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# Controversies of Inclusion in the Colombian Peace Process

*The Balancing Act of Introducing New Norms and Gaining Popular Support*

Cover: People line the streets of Bogotá, Colombia to protest against the FARC on December 6, 2011. Photo: Jess Kraft / Shutterstock

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# Executive Summary

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## Brief Points

- The Colombian peace agreement is one of the most inclusive, progressive and comprehensive in history, not least when it comes to gender inclusivity.
- The peace agreement was rejected by a small majority in a referendum in 2016 with the no-campaign among other things expressing fears that the “gender ideology” in the agreement threatened traditional family values. While a revised version of the agreement was later approved by the congress, the initial rejection of the peace agreement illustrates a dilemma between peace and inclusion.
- First, it raises the question of how comprehensive gender-equality promoting measures a peace agreement should have vis-à-vis the risk of losing public support.
- Second, it raises questions of whether to put peace agreements to vote. While a referendum may increase the legitimacy of an agreement it can also polarize a population in a fragile post-accord situation.

The question of justice versus peace has long been accepted as a core dilemma in peace studies and practice – should conflicting parties be granted amnesty in the name of peace? Another controversy that has gained less attention is that of peace versus inclusion. Contrary to the peace/justice dilemma, inclusion and peace are often seen as intersecting unproblematically and even being co-dependent.<sup>1</sup> In recent years, the truism in much peace research has been that the more inclusive the peace process, the better<sup>2</sup> – particularly the inclusion of women, minorities, victims, or even the greater public. This piece argues that inclusion is in fact a controversial issue with several dilemmas in relation to peace processes. It does so by taking the Colombian case as its point of departure: a peace process that has been praised worldwide for its inclusivity, especially when it comes to women, but that also exemplifies some of the controversies regarding inclusion. Having unfolded the context of the conflict, this case brief discusses the interrelated controversies of the inclusion of women in the peace process and referendum about the peace agreement.

# The Colombian Peace Process

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After almost 50 years of violent conflict, the Colombian government and the communist insurgency group, FARC, entered peace negotiations in 2012. Norway and Cuba were facilitators of the talks and had a very broad and undefined mandate.<sup>3</sup> In the framework for the talks, agreed upon in September 2012, it is only stated that the government of Norway and Cuba are “guarantors” that should “support” the peace process; hence, their role was flexible throughout, ranging from pure facilitation to mediation, supply of experts, and crisis management.

On 24 August 2016, the Colombian government and the former guerrilla group, FARC, signed a peace agreement. The peace agreement was put on vote in a plebiscite on 2 October 2016. Here, the opposition to the sitting government initiated a grand campaign against the peace agreement and ended up “winning” the referendum, with 50.22 % voting “no”. The peace agreement was then adjusted and instead put to a vote in the Congress, where it was approved on 30 November 2016.<sup>4</sup>

The agreement<sup>5</sup> is historic not only as it marks the transformation of the then-longest-running conflict in Latin America, but also because it is historically comprehensive (ranking as the longest agreement in history with almost 300 pages<sup>6</sup>) and in many ways progressive – at least on paper – when it comes to women’s inclusion, and the inclusion of civil society, victims, sexual minorities, and social movements.<sup>7</sup> During the talks, an online platform was established where ordinary people could give their input and ideas to the talks. Many of course wished for an even more

inclusive, antimilitaristic, and feminist approach,<sup>8</sup> but, compared to other peace agreements, the Colombian peace agreement is at the very top when it comes participation, inclusion, and acceptance of difference.<sup>9</sup> Yet, there are many controversies related to the process, verification, and outcome of the peace talks and peace agreement, including controversies regarding the victims-centred approach, the inclusion of the FARC, inclusion of women, the consideration of LGBTQ rights, and the referendum about the peace agreement. In what follows, I will discuss the two interrelated controversies of women’s inclusion and referenda about peace agreements.

# New Norms and Popular Support

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While the turnout at the referendum was only 37.43% and the result therefore does not necessarily reflect the general sentiment about the peace agreement in the population, the “no” result does raise important (normative) questions about the content of the peace agreement and the very idea of having a referendum about a peace agreement. One of the things that was raised in the “no” campaign against the peace agreement was concessions to and political recognition of the FARC, which will not be discussed in much detail here. Moreover, many observers agree that part of the reason for the lack of sufficient support for the peace agreement in the general public relates to the progressive gender dimensions of the first draft of the agreement,<sup>10</sup> which will be the focus in the following. Likewise, I will discuss the normative and pragmatic dimensions of the overall question of putting a peace agreement to vote.

