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Samantha Sanchez

*Cardozo Journal of Conflict Resolution*, [ssanche1@law.cardozo.yu.edu](mailto:ssanche1@law.cardozo.yu.edu)

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# AURELIANO BUENDÍA<sup>1</sup> AND PRESIDENT GUSTAVO PETRO: THE IMPACT OF A DUAL-SIDED STAKEHOLDER AND LEADER ON THE COLOMBIAN PEACE ACCORDS

*Samantha Sánchez*

Colombia has endured a nearly 60-year-long internal conflict between paramilitary groups, and allegedly its own military<sup>2</sup>, costing the lives of countless civilians and setting the country's post-colonial development back decades.<sup>3</sup> Former Colombian President Juan Manuel Santos was awarded the Nobel Peace Prize for mediating a four-year-long deal with paramilitary groups that terrorized—mainly rural and indigent—neighborhoods for decades.<sup>4</sup> However, many critics thought the award was premature, considering the nearly half a million deaths as a result and the impunity of human-rights offenders.<sup>5</sup> Current struggles in the country prove that those critics may have been likely right.

President Gustavo Petro is the first left-wing leader elected by Colombia and unsurprisingly, he draws much criticism.<sup>6</sup> While people may disagree with his administration's agenda, his unique position may prove crucial to Colombia implementing the peace treaty – a central campaign promise.<sup>7</sup> The Marxist-Leninist group, National Liberation Army, agreed in

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<sup>1</sup> See GABRIEL GARCÍA MÁRQUEZ, *Cien Años de Soledad* (Vintage Español 2009, ed. 1967) (referring to the character, Colonel Aureliano Buendía—the first generation in his family of this name—who joined the liberal rebellion due to his anger towards the conservative government only to later in life lose his memory and emotions leading him to sign a peace accord).

<sup>2</sup> Michael Evans, *The Friends of “El Viejo”: Declassified Records Detail Suspected Paramilitary, Narco Ties of Former Colombian President Uribe*, NAT'L SEC. ARCHIVE - THE GEO. WASH. UNIV., (Aug. 31, 2020) <https://nsarchive.gwu.edu/briefing-book/colombia/2020-08-31/friends-el-viejo-declassified-records-detail-suspected-paramilitary-narco-ties-former-colombian> [https://perma.cc/P5FZ-HAT8].

<sup>3</sup> Silvana Paternostro, *Colombia's Peace-Whisperer Makes Plenty of Enemies*, N.Y. TIMES (May 26, 2023), <https://www.nytimes.com/2023/05/26/world/americas/colombia-peace-leyner-palacios.html>. [https://perma.cc/Y8ET-AGE2].

<sup>4</sup> *The Nobel Peace Prize 2016: Juan Manuel Santos*, THE NOBEL PRIZE (2016), <https://www.nobelprize.org/prizes/peace/2016/santos/facts/>, [https://perma.cc/7MCA-ZXVY].

<sup>5</sup> Paternostro, *supra* note 3.

<sup>6</sup> *Id.*

<sup>7</sup> See Julie Turkewitz & Genevieve Glatky, *He Promised to Transform Colombia as President. Can He Fulfill That Vow?*, N.Y. TIMES (June 20, 2022), <https://www.nytimes.com/2022/06/20/world/americas/colombia-gustavo-petro-president.html?smid=nytcore-ios-share&referringSource=articleShare> [https://perma.cc/2BG7-6X6M] (explaining Petro's election ticket's promises to

August of this year to a six-month-long ceasefire.<sup>8</sup> With two months down, it is a significant moment to evaluate the conflict resolution practices at play on such a huge scale and with so much at stake. Commencing a peace treaty is important, but that is only the beginning—enforcement, rebuilding, and reconciliation must follow.

In the 1970s Petro was a member of one of the rebel groups with which the government seeks to create permanent peace—the M-19 guerilla.<sup>9</sup> Aureliano, Petro’s *nom de guerre*,<sup>10</sup> was chosen “in homage to . . . a character [who also] surviv[ed] setbacks, defeats and attempts on his life.”<sup>11</sup> The unprecedented nature of a leader being both a president and ex-guerilla member in peace negotiations sets a complex political stage for conflict resolution. This dynamic is further complicated by social unrest, high unemployment, populism, and a refugee crisis.<sup>12</sup> Analyzing the factors in this half-a-year uphill battle—with four months remaining—is vital in this landmark moment for peace efforts.

In early October, negotiations officially began, and government officials reaffirmed their commitment to justice and long-lasting peace.<sup>13</sup> An ideal design for implementing the peace treaty and achieving the community’s goals blends transitional and restorative justice, “[draws]

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the public—including peace talks with ELN and FARC—and the challenges and criticism that Petro faced throughout his campaign).

<sup>8</sup> Genevieve Glatsky, *Colombia and Rebel Group Begin Cease-Fire After Decades of Combat*, N.Y. TIMES (Aug. 3, 2023), <https://www.nytimes.com/2023/08/03/world/americas/colombia-eln-rebels-cease-fire.html> [https://perma.cc/H7LC-TU9A].

