RULE OF LAW

Support to Conflict Prevention and Sustaining Peace in Colombia

by Adam Day,
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1. Introduction

In November 2016, a peace agreement was signed between the Colombian Government and the Revolutionary Armed Forces of Colombia – People’s Army (FARC-EP), ending 50 years of conflict. The agreement resulted from four years of talks in Havana, Cuba, during which the risk of relapse into large-scale conflict remained extremely high. In fact, many of the conflict drivers in Colombia emanated from weak or contested rule of law institutions in rural areas, the dominant role of illicit drug trafficking networks, and deeply rooted disputes over land ownership. Addressing systemic marginalization and using the justice system to give voice to the many victims of the conflict were seen as crucial aspects of the peace process. Though many of the deeper causes of violence were not fully addressed through the peace talks, the 2016 agreement has been widely regarded as a success, putting in place some of the key processes and institutions to move Colombia out of recurrent cycles of violence. Within the first two years after the signing of the agreement, the country saw a significant nationwide decrease in the levels of violence compared to earlier decades, including large reductions in killings, kidnappings, and other indicators of conflict, while a nationally-run transitional justice process emerged as a crucial institution for the Colombian people to move beyond conflict into sustained peace. However, over the course of the last two years as of the time of writing, violence has increased once again and the transitional justice system has come under increasing attack, while managing to continue its work.

This case study examines the UN’s rule of law work in Colombia during the four years it supported the peace process (2012-2016) and the first two years of the UN Special Political Mission in Colombia, which oversaw the laying down of arms by the former guerrillas (2016-2017). The principal question guiding this study is: **How have the UN’s rule of law interventions contributed to conflict prevention, to a reduction in risks of widespread violence in Colombia?** As such, it aims to provide an assessment of the impact of the UN, identifying good practices, inhibiting and enabling factors, and lessons for the broader UN system.

The study has five sections: (1) a background description of the risk landscape and the endemic shortfalls in State rule of law capacities; (2) an overview of the main rule of law actors in Colombia; (3) an assessment of areas where there is evidence of the UN’s impact in terms of conflict prevention; (4) an examination of the enabling and inhibiting factors for the UN’s impact; and (5) lessons and recommendations for the broader UN system.
A note on scope and methodology

Rule of law is defined by the UN as a “principle of governance in which all persons, institutions and entities, public and private, including the State itself, are accountable to laws that are publicly promulgated, equally enforced and independently adjudicated, and which are consistent with international human rights norms and standards.” However, we recognize that other areas of the UN’s work may also contribute to the core goals of the UN’s rule of law work, including efforts to combat impunity, build accountability, advance transitional justice, limit corruption, and address conflict-related sexual violence, amongst others. This project does not adopt a strict definition of rule of law but is instead largely guided by interviews with experts in a range of field settings, asking them what they consider to be the key rule of law programmes by the UN and its partners.

Regarding the scope of these studies, it is important to highlight that this is not a comprehensive assessment of the UN’s work in a given setting. It does not try to capture every rule of law programme, but instead reflects the views of experts about the most impactful, relevant, and effective rule of law interventions in the given timeframe. This expert-driven approach to cases studies is to ensure that they feed meaningful cross-cutting policy recommendations, which is the core purpose of this project.

In terms of methodology, we note that the UN’s rule of law work takes place alongside the interventions of a range of actors, including national leaders, bilateral donors, INGOs, and local organizations. While it is our goal to identify evidence of the UN’s impact, often the UN is a small player amongst these, supporting and coordinating rather than leading on programming. Given these limited supporting roles and the large number of other intervening factors, it can be difficult to isolate the UN’s impact via its rule of law interventions. Rather than speak in direct causal terms about impact, we contextualize the UN’s contribution, alongside the interventions of others, to the broader goals of risk reduction. Where the precise impact is impossible to ascertain, or where the UN has not generated evidence that directly supports causal findings about impact, we rely on a broad set of expert consultations to help us identify good practice and lessons that could be applied beyond a single country context.
2. Conflict risk landscape

For five decades, the conflict between the FARC-EP, the Colombian Government, other guerrilla groups, and paramilitary organizations has formed part of a broader set of interconnected political and criminal challenges facing the country. The causes of violence can be linked to a range of factors, including the uneven presence of State institutions in the peripheries of the country, historic political and economic marginalization of rural communities, a deep-rooted tradition of community self-defence groups sometimes supported by national political actors, and, beginning in the 1980s, the creation of powerful criminal networks that thrived off the drug trade and strong local support. Recurrent failures of the Government to address political and economic marginalization led to a series of contests over power, from the Liberal/Conservative “Violencia” between 1948-1958 to the subsequent rise of the National Liberation Army (ELN), formally founded in 1964. In the same year, Communist Party-affiliated self-defence groups formed themselves into the Revolutionary Armed Forces of Colombia or FARC (later renamed FARC-EP, for People’s Army), which emerged as a powerful platform for articulating land reform demands by some sectors of the rural population.

The conflict between guerrilla groups, including the FARC-EP and a combination of government and right-wing paramilitary groups, continued through the 1980s and 1990s, as the FARC’s influence grew through their relationship with burgeoning drug cartel businesses and illicit mining. By the 1990s, the FARC was an established player in the drugs trafficking industry – primarily through its “taxation” of the illicit coca trade, an activity that supported its fight against the State and allowed the group to exercise de facto control over significant parts of the rural countryside. Government actors too were linked to drug cartels, reducing public confidence in the State and driving popular resentment. Meanwhile, several paramilitary groups consolidated under the umbrella of the United Self-Defence Forces of Colombia (AUC), making them a powerful force able to confront the State. Levels of violence between and by both parties to the conflict and drug cartels peaked in the 1990s. This culminated in the joint US/Colombia “Plan Colombia” in 2000, a military-led security and counter-narcotics programme targeting coca cultivation and aiming to build State capacity in areas under armed group control.

