

Opinion – Colombia's Transitional Justice System Sets Precedent for Accountability

Written by Richard M. Sanders

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RICHARD M. SANDERS, OCT 15 2025

After almost a decade, on September 16, Colombia's "Special Jurisdiction for Peace" (Spanish initials JEP), a court system set up under the 2016 peace agreement with the country's largest guerrilla force, the Revolutionary Armed Forces of Colombia (FARC), issued its first verdicts and sentences in two emblematic cases of gross violations of human rights. In one, members of the FARC's senior leadership were sentenced for the group's longstanding practice of kidnapping persons and holding them for ransom. In a separate case, several Colombian Army officers and soldiers were sentenced for their involvement in murdering civilians and then describing them as guerrillas they had killed in combat—the so-called "false positives" scandal. Under the terms of the JEP, defendants who voluntarily submit themselves for judgment and agree to cooperate in establishing the details of their crimes receive maximum sentences of eight years to be served by engaging in activities of "restorative justice" to affected communities while facing some restrictions on their liberty short of incarceration.

Given the brutality of the crimes committed, this will not satisfy all among the victims or their families or indeed among many in Colombian society at large. Nonetheless, in a country where insurgencies have usually ended with amnesties and the military have generally gone untouched, even a measure of accountability is a step forward. Ironically, these verdicts come at a time when violence is once more on the rise; how and when this current surge will be resolved remains unknown, but these proceedings at least establish a precedent which may be useful in the future.

Human rights violations have long been a tragic aspect of Colombia's national life. However, the determination of responsibilities for them by the courts marks a major change from previous practice. Through much of the 1950s, rural Colombia was wracked by what was simply known as "la violencia," in which armed groups associated with the two major political parties, the Liberals and Conservatives, would seize land and attack peasants in areas in which each other had political control, often leading to wholesale massacres. This bloody internal conflict was eventually resolved politically through a power-sharing agreement with no insistence on accountability.

While the struggle between the Liberals and Conservatives was resolved, Ideologically-based insurgent groups sprang up by the 1960s. By far the largest was the Communist, indeed Stalinist, FARC, which remained in the field until the conclusion of the peace accord in 2016, while the National Liberation Army (ELN), initially inspired by the Cuban Revolution as well as by liberation theology, remains active to this day. However, other smaller groups were induced to disarm after suffering sufficient pressure from the security forces.

The April 19 Movement (M-19), a leftist-populist urban terrorist group, demobilized in 1990 and the Popular Liberation Army (EPL) a Maoist entity, did so in 1991. In both cases fighters were granted amnesties, and no judicial proceedings were maintained against them. And until the creation of the JEP, allegations of human rights violations by Colombia's police and military, notably ones arising from their links with right-wing, narcotics-connected paramilitary groups, had been handled within the military justice system with outcomes that could be expected.

The 2016 peace agreement with the FARC only came after a particularly intense period of fighting. The FARC had gained strength in the 1990s as Colombia became a site of greatly increased coca production and processing into

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cocaine. The FARC was able to expand in numbers, weaponry and control of territory as it both “taxed” the drug trafficking organizations and allegedly (although it denied doing so) directly participated in narcotics production. The Colombian government in turn received a massive assistance package from the United States termed “Plan Colombia,” including helicopters, other training and equipment, intelligence support, and economic assistance, all of which allowed it to gain the upper hand against the FARC.

At its peak the FARC had an estimated 20,000 fighters, but under pressure from Colombia’s revitalized security forces its numbers had dropped to between 6,000 and 7,000, and much of its leadership had either been killed or reduced to constantly moving to escape attacks. As a result, it entered into peace talks with President Juan Manuel Santos, who as Defense Minister under hardline President Alvaro Uribe had played a key role in pressing them to this point. The negotiations ultimately resulted in an agreement under which the FARC was to disarm and become a legal political party which would be given reserved seats in the Congress for a set period of time. Land reform and economic development efforts were to be undertaken to wean farmers away from coca production.

And the JEP was to be established, giving guerrilla fighters and members of the military the opportunity to voluntarily provide information regarding their criminal actions in exchange for reduced penalties. This system was designed to be complementary to the purposes of the International Criminal Court established earlier under the “Statute of Rome,” which exists to try gross violations of human rights. The agreement was controversial. Conservative figures, including Uribe, opposed it, and many Colombians were deeply suspicious of the FARC’s intentions. Submitted to the public for approval in a referendum, it was narrowly rejected. Santos returned to negotiations and won some further concessions from the FARC. Among them were a commitment to forfeit assets obtained from drug trafficking and the removal of a provision which would have allowed foreign judges to participate in the JEP. The modified agreement, however, was not submitted for a second referendum; rather it was merely approved by Colombia’s Congress. Actual implementation proceeded slowly. Santos’ successor Iván Duque (in office 2018-22) who had earlier opposed the peace agreement, pledged to support it; however, he considered that certain elements were unconstitutional and appealed them to Colombia’s Constitutional Court which ultimately ruled against him. Also, in the face of Colombia’s financial difficulties he reduced the JEP’s budget by 30 percent, drawing criticism from those who saw him as sabotaging it.