## Controversies over Gender Inclusion

The first agreement was characterised by gender-sensitive language and contained implicit promotion not only of the rights of women but also LGBTQ rights. However, many of these elements were seen to threaten traditional family values in Colombia, or, at least, this was the portrayal perpetuated by prominent voices in the evangelical churches. These voices criticized the agreement for promoting a “gender ideology” harmful to Colombian society.<sup>11</sup> Both the “no” and the “yes” forces generally agreed that “the anti-gender campaigns served as a tipping point for the ‘no’ campaign’s win”.<sup>12</sup> Therefore, the gender language and several of the gender provisions were revised after the agreement failed to pass the referendum.<sup>13</sup> The first peace agreement mentioned gender 113

times whereas the revised version only mentions gender 59 times; all references to diverse gender identities and sexual orientation were also erased. However, according to Corredor, “the original spirit of the gender perspective remains nonetheless intact because many references were replaced with analogous language”.<sup>14</sup>

Although these changes in the peace agreement were mainly linguistic, the rejection of the first peace agreement by a small majority raises the question of whether (other) peace agreements should promote a progressive agenda for gender and sexual minorities, or whether the main priority should be narrower, concentrating on peace and ensuring popular support. Should important issues of norm development and women’s and minority rights be put aside for future political struggles? Initially, when the Colombian peace talks began in 2012, neither the FARC nor the government delegation included any women at the negotiation table. Likewise, issues related to sexual violence or women’s rights were not on the agenda. Colombian women groups and human rights groups therefore manifested significant pressure on the parties to adopt a more gender-sensitive approach and include women at the negotiation table. At the same time, Norwegian diplomats tried to discreetly push for the inclusion of women in the negotiation and the inclusion of the women, peace, and security agenda, in line with their commitment to UN resolution 1325.<sup>15</sup> The inclusion of the women, peace, and security agenda in the peace talks reached a milestone with the establishment of the sub-commission on gender in 2014, which significantly shaped not only the talks but also the ultimate peace

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agreement. Such a formalized mechanism to include a gender perspective in peace negotiations is unprecedented.<sup>16</sup> Likewise, groups of (male and female) victims were invited several times to the peace table in Havana to share their stories of suffering and violence. According to several of the Norwegian members of the mediation team,<sup>17</sup> the stories of the victims had a very positive impact on the peace talks and encouraged a sense of responsibility and willingness to change the status quo. Likewise, the invited women brought concrete proposals to the peace table, which ensured a more direct impact.<sup>18</sup>

While the parties at the table had the time to slowly reconsider the role of women and gender norms in society, most of the population had not been part of the transformative and norm-changing discussions at the peace table. On the one hand, promoting new gender norms, including women's rights and participation, is crucial for normative and ethical reasons; on the other hand, it risks creating a backlash in society against the peace agreement, which may jeopardize the peace. This is also a question of negative peace (the absence of direct violence) versus positive peace (the absence of structural and cultural violence), or perhaps rather a question of how comprehensive a structural and cultural change a peace agreement can aim for. On the one hand, creating and implementing a peace agreement is a vulnerable task in and of itself that should not be jeopardized; on the other hand, the transition from war to peace represents a chance to promote larger, structural changes in society. There is also ethical controversy around what rights and which marginalized groups to include in a peace agreement. As

argued by Corredor in 2021,<sup>19</sup> in the case of Colombia the “no” campaign in fact pleaded for a “women’s rights approach” that would “downgrade LGBT[Q] rights and bolster traditional rights of women”.<sup>20</sup> With the “no” side of the referendum mostly rejecting and reacting to the provisions regarding sexual minorities as supposed to women’s inclusion, one may even question whether the inclusion of sexual minorities should be “sacrificed” to merely focus on women’s equal participation, or where to “cut the cake” when it comes to whose rights to include or to leave out.

### **Controversies over the Referendum**

Perhaps the main concern is not the inclusivity of the peace agreement itself but rather the question of whether this should be put to a vote (which can be seen as a way of including the whole population in the decision-making about the peace agreement). The question of referenda is a key procedural consideration with high ethical/normative relevance beyond the Colombian case. In history, several peace agreements have been put to a vote: some gained public support at the referendum, such as in Northern Ireland, while others were declined in a referendum, as was the case in Cyprus, where the conflict has been left in a no-war, no-peace situation ever since. It is always a controversial endeavour to put a peace agreement to a vote. In the Colombian case, the referendum about the peace agreement was even more controversial, as the initial version of the agreement was rejected by a thin majority, but then implemented in a revised version. The approval and subsequent implementation of the (revised) peace agreement despite a lack of sufficient popular support raises difficult



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but important questions regarding the act of putting a peace agreement to a vote in the first place, and not least about implementing it despite a lack of popular support.

In many ways, a referendum is a good way to ensure public support and establish the legitimacy of the agreement before comprehensive social changes are implemented. If a peace agreement is implemented in a democratic society without consulting the greater public, it can be problematic. Sergio Jaramillo Caro, who co-led the talks with the FARC, explained that they, the Colombian government, decided to put the agreement to a vote because they considered that some elements of the agreement, including the comprehensive rural reform, required democratic legitimacy. But they also saw it as a way of including the Colombian people: “A vote, we thought, would get all

Colombians to participate directly in the peace process”.<sup>21</sup>

Yet, while a referendum on a comprehensive agreement like the Colombian one seems ethically desirable from a democratic and human rights perspective, it is also very risky and potentially polarizing and counter-productive for the implementation of the peace agreement. It is therefore crucial to consider how a referendum may entail a polarization of public opinion on the matter. The nature of referendum campaigns makes parties mobilize for and against the peace agreement, whereby the “no” campaign (over)emphasizes all the problems and risks of entering into the agreement. As argued by Matanock and García-Sánchez,<sup>22</sup> “a referendum may paradoxically provide a platform for elites seeking to upend the peace process”, which it can be said is what happened

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in Colombia. In fact, a referendum may even “generate” a “no” side – an opposition that may not have been united around, or even aware of, their opposition to the peace agreement – and thus create polarization.