Between 1998 and 2002, the Pastrana Government attempted a peace process with the FARC, but efforts failed after the FARC used the political and geographic space provided by the negotiations to strengthen their ranks, also abducting a Colombian Senator – an act to which the Government responded with aerial bombardments on guerrilla-held...
locations. The collapse of the peace process contributed to a growing popular alignment with hard-line military approaches to the guerrilla groups, helping Alvaro Uribe’s right-wing candidacy to succeed to the presidency in 2002. The Uribe Presidency was characterized by aggressive counterinsurgency campaigns and negotiations with paramilitary groups, leading to the demobilization of the AUC. In 2005, the passage of a Justice and Peace law put in place a legislative framework for demobilization and eventual transitional justice mechanisms (used for the later peace process). However, lack of governance in the peripheries of the countryside meant that some AUC units remained active, and other individual paramilitary members rejoined smaller criminal groups that further undermined and/or replaced State authority.

Between 2012 and 2016, the Santos Government and the FARC-EP undertook a formal peace process. Norway and Cuba acted as guarantors in the Havana-based negotiations, while Venezuela and Chile played the role of accompanying States. The talks revolved around an agenda to address rural development, political participation, ending the fighting, combating illicit drugs, protecting the rights of victims, and modalities for verifying and implementing the agreement. After steady progress on many of these issues, in 2014 the FARC-EP declared a unilateral ceasefire, significantly reducing tensions, though allowing the Government to continue to pressure the groups in the field. Amidst widespread scepticism about the FARC-EP’s willingness to disarm and strong political opposition to the talks, the peace process remained extremely fragile for many months. However, the likelihood of a final peace deal became apparent once the parties reached an agreement on one of the most crucial issues – the establishment of a transitional justice system – and the eventual agreement on broad terms for a bilateral ceasefire and security guarantees for disarmament.

In mid-2016, the FARC-EP and the Government reached an accord, also agreeing that the UN would deploy a verification mission to oversee the ceasefire and cessation of hostilities. While a national plebiscite initially rejected the peace deal, subsequent negotiations with the political opposition – led by former President Uribe - led to a revised agreement that was ratified by Congress in December 2016. Talks began with the ELN around this time, and led to a temporary ceasefire that the UN Mission was temporarily tasked with verifying. However, the ceasefire ended and talks with the Duque Administration broke down in 2019, and elements of the ELN remain active to this day.

The peace agreement in 2016 triggered a significant decrease in some forms of violence, such as terrorist attacks, kidnappings, and conflict-related killings. In fact, homicide rates had fallen steadily throughout the peace process, reaching an “all-time low” in 2017, while conflict-related violence also dropped notably. Pundits referred to the “Colombian miracle” in which the peace process appeared to catalyze a rapid improvement in security and significant progress towards more democratic institutions, including towards a truth and reconciliation commission.

At the same time, the legacy of conflict created significant risks of relapse into large-scale violence: an estimated 262,000 people were killed and 120,000 went missing during the 50-year conflict, while huge segments of the population endured enforced disappearances, torture, sexual violence, and forced displacement. A 2018 study found that roughly 17 per cent of the Colombian population had suffered human rights violations during the conflict, placing particular urgency on the truth and reconciliation process. And while conflict-related violence dropped dramatically with the onset of the peace talks in 2012, other forms of violence actually began to increase after the 2016 agreement, including the killings of ex-combatants, community leaders, and human rights defenders in conflict areas where illegal armed groups and criminal organizations have competed for control over territory and illicit businesses in the wake of the FARC-EP’s departure and the central State’s lack of prompt action to extend its presence to fill the vacuum. As such, tensions between the parties and across the Colombian population remained extremely high, and the need for effective conflict prevention and sustaining peace approaches stayed acute throughout the 2012-2018 period.
3. Mapping of actors in Colombia

During both the 2012-2016 peace negotiations and immediately following the 2016 agreement, the UN played a limited, supporting role to the protagonists of the Colombian peace process. As the below diagram demonstrates, the key actors in the peace process were the leadership of the Colombian Government and the FARC-EP. Directly supporting the peace process were the Governments of Cuba and Norway, which acted as guarantors of the process and provided direct support to the parties. The International Committee of the Red Cross (ICRC) played an important role with the parties, including by bringing delegations to Cuba early on. Venezuela and Chile were formally “accompanying” States to the process, also supporting the parties across the areas of negotiation. And the US, which named a delegate to the talks, was considered a crucial player in supporting the overall peace process.

Reflecting its relatively robust public domain, Colombian civil society organizations are extremely strong, including in the area of rule of law. Groups like Dejusticia have been operating for more than 15 years, specifically in the area of strengthening Colombia’s rule of law capacities in-country, and are seen as crucial actors in the push for accountability and human rights protections. Additionally, international groups, such as the American Bar Association, have played a significant role in helping to strengthen the rule of law response, build judicial capacity, and protect human rights. In the realm of transitional justice, the International Center for Transitional Justice has maintained a significant programme in Colombia since 2005.

Initially, the UN was a marginal player in the formal peace negotiations. There were no UN officials present in the early talks, and the UN was not formally associated with the Havana process as a guarantor or an accompanying entity. However, as discussed below, the UN’s role gradually increased over time as it was able to support public forums and victims’ participation in the talks. For example, in December 2014, the UN arranged victims’ visits to Havana, during which the group directly spoke to the participants in the peace process. By July 2015, as the FARC-EP and the Colombian Government created a technical subcommission on a ceasefire, the UN was asked to participate directly. And in January 2016, the Security Council mandated a monitoring and verification mission to Colombia, which added a new dimension to the UN’s profile in the country.

At the start of the peace process, the UN’s presence in Colombia was already the largest in Latin America, with 24 agencies and more than 2,000 UN staff spread across 46 cities and 138 field offices. Of these, the primary rule of law actors within the UN were UNDP, OHCHR, UNODC, and UNICEF, all of which have maintained a longstanding presence in-country. In fact, OHCHR, since the 1990s, has maintained one of its largest field presences in Colombia. And Several
UNDP Annual Human Development reports during the 2002-2010 period were widely acknowledged by peace advocates in the country as helping to maintain legitimacy behind the need to address root causes, such as land, at a time when the Colombian Government preferred to frame the conflict in terms of a war on terrorism. Some of the UN’s programming prior to the peace process – e.g. UNDP’s Programme on Reconciliation and Development (REDES) – had a strong focus on historically marginalized communities and local peacebuilding. Other UN roles, such as the 2002-2010 London-Cartagena Process, created a UN-led framework for dialogue amongst the Government, civil society, and the international community. These programmes, established well before the 2012 peace process, positioned the UN well to support the talks, and indeed to support the post-peace reintegration and reconciliation processes as well.