Nonetheless, this element of the peace process slowly moved forward. Judges were nominated and investigative and prosecutorial staff were designated. Eleven emblematic “macro-cases” have been brought. In addition to the ones regarding the FARC’s kidnappings and the “false positive” murders committed by the military, which have made it through to sentencing, cases have been initiated for crimes committed in three particularly affected regions, Urabá, Nariño, and Cauca/Valle de Cauca, and for crimes committed against the Unión Patriótica, a Marxist political party linked to the FARC which was allowed to exist legally during a ceasefire which took place in the 1980s. Other “macro-cases” which have been opened include ones for crimes committed against minors, crimes against the indigenous, crimes committed by the security forces in collusion with paramilitary forces, crimes committed by the FARC other than kidnapping (i.e., homicides, massacres), and, most recently, crimes of violence against women, girls and LGBTIQ+ persons.

The case against the FARC for kidnapping refers to its extensive practice of stopping automobiles or buses on rural roads and seizing individuals who were thought to have sufficient resources to make them worth holding for ransom. It would also kidnap members of the armed forces and political leaders with the aim of forcing prisoner exchanges. The kidnappings were known as “miraculous fishing,” in an ironic reference to a Colombian children’s game. Beyond the impact on the victims themselves and their families, “miraculous fishing” made overland travel for business or personal purposes extremely hazardous, creating much of the bitterness towards the FARC felt by the general population. The members of the FARC’s secretariat, its highest governing body, admitted to these crimes and submitted themselves to the JEP in 2018. Seven surviving members have been sentenced to the maximum term of eight years which will be spent in activities of “restorative justice,” which are to include aiding in finding the bodies of persons who were “disappeared” during the internal conflict, aiding in demining efforts and engaging in symbolic acts of reparation to victims. While they will not be imprisoned, their movements are to be restricted and they are to be monitored, including with ankle bracelets.

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The JEP has also issued sentences in connection with the so-called “false positives,” the practice, carried out in different parts of the country, of murdering civilians, dressing their bodies in camouflage and claiming them to have been FARC fighters killed in combat, in order to show results in the struggle against the guerrillas. It has been determined that 6,400 persons were victims of this practice. Twelve officers and soldiers of a single battalion were sentenced for crimes committed against 135 civilians in Colombia's Caribbean region between 2002 and 2005. They, like the FARC secretariat, will be required to engage in restorative acts and face similar restrictions on their liberty. The maximum sentence here too will be eight years, although some defendants will face shorter sentences. These are presumably only the first “false positive” cases which will be decided. Reportedly, three generals and 22 other officers have also agreed to submit to the transitional justice process for crimes committed in highly the conflictive Casanare department, while others who have denied participation in these crimes will face trial, and if found guilty may face significantly longer sentences to be served in the regular prison system.

Reaction to both the “miracle fishing” and the “false positives” cases has been mixed. Some victims or family members have expressed satisfaction that the crimes have been recognized and that a measure of justice has been obtained. However, others feel that the final sentences are disproportionately light compared with the crimes. Some suspicion has been expressed as to how much effort will be required from those sentenced and how seriously their movements will be restricted.

The future of the JEP remains to be seen. Multiple sub-cases have been opened regarding crimes committed throughout the country under the different rubrics of the “macro-cases,” creating a heavy workload. Colombia will hold its Presidential election in May of 2026; how much support a new government will provide to the JEP is unknown. Its priorities may well be different, especially should it choose to aggressively use military force to reclaim ground which has been lost in recent years to dissident FARC groups which had rejected the peace accord, to the ELN, and to paramilitary groups associated with the narcotics cartels.

In the past the United States provided some financial assistance to the JEP, but with the abolition of the U.S. Agency for International Development, this apparently has ended. And at a quarterly review of the peace accord at the United Nations Security Council, U.S. Permanent Representative Michael Waltz directly questioned the mandate of the UN Verification Mission for Colombia, which he asserted, has gone beyond monitoring the FARC's demobilization to include “excessive political priorities such as transitional justice...”. Still, in a country where historically impunity has predominated and periods of violence have been followed by political deals and attendant amnesties, at least a precedent for demanding some degree of accountability from perpetrators of gross human rights violations has been established. Colombia may need it again in the future.

About the author:

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