In conflict-ridden societies, polarization is both particularly likely and potentially dangerous for the peace process. It is well known that the implementation of peace can potentially give rise to ontological insecurity, that is, an insecurity related to identity.<sup>23</sup> Conflict often provides people with a stable sense of identity, a sense of what to live (and die) for and thus ontological security; people know who they are in relation to “the other”; they are formed by atrocities committed by “the other” and they find meaning in their struggle and perhaps even their suffering. With a peace agreement, this stability is suddenly challenged and thus becomes potentially problematic for people’s sense of identity and meaning. In a referendum campaign where parties mobilize against an agreement, this therefore risks feeding into and cultivating exactly such ontological insecurity and thus spiralling further opposition to peace. Most people are *for* peace, but the question is of course *what* peace and for *whom*. Here, peace agreements most often if not always promote some form of compromise or softening of positions, which can be difficult to come to terms with. Likewise, resistance to inclusive principles in peace processes is not uncommon.<sup>24</sup> Hence, rather than gaining legitimacy, a referendum about a peace agreement often risks cultivating unnecessary opposition. In the Colombian case, the (potentially disturbing) change that came with the peace agreement not only implied an acceptance of compromise but also the inclusion of the

FARC in formal politics and the inclusion of women and the LGBTQ collective. The latter thus also implies a *norm change* that can be difficult to accept from one day to another but rather is best cultivated little by little over time. However, Corredor importantly argues that, “the anti-gender mobilization against the peace agreement was circumstantial rather than inevitable”.<sup>25</sup> In other words, the resistance to the new gender norms in the agreement was not necessarily pre-given in Colombian society but was effectively activated with the successful “no” campaign that enjoyed conducive conditions related to prior relations in the well-organized “no” campaign and circumstantial factors.<sup>26</sup> This again questions the value, or rather the micro-sociological effects of, a referendum, potentially mobilizing people against something that they may not have resisted if it hadn’t been for an effective “no” campaign.

Thus, there are pros and cons of initiating a referendum about a peace agreement, weighing between legitimacy and inclusion on the one hand and peace on the other. In Colombia, the situation in a way ended up with “the worst of both worlds”, as the peace agreement was first put to a vote, rejected by a (very thin) majority, and then implemented in a revised version without public support. This thus potentially suggests a lack of legitimacy. Luckily for the peace process, Colombians went to the streets in big numbers to support peace in the wake of the referendum, which, according to some FARC members, went a long way to combat the feeling that the “no” vote had generated – the feeling that people were against a peace agreement.<sup>27</sup> Likewise, the then-president, Juan Manuel Santos, won the Nobel Peace Prize, which presumably helped him regain

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sufficient legitimacy and hope for peace to negotiate a revised version of the peace agreement.

The party that was part of the “no” campaign against the peace agreement, Centro Democrático (Democratic Centre), won the general elections in 2018 and, consequently, was bound to implement an agreement that they had initially publicly resisted. This has sowed the seeds for many of the challenges of the current peace process, as it is problematic to have to implement a peace agreement that you once so passionately opposed, not least for the public perception of the implementation. In 2019, thousands of Colombians took to the street to oppose the insufficient implementation of the peace agreement, among other things.<sup>28</sup> In the national dialogue that was initiated to accommodate the protests, it was evident that the current president, Iván Duque Márquez, was being criticized by several civil society members for his insufficient implementation of the peace agreement and was trying to defend his initiatives related to the peace process.<sup>29</sup> The Colombian scenario, whereby the representatives of the “no” campaign against the peace agreement won a subsequent election and ultimately had to implement that very peace agreement, again emphasises the controversial and potentially problematic role of referenda. Even if the “yes” campaign had won the referendum, a subsequent election could still have put the people behind the “no” campaign in government offices and created a similarly problematic situation. Thus, holding a referendum about a peace agreement may risk undermining the implementation of the agreement at later stages.

## Conclusion

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Taking its point of departure from the Colombian case, this case brief has opened a normative discussion on the paradoxes, controversies, and potential limits of the inclusion of the larger public (in a referendum) and women in peace processes. I have shown the complexities of including women and gender minorities, in terms of the challenge it poses to traditional family values, and discussed the pros and cons of ratifying a peace agreement via a referendum: on the one hand it increases participation and legitimacy, while at the same time risking polarization and mobilization against the agreement and the values that it represent. ■



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# Notes

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