While the UN’s expansive presence in Colombia was generally seen as positively contributing to the peace process, it has at times been perceived as overstepping its role in a country with relatively strong State institutions. Indeed, some Colombians recalled the UN’s role in the failed FARC-EP/Government talks in the early 2000s, where a UN envoy attempted to revive the process in a fairly public manner that rankled many in-country. As a result, from the early 2000s until the 2012 peace process, an “unwritten rule” prohibiting the UN from engaging directly with non-State armed groups emerged, which limited the UN’s role early on in the 2012-16 peace talks.

**FIGURE 1: Timeline of the Peace Process in Colombia**

![Timeline of the Peace Process in Colombia](image_url)

4. Rule of law impact

This section assesses the extent to which the UN's rule of law interventions may have reduced the risk of escalation into widespread violence, focusing first on the 2012-2016 peace process, and then on the first two years of the UN Verification Mission’s presence in Colombia. It does not attempt to capture the full range of UN programming in-country, but rather relies on the available data and a range of expert interviews to identify the most impactful and relevant work in the rule of law area.

Victim participation in the peace process

At the outset of the peace negotiations in 2012, President Santos designed a fairly closed process without much international involvement, emphasizing that it was to be “a Colombian process for Colombians.” To ensure confidentiality in the highly sensitive talks in Havana, the Government initially restricted any form of public participation as well, including by barring Colombian civil society groups. This meant that the UN Country Team was similarly sidelined, without a direct role. However, in mid-2012, a member of Colombia’s Congressional Peace Commission proposed that the UN help Congress build up public participation in the Havana process, arguing that lack of participation could undermine public confidence in the outcome. Following agreement by the Government, between 2012 and 2013 UNDP and IOM organized 18 regional roundtable events in nine different regions of Colombia, gathering public input for the peace process agenda. These were widely seen as a success, and the FARC-EP and Government subsequently requested that the UN and the Colombian National University co-host major public forums on the peace process. Throughout 2013, the UN helped over 12,000 people participate in these public forums, and 3,000 citizens’ proposals were conveyed to the negotiating parties in Havana. These consultations not only helped bolster public confidence in the process, but also put important issues in front of the parties, including serious human rights violations by both sides (such as sexual violence, assassinations and forced displacement).

Crucially, the forums also increased confidence in the UN as a positive actor in the peace negotiations, opening the door to one of the UN's most important roles: ensuring victim participation in the talks in Havana. Upon request of the parties in 2014, the UN and the Episcopal Conference of the Catholic Church organized small victims' delegations to travel to Havana and participate directly in the talks. Here, the UN's principal roles were helping to select appropriate victim representatives (a highly controversial process that required the UN to deal with many external pressures) and supporting their travel to Havana. According to one expert, this generated a “radical change” on the part of the FARC-EP
in particular, which had shown little interest in reconciliation processes with victims. In fact, victim participation in Havana directly led to the FARC-EP’s first formal act of apology, which took place at the site of one of the worst civilian massacres of the war, Bojayá. A range of experts suggested that this incipient recognition of responsibility for human rights violations, by the FARC-EP but also the Government, played an important role in building confidence in the process and reducing the risk that the negotiations would lapse into conflict.

There is some evidence that UNDP’s capacity-building and work directly with the Colombian ministries also helped to bring the justice processes physically closer to the affected populations, many of which lived far from city centres and had little access to institutions. In one study, this resulted in roughly 70 per cent of victims populations being contacted by judicial authorities, which was often accompanied by psychosocial support.

Victim participation not only built confidence but also had a substantive impact, directly shaping the transitional justice components of the peace agreement. In fact, neither side in the negotiations had previously publicly accepted or acknowledged their role in the atrocities of the civil war until the 2014-15 process in which victim participation contributed to a Victims’/Transitional Justice Agreement in December 2015. According to the Resident Coordinator at the time, victim participation played a direct and crucial role in unlocking the peace negotiations, which had stalled for several months. “The presence of victims in Havana made it impossible for either side to ignore the fact that atrocities had been committed by all sides,” he said. “This was immediately important for moving the parties back to the table and getting them to be serious about the transitional justice provisions of the process. It was also really important back in Colombia in terms of building public confidence.”

With the door now open to more direct UN involvement, the UN Country Team and the Resident Coordinator were able to participate formally and directly in the talks, including on key issues related to gender (UN Women), separation of minors from the ranks of the FARC-EP (UNICEF and IOM), addressing the issue of illegal crops (UNODC), and more substantive advice on transitional justice (OHCHR). This participation helped to create a role for the UN in the post-agreement period, as the negotiating parties included in the final peace agreement many of the UN entities that had visited Havana during the talks.

Women’s role in the peace process

While women’s participation in the negotiations is often reduced to the phrase “victim participation,” the role of women was broader and more influential than that. Nonetheless, one of the key initial entry points for including women in the process did arise via the widespread victimization of women by all sides in the conflict. The Inter-American Commission on Human Rights has regularly reported on the distinct and pervasive impacts of the Colombian conflict on women, which exacerbated existing issues of discrimination and marginalization while also creating new vulnerabilities for violence. Women and girls constitute nearly 80 per cent of Colombia’s internally displaced population, and are especially vulnerable to the socioeconomic impacts of the war. At the outset of the peace process, women faced deeply rooted, systemic forms of discrimination, including dramatic underrepresentation in the political sphere, significant income disparities, and far less access to justice than men. One of the most pernicious impacts of the Colombian civil war has been the widespread use of sexual violence by all sides in the conflict. According to Oxfam, the prevalence of sexual violence in over 400 municipalities was around 18 per cent, meaning that over the ten-year period preceding the peace process, nearly 500,000 women were the direct victims of sexual violence.

Initially, women had essentially no role in the peace process and were completely unrepresented by the parties in the opening rounds of talks. However, via its support to the Havana talks, the UN and partners in the
international community were able to gradually encourage greater women’s participation. When it co-organized working group consultations in the nine regions of Colombia, the UN ensured that between 40-50 per cent of the participants were women, while UN Women synthesized the recommendations from the consultations and transmitted them to the negotiators in Havana. After the first year of talks, persistent engagement of women in local and regional processes helped to open the negotiations to greater participation. In October 2013, with the support of UN Women and the UN system more broadly, a National Summit of Women for Peace was held in which 450 representatives of women’s organizations met in Bogota and articulated three key demands of the peace process: (1) that the parties stay at the table until an agreement was reached; (2) that women be included at every stage of the process; and (3) that women’s needs, interests and experiences be considered during the talks. These demands were partially met, as the November 2013 round of talks included two women as plenipotentiaries on the government peace delegation. A few months later, a subcommission on gender was established, helping to feed recommendations related to rural development, political participation, agriculture and other areas into the talks. Indeed, women’s participation grew significantly over time: by February 2015, the FARC-EP delegation was made up of more than 40 per cent women, which roughly reflected the FARC-EP composition in Colombia. By the end of 2015, women represented more than half of the delegates in a variety of subcommissions in Havana, including on important issues such as political participation.

