in the end, that is a decision that only Colombians could make. They have made it with dignity. It important for the United States to continue to support them in their path forward.

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[3] (http://144.99.215.155/banner/#_ftnref3)“El Sí va ganando en el plebiscito”, Semana, Bogotá, September 10th, 2016 available at <http://www.semana.com/nacion/galeria/plebiscito-por-la-paz-en-las-encuestas-el-si-va-ganando/493335> (<http://www.semana.com/nacion/galeria/plebiscito-por-la-paz-en-las-encuestas-el-si-va-ganando/493335>)

[4] (http://144.99.215.155/banner/#_ftnref4)“‘Timochenko' dice que las Farc le seguirán apostando a la paz”, El Tiempo, Bogota, October 2nd, 2016, available at <http://www.eltiempo.com/politica/proceso-de-paz/palabras-de-timochenko-en-plebiscito/16716833> (<http://www.eltiempo.com/politica/proceso-de-paz/palabras-de-timochenko-en-plebiscito/16716833>)

[5] (http://144.99.215.155/banner/#_ftnref5)The law places the burden of proof on the property owner, in the event of a challenge, to show that his title is legitimate. Moreover, even if the owner has legally acquired the

property, his title to the land can be taken away if established that it was acquired illegally by a previous owner.

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