<sup>9</sup> Gideon Long, *Gustavo Petro: from ‘Comrade Aureliano’ to Colombian president*, FIN. TIMES (June 24, 2022), <https://www.ft.com/content/fa9d1d82-6335-4034-970f-b9d6e9822a2e> [https://perma.cc/2DQZ-QUGS].

<sup>10</sup> See *id.* (using the noun *nom de guerre*, literally translated as war name, to mean a pseudonym used during times of combat).

<sup>11</sup> Long, *supra* note 9.

<sup>12</sup> See generally Leonardo Peñaloza-Pacheco, *Living With the Neighbors: the Effect of Venezuelan Forced Migration on the Labor Market in Colombia*, J. FOR LAB. MKT. RSCH., (Sept. 14, 2022), <https://doi.org/10.1186/s12651-022-00318-3> [https://perma.cc/HB7Y-TJR9] (Illustrating how the influx of Venezuelan forced migration into Colombia has impacted its economy and particularly the labor market; mainly impacting “unskilled” laborers).

<sup>13</sup> *Diálogos de Paz Entre el Gobierno y el ELN: Inició La Primera Mesa de Participación; ¿En Qué Consiste?*, EL PAÍS (Oct. 6, 2023), <https://www.elpais.com.co/colombia/dialogos-de-paz-entre-el-gobierno-y-el-eln-inicio-la-primera-mesa-de-participacion-en-que-consiste-0613.html> [https://perma.cc/MJQ5-XWLX].

on religious traditions advocating atonement, forgiveness, . . . compassion, [and] seeks to promote reconciliation between victim and offender and to reintegrate the offender into the community.”<sup>14</sup> However, the top-down rule of law model used by many Latin American governments results in a disconnect between the people and government.<sup>15</sup> This divide is worsened by the civil code-centered litigation pervading post-colonialism in which “the lawyer’s role is to assist the court in finding the truth and reaching the *correct* decision.”<sup>16</sup> When the goal of litigation is centered around the court, and not the masses, people’s distrust in seeking justice is promulgated. This is in addition to the fear of vengeance in both the courts and streets throughout the adjudication processes.<sup>17</sup> Consequentially, community leaders, such as Truth Commission members, play a vital role in bridging the gap between mistrust and trauma-informed dialogue.<sup>18</sup>

The peace accords, called *mesas de diálogo*, impart a vision of coming together to speak and listen.<sup>19</sup> However, the difficulty here lies in bringing together all the diverse voices as *active* participants, giving them each the necessary weight.<sup>20</sup> An essential part of a resolution system in

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<sup>14</sup> LISA BLOMGREN AMSLER, et al., DISPUTE SYSTEM DESIGN: PREVENTING, MANAGING, AND RESOLVING CONFLICT, at 18, (Stanford University Press ed. 2020) (Importantly, religion is highlighted as it is a cornerstone to Colombia’s history and Roman Catholic influence).

<sup>15</sup> Mariana Hernandez-Crespo, *From Noise to Music: The Potential of the Multi-Door Courthouse (Casas de Justicia) Model to Advance Systemic Inclusion and Participation as a Foundation for Sustainable Rule of Law in Latin America*, 2012 J. DISP. RESOL. 335, 406 (2012).

<sup>16</sup> Blomgren Ansler, *supra* note 15 at 51. (emphasis added)

<sup>17</sup> See Tyler Bridges, *Colombian Judges Face Threats, Assassination*, N.Y. TIMES (Nov. 22, 1986), <https://www.washingtonpost.com/archive/politics/1986/11/22/colombian-judges-face-threats-assassination/7a0dcccdf-1150-4fd9-936a-30b90b5cf3ec/> [<https://perma.cc/36TP-R5GN>] (reporting on the murder of eleven Supreme Court justices in 1985 during a seizure by M-19 of the Palace of Justice; furthering distrust and fear of the justice system).

<sup>18</sup> See Paternostro, *supra* note 3 (discussing the story and impact of Truth Commission member, Leynar Palacios, on mediating peace talks in his own town, even in the face of rising death threats).

<sup>19</sup> *Gobierno y Disidencias de las Farc Anunciaron Inicio Formal de Diálogos de Paz en Tibú, Norte de Santander*, EL PAÍS. (Oct. 8, 2023), <https://www.elpais.com.co/colombia/gobierno-y-disidencias-de-las-farc-anunciaron-inicio-formal-de-dialogos-de-pa-z-en-tibu-norte-de-santander-0818.html> [<https://perma.cc/89DQ-DGYG>] (Discussing how the “mesas de diálogo,” or tables of dialogue are working in communities).