Beyond the talks, the UN has contributed to gradual but important progress on gender equality in terms of domestic policy and implementation of the peace agreement. In part as a result of international support and pressure (though it should be acknowledged that domestic organizations played a pivotal role in pressing for gender equality), Colombia has taken significant steps towards better gender parity in the political and economic spheres, while also developing improved institutional capacities to address sexual violence. As of today, Colombia has now ratified all international treaties on human rights and women’s rights, has passed domestic legislation on gender equality, has included gender equality in its 2012 Victims and Restitution of Land Law, and passed Law 1257 that sets in place guarantees for equal access to justice. There is also some evidence that the UN’s support has contributed to greater Colombian resources dedicated to women’s protection and human rights by national authorities, including via a specific set of programmes launched jointly by the UN and the national Government.

Legal advice

While not formally part of its various mandates, UN Country Team members often played an important role in providing legal advice to Colombian authorities, both in the lead up to and after the peace agreement. Some of the interventions included: UN Country Team and the Norwegian Refugee Council collaborating on advice to the Government on the Victim’s Law and restitution provisions of the peace agreement; OHCHR-led advice on the transitional justice provisions of the peace process; and the Resident Coordinator’s engagement with the Colombian Prosecutor’s Office and the International Criminal Court around criminal accountability for human rights abuses. UN Women also provided legal advice in terms of the transitional justice elements of the peace agreement. Indeed, this advice was not only focused on gender-sensitive approaches to transitional justice but was also intersectional, looking to include the views of women of Afro-Caribbean descent and indigenous communities. When comparing the specific recommendations provided by UN Women and its partners, several appear to have been incorporated into the final agreement, especially around victims’ rights and the importance of including the narratives and experiences of women in the process. Moreover, this work resulted in a cooperation agreement between UN Women and the Truth Commission, “baking
in our influence” to the peace process in a more sustainable way.44

Several experts suggested that the UN’s advice, alongside the support and advice of many other actors, translated into some important accomplishments by the Colombian authorities.45 Perhaps most relevant was the understanding that the punitive aspects of the peace process (possible prison penalties for human rights abusers) could be balanced with other acts, such as truth-telling, public acknowledgement of wrongs, and forms of community service amounting to reparations for victims that were ultimately positioned at the core of the transitional justice, or “Victims” agreement reached in Havana. “Via our advisory role, we were able to shift the two sides towards less confrontational and more conciliatory forms of justice,” the former Resident Coordinator said. Others agreed, suggesting that the gradual acceptance of less punitive forms of justice helped to keep tensions down during key moments in the talks.

While there is no direct causal link between this engagement and a reduction in conflict risks, several experts suggested that the more holistic, less punitive approach eventually adopted was crucial in building popular confidence in the process, lessening the likelihood that either side would return to violence, and helping to address the broader range of grievances underlying the conflict. One UN expert suggested: “the UN quietly helped to shape the legal framework of the peace process away from the kind of confrontational approach that might have caused a reversion to war.”46

Transitional justice

The 2016 peace agreement included an ambitious and far-reaching set of transitional justice provisions, addressing the interrelated goals of truth, accountability, and reparations. The so-called Comprehensive System of Truth, Justice, Reparation and Non-Repetition is explicitly designed to prevent a relapse into conflict, including by bolstering the rule of law capacities of the Colombian system to address widespread human rights violations in a holistic manner. In addition to laws establishing criminal accountability for serious human rights violations, the transitional justice provisions of the agreement include support for victims, socioeconomic roles for victimizers (e.g. in demining and eradication of illicit crops), and a national-level truth-telling process.47 Transitional justice is intimately bound up with other areas of national programming as well: for example, part of the restitution process is aimed at forcibly displaced people, providing them with legal avenues toward land ownership.48

Given the cross-cutting nature of transitional justice, various UN agencies contribute to it in different ways, alongside other key national and international actors. Based on expert interviews, the most relevant UN actors in this field appear to be OHCHR, UNDP, UN Women, and the Peacebuilding Fund (PBF), though others certainly contribute as well.

Over the 2012-2018 period, UNDP has provided support to transitional justice through the Transitional Justice Basket Fund, which allows for the provision of support to victims of armed conflict.49 By the end of 2012, 46,330 people benefited from increased access to justice and reparations. Additionally, 22 municipalities received support to establish transitional justice committees under the provisions of the ‘Victim’s Reparation and Land Restitution Law’, enacted in 2011 by the Santos Administration.50 This law was an important building block for the peace process as it formally acknowledged the “armed conflict” and therefore the legitimacy of a politically negotiated settlement after years of resistance to this concept by the Colombian Government. As an indication of its significance, the Secretary-General at the time, Ban Ki-moon, visited Colombia to witness the adoption of the Law by the Colombian Congress. Ban Ki-moon also visited Havana for the signing of the Definitive Ceasefire and End of Hostilities Agreement in May 2016 as well as the signing of the Peace Agreement in September 2016.

The PBF has played an important role in supporting the justice elements of the peace
process. Active since 2014, the PBF supported outreach and advocacy for victims’ rights, including reparation and restoration measures for victims as required by the peace agreement. Much of the USD 29 million that has been spent since then has gone towards reintegration of former combatants, as well as accelerating the establishment of the Comprehensive System for Truth, Justice, Reparations and Non-Recurrence. These campaigns directly reached more than 32,000 people for an awareness campaign around the peace process, provided reparations for more than 15,600 people (including 7,850 women), and contributed to the Ministry of Labour’s decision to spend USD 2.1 million on further reparations measures. This support also contributed to the successful launch of the Truth Commission in 2018.51 And while it falls outside the time period covered by this study, it is worth noting that the PBF has also taken forward some innovative and potentially impactful work around non-recurrence of sexual violence.52

In May 2021, the Security Council expanded the mandate of the United Nations Verification Mission in Colombia to grant it an important role in support of the transitional justice system. As envisioned in the peace agreement, the Mission assumed international verification functions within a system of monitoring and verification of compliance with sentences to be handed down to those convicted of serious human rights crimes by the Special Jurisdiction for Peace, the judicial branch of the Comprehensive System. The Mission’s verification applies only to those defendants (former FARC-EP, security force members and third-party civilians) who receive the restorative justice sentences in return for having fully contributed to truth and acknowledged responsibility for atrocities. Third-party UN verification on the ground, in communities where indicted individuals are to carry out works of reparations to victims under the sentences, are intended to spur compliance and build confidence in transitional justice arrangements that are at the heart of the peace agreement and therefore central also to the prevention of relapse into conflict.

While this emerging role involves the UN system more deeply in the transitional justice process, it bears mentioning that the Mission’s presence since its establishment has already bolstered political support for this fledgling process amidst continuing political controversy and attacks by sectors who remain averse to the terms of the peace agreement. The Secretary-General’s quarterly reports to the Security Council have kept the Council abreast of the evolution of the key transitional justice institutions. The Council’s regular statements of support for the institutions and insistence on respect for their independence and autonomy have been widely acknowledged by those entities and their leaders as constituting crucial international backing that strengthens their position.

Reintegration/reincorporation

Colombia has a long history of disarmament, demobilization, and reintegration (DDR) processes dating back to demobilization agreements made with the guerrilla groups in the early 1990s, and more recently to the demobilization of the AUC from 2003 to 2006. The ongoing process through which individuals leaving armed groups can find support in the transition to civilian life is called the reintegration process. A separate – collective - process was established for the FARC-EP who demobilized under the peace agreement, referred to as “reincorporation,” reflecting the combination of security measures to protect ex-combatants in the short-term, the socioeconomic dimensions of the process, the creation of a political party for the FARC, and the guarantee of limited representation in Congress agreed in the 2016 peace agreement. Reincorporation also differs from traditional DDR in that the FARC-EP insisted upon collective integration into communities, in an attempt to allow them to maintain much of the space they had occupied in local political spheres.53 Reincorporation was highlighted by a range of experts as a crucial area that overlapped with the rule of law work of the UN in significant ways. “Reintegration is part and parcel of the UN’s rule of law work,” one UN official remarked. “It is how the Colombian institutions process individuals from illegal armed groups back into society.”54 In fact, reintegration is explicitly linked to rule of law via the third agenda point of the
peace agreement, which sees the DDR process as integral to expanding rule of law across the country.  

The UN’s roles in supporting FARC-EP reincorporation cross several programming areas. The UN Verification Mission was mandated to verify the ceasefire and disarmament (referred to as “laying down of arms”) process. After the conclusion of this phase, and as envisioned in the peace agreement, the Mission received a second mandate from the Security Council to report on reincorporation as well as the delivery of security guarantees for former combatants and conflict-affected communities. UNDP and IOM, both with a range of programming in-country, have implemented social reincorporation projects, initiatives to build capacities in reincorporation areas, employment programmes for ex-combatants, and dialogues to improve trust between government and FARC-aligned communities. UNICEF and the Office of the Special Representative of the Secretary-General for Children and Armed Conflict have supported the reintegration of children from Colombia’s armed groups.

There has been progress on reincorporation over the past few years. By the end of 2018, the Office of the High Commissioner for Peace had recognized 13,200 ex-combatants, with 12,940 individuals participating in the reincorporation process. And while progress across the broader range of social and political reincorporation has been uneven (see chart above), the Verification Mission has documented a progressive advance in the establishment of livelihood generating projects for former combatants, the FARC political party (now renamed as “Los Comunes”) has actively assumed its representation in Congress and its leadership and the vast majority of former rank-and-file combatants have remained in the reintegration process and committed to the peace process, with only...
relatively small numbers having either remained in arms instead of signing the peace agreement or rearmed since. One apparent shortcoming of the reincorporation process up until 2018 was the lack of a dedicated process for the female ex-combatants from FARC-EP. As noted in one study, the understanding of the gendered impacts of participation in the FARC-EP, and indeed the need for tailored responses to reincorporation, does not appear to have permeated beyond the major urban areas of Colombia.59

The extent to which reincorporation has reduced the risks of violence is difficult to pinpoint. On one hand, a range of experts suggested that the DDR caseload had clearly reduced the number of individuals involved in armed group activity, and overall the rates of violence remained lower than the periods preceding the peace agreement. Other experts have highlighted the positive aspects of the holistic approach to reincorporation, noting that the work to address socioeconomic and political marginalization demonstrate good practice that should reduce the risks of recidivism and relapse into conflict.60 However, according to the UN Verification Mission, 2019 experienced an uptick in violence threatening the reincorporation process, with 77 homicides of ex-combatants demonstrating a 19 per cent increase from the previous year.61 There is also a suggestion that weaknesses in the reincorporation processes can make former combatants more vulnerable to recruitment by illegal armed groups such as FARC-EP dissidents; at the same time, many of those killed since disarming have reportedly been killed resisting such efforts to lure them back into violence. Every expert consulted agreed that the levels of violence would have been worse absent the reincorporation process, though the gradually rising levels of violence are a worrying sign that reincorporation alone is insufficient to address conflict risks.