<sup>20</sup> EL PAÍS, *supra* note 12.

the context of long-term conflict and nationwide trauma with structural divides is trust.<sup>21</sup> Shared experience is essential to building trust, as empathy can only go so far in conveying such an intricate and intimate conflict while “confronting emotionally charged questions related to truth-telling and forgiveness, power and reparations, and trauma and recovery.”<sup>22</sup> This makes Petro a key dual-sided stakeholder; particularly as someone whose life has been a microcosm of this healing process. Typically, “[r]epresentation is . . . challenging in the transitional justice context, because of the likely weakness of civil society and absence of organized, representative political parties.”<sup>23</sup> Yet here, a culturally significant representative political party in power sits at the head of *La Mesa*, leading these government-initiated peace efforts.<sup>24</sup> The convergence of Colombia’s first leftist administration—which already reflects the plight of people deeply entrenched in poverty more than any other administration<sup>25</sup>—led by Petro, a representative figure for the working class on both sides of this conflict, further aligned with a climax in the peace accords, is a window of opportunity for the nation’s future that cannot be wasted.

Nonetheless, the persistent violence in rural areas remains a significant challenge to Petro’s efforts in implementing the peace accords. The United Nations mission in Colombia, verified 394 homicides of ex-paramilitaries, creating more pressure on all parties to reach a

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<sup>21</sup> Daniel L. Shapiro, *Reconciliation Systems Design: A Systematic Approach to Collective Healing in Post-Conflict Societies*, 26 HARV. NEGOT. L. REV. 193, 195–6 (Spring 2021).

<sup>22</sup> *Id.*

<sup>23</sup> Blomgren Ansler, *supra* note 13 at 265.

<sup>24</sup> See *Mesa de Diálogos de Paz entre el Gobierno Nacional y el Ejército de Liberación Nacional-Eln*, *Presidencia de la República* (July 13, 2023) for a discussion about the cultural and historical significance of the term of art, “Mesa de Diálogo”, translated directly as the table of dialogue, shortened here for to “the table” to account for this significance, <https://petro.presidencia.gov.co/prensa/Paginas/Mesa-de-Dialogos-de-Paz-entre-el-Gobierno-Nacional-y-el-Ejercito-de-Liberacion-Nacional-Eln-230731.aspx> [https://perma.cc/DC4G-L6QV].

<sup>25</sup> See Manuel Rueda, *In Historic Shift, Gustavo Petro Sworn in as Colombia’s First Leftist President*, PBS NEWSHOUR (Aug. 7, 2022), <https://www.pbs.org/newshour/world/in-historic-shift-gustavo-petro-sworn-in-as-colombias-first-leftist-president> [https://perma.cc/JQ2L-HXYB] (discussing how in the economically-disastrous aftermath of the pandemic, Petro’s strong focus on battling inequality made him a favorable candidate to the majority of the nation).

permanent agreement and avoid more bloodshed.<sup>26</sup> These homicides highlight the issue of Colombia's "impunity gap," which developed as many military commanders were not held accountable for orchestrating killings.<sup>27</sup> To gain the short-term benefits of a ceasefire, in essence fewer deaths, amnesty was negotiated in the treaty.<sup>28</sup> Counterproductively, the impunity gap triggered a retreat into distrust of the nation's leadership by people living in poverty and grieving loved ones.<sup>29</sup> The impunity gap will continue widening and social unrest will shake the foundations of the *mesas* if deaths increase.

If Petro's peace accords are to be successful, his government must address the repercussions from the violence impacting communities and integrate this into the dialogue. The leading mediator's personal connection will not be enough if it is not thoughtfully integrated into a design. To avoid this disconnect, the Petro administration's peace process designers should "supplement criminal trials with other transitional justice mechanisms such as reparations and community . . . justice measures" to help heal the fresh wounds of surviving family and friends of the deceased and withhold further salt being rubbed into their wounds.<sup>30</sup> The residual anger and sense of loss in the community demonstrates why amnesty should not be the primary tool used in peace accords since it "prevent[s] prosecution of . . . human rights crimes."<sup>31</sup> Utilizing a representative mediator, one that has experienced loss like Petro, may avoid resorting to amnesty which threatens substantive moves toward transitional justice since any sense of injustice can

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<sup>26</sup> EL PAÍS, *supra* note 12.

<sup>27</sup> Michael Evans, *supra* note 2.

<sup>28</sup> Glatsky, *supra* note 8.

<sup>29</sup> Blomgren Ansler, *supra* note 13 at 257.

<sup>30</sup> *Id.*

<sup>31</sup> *E.g., id.* at 260 (discussing the example of Chile, where in the wake of General Augusto Pinochet's rule, the Chilean military granted a broad amnesty to itself, and for about the next decade, political unrest plagued Chile).

risk a breakdown in dialogue.<sup>32</sup> Colombia cannot afford more lost lives or time that could be spent reaching its potential.

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<sup>32</sup> See Shapiro, *supra* note 20, (explaining the utility of psychologically-informed mediation in post-conflict societies); e.g. Katie Glueck, *Four Years After Beau Biden's Death, His Father Bonds With Voters in Pain*, N.Y. TIMES (May 30, 2019), <https://www.nytimes.com/2019/05/30/us/politics/joe-biden-beau-biden-death.html> [<https://perma.cc/YAY5-FMVH>](discussing the evidence that President Joe Biden's family tragedies helped him connect with voters dealing with hardships, in a way "that transcended traditional political factors").