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<tr>
<th>Country programme outcome</th>
<th>Budget (USD) 1 February 2018</th>
<th>Expenditures (USD) to 1 February 2018</th>
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<tbody>
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<td>Growth is inclusive and sustainable, incorporating productive capacities that create employment and livelihoods for the poor and excluded</td>
<td>109,370,421.58</td>
<td>80,885,305.65</td>
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<td>Strengthened institutions to progressively deliver universal access to basic services</td>
<td>87,734,972.25</td>
<td>74,504,795.22</td>
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<tr>
<td>Strengthened national and territorial capacities for the transition to peace (includes early recovery and rapid return to sustainable development)</td>
<td>95,268,365.42</td>
<td>72,036,674.96</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>295,373,759.25</strong></td>
<td><strong>227,426,775.83</strong></td>
</tr>
</tbody>
</table>

Source: UNDP Corporate Financing System (Atlas/Piw BI) and UNDP Colombia finance updates
Access to justice

One of the longstanding grievances underlying Colombia’s civil war has been the lack of inclusive forms of governance, meaning that the rights and needs of rural populations in particular have been excluded from national political and legal institutions. One of the most acute problems has been access to justice: despite having a highly developed judiciary and one of the highest per capita rates of lawyers in the world, Colombia’s justice system has been chronically absent in many rural, agrarian areas, leading to deep trust deficits and greater recourse to either informal justice and/or use of armed groups to resolve differences. Access to justice is particularly challenging for women (especially in rural areas), where large numbers of victims of sexual violence face few prospects of institutional responses by the national authorities.\(^{62}\)

Assessments of UNDP’s work in particular have found that their access to justice programming filled important gaps at the municipal level, improving the capacities of local justice institutions. This work has complemented larger in-country programming by USAID, the EU and others, increasing access to justice in dozens of municipalities between 2012 and 2018. Importantly, there is some evidence that the intensive focus by the UN on gender-based violence – including dozens of trainings for mediators and police inspectors on gender-based crimes – has increased the caseload of sexual crimes in many parts of Colombia.\(^{63}\)

Local conflict resolution/land

There was widespread agreement that the risks of violent conflict in Colombia were often tied to disputes over land title and use. Indeed, even beyond individual disputes over land, the management of rural areas constitutes a longstanding tension between the two principal parties to the civil war, meaning that efforts to regulate and reduce tension over land will have an outsized impact on the risks of relapse into violence.\(^{64}\) The UN has worked to reduce those tensions nationally, through land reform, and also at more local levels in terms of helping to resolve conflicts amongst communities. While this is not the main focus of a report focused on rule of law, several experts suggested that the link to the institutional capacities of the State to regulate land were important.

Land restitution was, in fact, an important aspect of the 2016 peace agreement and has been an area where the UN has focused significant support, including by advising the Colombian Government on its national land reform process. In 2019, during a Security Council session, there was widespread agreement that the national reforms around land had played an important role in addressing the impacts of the conflict, though much remained to be done to ensure local access to arable land.\(^{65}\)

In 2017, a cooperation agreement was signed between UNDP and the Colombian National Land Agency to aid the formulation and implementation of plans for the social management of rural property. Twelve municipalities were subsequently planned out (mainly in the northern part of the country), during which time UNDP also was involved in conflict resolution and the certification of rural properties. While the process is ongoing, up to 13,000 plots are being titled to peasants from rural areas, helping to reduce tensions and alleviate some of the negative consequences of the conflict.

It is also worth noting the particular challenges facing women in terms of land ownership and restitution. Here, the Victims and Land Restitution Law (Law 1448) is trying to return illegally acquired land to its rightful occupants, but in many cases only formalized ownership to those who had already returned to their land. Since traditionally women were not landowners, they were often unaware that they could claim ownership under the new law. In one case, through a UN Women project funded by the Government of Sweden, several communities in south-east Colombia were informed of women’s rights to land restitution and subsequently were able to open businesses on newly acquired agricultural plots.\(^{66}\)
Conclusion

The UN’s role in bringing victims and women into the peace process demonstrates unequivocal impact. Not only is there clear evidence that inclusive peace processes in which women play a significant role are more sustainable, but in this case the victim participation was clearly linked to the development of the transitional justice elements of the agreement. A wide range of experts agree that the UN’s role helped to make the peace process more inclusive and thus strengthened the overall peace process.

There is also some evidence that the UN’s advisory role helped to move the peace process away from more punitive approaches, which could well have derailed the negotiations. The comprehensive approach to accountability, offering non-punitive mechanisms via the transitional justice process, is in part the result of the role of the UN in bringing the parties and victims together and in providing advice at the highest levels.

One of the most important aspects of any peace process is to maintain a sense of forward momentum, and in Colombia this has been especially important in the areas of transitional justice and restitution. Unfortunately, implementation has lagged, but the UN’s programmatic and financial support to the transitional justice process does appear to have given tens of thousands of affected people some form of restitution and/or a path towards reincorporation into society, thus reducing the risks that they might resort to violent groups or return to the battlefield.

Here, a worrying trend in recent years has been the uptick in violence, including against former combatants. This does not necessarily indicate a lack of impact by the UN, but could well point to the difficulties the Colombian authorities have faced in reincorporating huge numbers of people in complex settings. Indeed, the peace agreement (even if not totally inclusive of all root causes) constitutes a comprehensive package aimed at bringing development and extending the presence of the State to the marginalized former conflict areas where violence today persists. In this respect, the reincorporation process has been at least a partial success, providing livelihoods to many people who would otherwise have returned to armed group activity, lacking other options.

In the area of land ownership and restitution, the UN’s role does seem to have contributed to a larger-scale approach by the national authorities, while UNDP’s work to implement some of the national reforms has helped to resolve land ownership in dozens of municipalities. In fact, the Colombia case stands out as one where the UN has dedicated more resources and greater attention to land issues, perhaps reflecting the importance of land tenure as a cause of conflict. But as discussed in the broader policy paper associated with this project, other settings could benefit from the Colombian experience where seeking to address land-based tensions was a priority at both the national and local levels.
5. Enabling and inhibiting factors

The Colombian peace process is largely Colombian-owned, reflecting the relative strength of national institutions, a strong desire by the Government to maintain its sovereignty, and decades of work to build up national capacities. As such, the successes and failures of the process to date are predominantly the result of internal dynamics, with the UN often a supporting actor with a limited role, particularly in the areas of rule of law and transitional justice. Nonetheless, in many respects the UN was able to positively impact the peace process and reduce the risks of relapse into large-scale violence. This section explores the factors that either inhibited or enabled the UN's impact in Colombia.

An incomplete peace

By 2012, the Government and the FARC-EP had reached some form of a mutually hurting stalemate where both appeared to see negotiations as the most viable path forward. This does not mean that the risks of violence remained low throughout the peace talks. In fact, while the indices of conflict-related violence between the Government and the FARC-EP dropped from 2012 onwards, the ELN and other guerrilla groups remained active and killings of human rights defenders and land activists in fact rose during the 2012-2017 period, while other forms of violence (e.g. criminal and/or drug-related, as well as sexual violence) continued relatively unchecked. By 2019, the UN was warning of rises in other forms of violence as well, including homicides and the assassinations/disappearances of increasing numbers of former FARC-EP combatants in particular. New and previously existing armed groups were also actively seeking to replace the FARC-EP in areas in which it had left a gap after years of authoritative presence. This presented several challenges to the UN and its partners: with popular confidence in the peace talks quite low at the time and tensions over land ownership still extremely high, there was a risk that the negotiations would fail to address the more deeply rooted grievances underlying the conflict. Here, the efforts of the UN to advocate for inclusive, comprehensive approaches to the Havana negotiations were very important, including its push for greater women's participation in the talks.

Here, the UN's shifting mandate may have helped its impact. The first Mission's role in verifying the final ceasefire and certifying the laying down of arms of the FARC-EP was an essential confidence-building measure in the transition from the end of conflict to early implementation. The subsequent mandate of the Verification Mission, beginning in September 2017, to monitor and report on implementation of the various mechanisms in the peace agreement to provide security to former combatants and conflict-affected...
Enabling and inhibiting factors

Communities has given the UN a very concrete platform to focus attention on weaknesses in implementation and to press for more effective State responses. Its presence and reporting on these matters to the Security Council is seen by the former FARC-EP and civil society activists as an important point of leverage for implementation. OHCHR’s reporting on the human rights situation in the former conflict areas has also focused on these emerging patterns of violence and reinforced calls for full implementation of the relevant provisions of the peace agreement.

Trust levels

The decades-long conflict led to deeply rooted mistrust between the political groupings in Colombia, animosity that was not easily shaken off even after the intensive negotiations in Havana. And while the 2016 agreement was laudable in its ambition to address all major contested areas between the parties, this also created a set of challenges in terms of implementation. For its part, the Government has accused the FARC-EP of failing to live up to its commitments regarding the location of landmines and the handover of its assets, arguing that this has undermined the peace process. In response, the FARC-EP has denounced continued killings of its members and criticized the Government for prioritizing disarmament and demobilization over the broader implementation of the peace agreement. This atmosphere of mutual distrust has presented challenges, but also an opportunity for the UN to play a more direct role in dispute resolution. As laid out in the 2016 agreement, a Commission for the Follow-up, Promotion and Verification of the Implementation of the Final Agreement was created. This allowed for technical working groups to resolve outstanding issues with the UN’s support, such as the 2018 process to address the controversial demining process. However, the Commission is underutilized by the parties to the agreement, which may continue to limit its impact for some time to come.

Collective approaches to reincorporation

The 2016 peace agreement articulates a holistic and ambitious approach to the reincorporation of the FARC-EP, including at the social, economic, and political levels. In this context, the FARC-EP pushed to be reincorporated collectively, maintaining a high degree of cohesion and helping to maintain some of the local spheres of power they had established during the war. This approach has a number of benefits, principally that the reincorporation process should in principle address the full gamut of the FARC-EP’s demands for more control over rural development, economic livelihoods for its members, and representation in the Colombian political process. However, after several years of stalled and incomplete implementation, the shortcomings are also becoming evident: lack of progress in one area can quickly infect other areas, leading to increased tensions between the sides. Over the long term, the challenge identified by the Verification Mission will be that of providing land to cooperatives and extending reintegration projects, services and security, to a majority of former combatants who have migrated away from official reintegration areas.
There were different views about the ways in which the UN’s mandate may have enabled or inhibited its impact in Colombia. While the UN Country Team and the peace operation have a large and vibrant presence across Colombia, some experts suggested the mandate in the rule of law area is relatively constrained. The Mission has no formal role in supporting the rule of law institutions of Colombia, while the UN Country Team has relatively limited programmes falling directly under rule of law. As described above, UNDP’s inclusive governance programming has allowed for it to direct significant resources towards traditional rule of law institutions, and the UN’s support to the transitional justice process in particular reflects some important work on rule of law. However, several experts suggested that there was a mismatch between the rule of law needs facing Colombia (particularly in rural areas with little institutional capacities) and the mandates provided by the UN to date. This imbalance reflects the sophistication of the Colombian legal system and the strong desire amongst the leadership of the country to maintain sovereign control over its institutions. But it also places a real impediment on the UN in terms of more ambitious rule of law engagement, despite the worrying signs that many of the key trends around violence may be moving in the wrong direction. It should be noted that there is very little appetite within Colombia’s leadership for a larger rule of law mandate.
The UN’s Verification Mission’s mandate is explicitly outlined in the 2016 peace agreement. The agreement specifically states that the Government will request the deployment of a political mission comprised of, *inter alia*, unarmed observers from the region, and specifies the three tasks that the Mission should implement. The Mission’s mandate to verify implementation of wide-ranging provisions of the peace agreement that oblige the Colombian State institutions to provide security for ex-combatants and, more broadly, conflict-affected communities, is an important lever for encouraging progress with the backing of the Security Council. This puts the Mission into constant interaction with institutions set up under the peace agreement and existing national entities such as the Attorney General’s Office and the Human Rights Ombudsman. A new mandate will involve the Mission in the verification of compliance with the sentences of the Special Jurisdiction for Peace. OHCHR has one of its largest field operations in the world in Colombia.

**Territorial reach**

One of the most challenging aspects of the Colombian context is the size and relative inaccessibility of much of the country. Particularly given the strong rural/urban dimension to the conflict, and the longstanding grievances of the rural population against the central Government, the need for improved institutional capacities in the peripheries of the country was especially acute. Here, the UN’s territorial reach proved an important enabling factor in delivering rule of law and related programming. For example, UNDP maintained 11 local offices around the country, with programmatic activities in 25 of the 32 departmental areas identified by the Government. Similarly, the UN Verification Mission currently has 1 regional and 20 local offices around the country, deploying hundreds of staff who take a proactive approach to verification by working through outreach to ex-combatants, communities and local authorities. According to many experts, this reach enabled the UN to play a more direct role in local conflict resolution, access to justice, and implementation of the peace agreement.

**Coherence**

Field-based experts highlighted the very good coordination and coherence amongst the key agencies in Colombia as important for the success in their support to the peace process. Here, the role of the Resident Coordinator was pivotal, especially during the 2012-2015 period. By demanding that the entire UN Country Team focus its work on supporting the peace process, the Resident Coordinator catalysed a shift where the bulk of the UN Country Team’s programming was oriented in a single direction. This helped the UN leverage three key comparative strengths: (1) its many field offices, especially in rural areas where populations were less aware of the peace process; (2) its significant resources, including large programming in the areas of development, land, and access to justice; and (3) the UN’s global expertise on issues of conflict prevention, transitional justice, and peace processes. The Resident Coordinator “took us from a bunch of agencies doing our own thing to a single UN more or less prioritizing the peace process across the board,” one UN official noted. Complementarity with the UN Country Team is also part of the mandate of the Verification Mission, which, though not an integrated mission, works particularly closely with agencies, funds and programmes in its work on the reintegration of former combatants.
6. Lessons and recommendations

Drawing from the above analysis, this section provides some broader lessons and recommendations that can be applied across the UN system.

• **Build off small entry points.** The Colombia experience illustrates how innovative approaches to peace processes can build a UN role over time. In 2012, the UN had essentially no entry points into the peace negotiations and had been intentionally sidelined along with most of the international community. However, by gradually showing value in supporting a more inclusive set of negotiations in Havana, the UN gradually took on a more direct and influential role that also positioned it well to support implementation of the agreement from 2016 onwards.

• **Women’s participation has substantive impacts.** Much of the scholarship on women’s participation in peace processes suggests that it increases the longevity of agreements and tends to lead to more stable agreements. The Colombia case supports such a finding, but also indicates that greater participation of women can strongly impact the substance of the agreements as well. According to several experts, as the role of women increased in Havana, this shaped the terms of the transitional justice provisions of the agreement, transforming them into a far more viable set of commitments than previously.

• **Orient the UN Country Team around peace.** One of the key accomplishments of the 2012-2016 period was the relative coherence of the UN Country Team around the goal of supporting the peace process. This constituted a significant shift from earlier periods, during which the UN Country Team programming was disparate and more focused on responding to the impacts of war. This singular focus appeared to give greater clarity and purpose to the UN Country Team, resulting in more coordinated and effective programming. It also meant that when the peace agreement was signed in 2016, the UN Country Team was well-positioned to support it.

• **Build tailored, linked presences in the peripheries.** As described above, the territorial reach of the UN in the large, inaccessible terrain of Colombia was a key enabling factor. However, as other UN assessments have noted, there was often a lack of tailoring in some of these offices, and resources and knowledge were not easily transferred across them. Especially in countries like Colombia with highly differentiated capacities in...
various rural locales, UN offices should be carefully tailored with specific locations in mind. Furthermore, these offices should be connected more systematically, allowing for transfers for resources and knowledge where it can be most impactful. 

- **Account for interlinked forms of violence.** The signing of the peace agreement in 2016 catalysed a dramatic drop in violence. However, during the 2012-2018 period, other forms of violence have crept up, including targeted killings of ex-combatants, social leaders, and human rights defenders. Such violence poses a direct threat to the peace process, increases tensions and undermines public confidence in the agreement; indeed criminal violence also undermines State authority and may cause individuals to return to armed groups to protect themselves and their communities.

- **Focus on land.** Colombia stands out as one of the few cases where the UN has prioritized land ownership and restitution as part of its conflict resolution approach. Legal ownership of land and addressing broader socioeconomic disparities through national land legislation was cited as one of the most important factors in whether Colombia would lapse back into conflict or continue on its path to peace. As noted in several of the other case studies in this project, greater focus and capacities on land appear to pay peace dividends. Indeed, one particular area of additional focus might be on informing women of their rights under newly passed land laws: as the above analysis illustrates, women may not be aware of their ability to own land under provisions like the Land Law of Colombia, and information campaigns can have a significant impact.
References


3. This is often referred to as an “adaptive” form of impact assessments. See, Ian Wadley, Valuing Peace: Delivering and Demonstrating Mediation Results (Geneva: HD Centre, 2017).


10. UN interviews, February 2021.


that the parties could delegate to a third party the organization of public participation).

24. Some key background documents used for this issue include: Harvey Danilo Suárez Morales, Programa de fortalecimiento de la justicia en Colombia (Bogotá: UNDP, 2012); Fondo de Justicia Transicional, UNDP, Defensoría del Pueblo Colombia and Fiscalía, Acceso a la justicia: Participación efectiva de las víctimas en etapas procesales de la Ley de Justicia y Paz (Bogotá: Fondo de Justicia Transicional, 2011); Fondo de Justicia Transicional, Rol de Ministerio Público en el Sistema Nacional de Atención y Reparación Integral a Víctimas del Conflicto (Bogotá, Fondo de Justicia Transicional, 2013); Fondo de Justicia Transicional and UNDP, Acceso integral y efectivo a la justicia: Sistematización y análisis de los proyectos del FJT/PNUD relacionados con la Ley de Justicia y Pas (Bogotá: UNDP and Fondo de Justicia Transicional, 2015).


27. Fondo de Justicia Transicional and UNDP, Acceso integral y efectivo a la justicia: Sistematización y análisis de los proyectos del FJT/PNUD relacionados con la Ley de Justicia y Pas (Bogotá: UNDP and Fondo de Justicia Transicional, 2015).


35. See, Balance, “Números finales de participación en los Foros de Víctima” [on file with author].


37. Ibid.


40. See, Ministro del Interior et al., Guía para la Incorporación del Enfoque de Género en la formulación o actualización de los Planes Integrales de Prevención y Protección de Derechos Humanos (Bogotá: Ministro del Interior, Fondo de Justicia Transicional, UNDP and Todos Por un Nuevo País, 2015).

41. Interview, 21 January 2021.


45. For a good description of this, see, Priscilla Hayner, The Peacemaker’s Paradox: Pursuing Justice in the Shadow of Conflict (London: Routledge, 2018)

46. Interview, January 2021.


49. NB, this built on previous UNDP-administered funds, which are described here: UNDP, El Fondo de Justicia Transicional En Colombia: Programas de Promocion de la Convivencia de Fortalecimiento a la Justicia (Bogotá: UNDP, 2014), (https://info.undp.org/docs/pdc/Documents/COLOCHiaSistematizaci%C3%B3n%20y%20lecciones%20aprendidas%20del%20Fondo%20de%20Justicia%20Transicional.pdf.


54. Interview, January 2021.


56. See, e.g. S/2018/874; see also, UN internal document, “Guía para diligenciar la plantilla de formulación de proyectos productivos de personas en proceso de reincorporación y sus familias” [on file with author].


