

Formal peace processes

The government and the ELN

two discourses that don't meet

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The 'entry-points' to a negotiation

Negotiations between a government and an armed guerrilla group start from a supposition of mutual recognition between the actors. This implies that the guerrillas recognize the legitimacy, albeit partial, of the government and the government accepts its opponent as an actor involved in political crimes, and thus susceptible to a negotiation process to overcome the confrontation. Nonetheless, engagement generally takes place in the context of asymmetrical relations. The state is a much stronger actor militarily, with greater political support and national legitimacy, even if this is in question. However, once convinced of the impossibility of defeating its adversary through exclusively military means, it sees negotiations as a viable path towards the resolution of the conflict, as well as an opportunity for necessary political reforms.

Some analysts believe that negotiations are only viable when one adversary has been weakened, with the stronger party imposing the conditions for talks. Others argue that if you are trying to transform a dynamic of military confrontation into a political confrontation, the military balance of power is a secondary consideration and what is fundamental is to 'politicize' the process. Without doubt, the National Liberation Army (ELN) has historically situated itself in the second perspective. However, the dynamics of the organization's engagement in negotiations have evolved considerably over its history.

Resistance to dialogue

The ELN's struggle is rooted in a revolutionary ideology that proclaims 'liberation or death' as its motto. As such, the organization has tended to hold a fundamentalist discursive position against the state, leading it to reject any possibility of conciliation with its 'class enemy'.

It was not until the beginning of the 1990s, after more than a quarter of a century of violent insurgency, that the ELN showed any interest in dialogue with the government. Prior to this, the only significant internal deviation from the path of exclusively armed struggle was that proposed by the 'Rethinking Sector', which emerged after the near-total military defeat inflicted on the organization by the army at Anorí, Antioquia, in 1973. The 'Rethinking Sector' was the first attempt by any part of any guerrilla organization in Colombia to examine political reintegration into civilian life and question the armed struggle as the only revolutionary path. However, this sector failed to manage internal tensions and ended up withdrawing from the ELN. It was similarly unsuccessful in embarking on a negotiation process with the government and only managed to achieve the reintegration of some individuals.



The experience of the Caracas and Tlaxcala talks

Subsequently, the ELN demonstrated a persistent interest in uniting the guerrilla movement, ostensibly to achieve a more consolidated position from which to challenge the government. In the 1980s, it became involved in several coordination bodies, including the 'Trilateral' between the ELN, the Workers' Revolutionary Party (PRT) and the MIR-Patria Libre in 1985, and in the subsequent creation of the National Guerrilla Coordination comprising the ELN, the PRT, 19 April Movement, the Popular Liberation Army and the Ricardo Franco Front. In June 1987, as other members of the National Guerrilla Coordination began to engage in bilateral negotiations with the government, this body disintegrated and the ELN merged with the small MIR-Patria Libre to form the Camilista Union – National Liberation Army. Finally, the ELN was instrumental in the formation of the Simón Bolívar Guerrilla Coordination body (CGSB), initially comprising all guerrilla movements including the FARC. As the other smaller guerrilla bodies reached peace agreements with the government, the CGSB was reduced to those groups who had yet to conclude comprehensive agreements, namely the ELN, the FARC and a faction of the EPL.

As a member of the CGSB, the ELN participated in talks with the Gaviria administration, firstly in Caracas, Venezuela and subsequently in Tlaxcala, Mexico. This marked a fundamental change in the ELN's position. However, although this first experience of engagement no doubt influenced the subsequent evolution of the organization's political strategies, its participation at the time had more to do with the importance the ELN placed on the unity of the guerrilla movement than its belief in a politically negotiated solution. It was more a formal presence than a real interest in the development or success of the talks, and indeed at that time the predominant idea in the ELN was probably more to obstruct the talks, than a serious belief in the possibilities of a negotiated settlement, as spokesmen later acknowledged.

The talks in Caracas and Tlaxcala happened without the suspension of military operations, based on a previous agreement between the parties involved. *[Editorial note: Additional information on the Caracas and Tlaxcala talks can be found in the article 'Negotiations with the FARC: 1982 – 2002']*. Yet in the end it was an ELN military operation against the President of the Senate at the time that caused the suspension of the Caracas round.

Five months later, after one round of talks in Tlaxcala, the process broke down again, with the Gaviria administration claiming that the National Constituent Assembly process and resulting reforms left the guerrillas without justification for armed struggle. Gaviria declared an 'integral war', with the explicit aim of inflicting a strategic defeat on the guerrillas.

The renewal of contacts under Samper's government

After this, the CGSB lost significance and eventually dissolved and the ELN underwent a period of significant military growth. As time passed, however, the organization began to incorporate dialogue and negotiation into its political thinking. It developed the central idea of a National Convention, a concept whose origin can be traced to the National Dialogues proposed in the mid-1980s by the M-19. The organization also emphasized the idea of 'Immediately Enforceable Partial Accords' especially in two fields: International Humanitarian Law (IHL), which was incorporated into the ELN discourse in the early 1980s, and mining and energy policy, especially oil policy.

The Samper government, therefore, started its term of office with an effort to re-politicize the conflict and the guerrilla actors and to rebuild trust. In the case of the ELN, the Office of the High Commissioner for Peace made crucial, informal contacts with the imprisoned guerrilla leaders named as spokesmen by the ELN, Francisco Galán and then Felipe Torres. During these contacts, developed inside the prison but with a great deal of political respect for the spokesmen, the possibilities of a talks process with the ELN on the important issue of the 'humanization of the war' were discussed.

Temporary agreements were reached about the application of IHL (with the participation of the Colombian Institute for Family Wellbeing - ICBF) and there was mutual acceptance of a Commission of Inquiry (a mechanism of Protocol I of the Geneva Conventions). There was also an informal meeting between two members of the High Commissioner for Peace's Office and two members of the ELN Central Command.

The National Convention proposal

On 2 February 1996, in the middle of the Samper government's crisis, the National Leadership of the ELN formally proposed the National Convention, in a document called 'An urgent proposal for Colombia: an initiative for participation and decision-making on the national crisis'. It suggested that:

"All sectors of national opinion should participate: social organizations, political organizations, trade associations, the church, intellectuals, the left, democrats and patriots. It should be a meeting of all those Colombians interested in a different future for the country, and of course open to the healthy participation of the international community."

The National Convention proposal progressively became a medium term negotiation strategy. In a subsequent document issued in November 1997 ('The National Convention – Let's retake the road to peace'), the ELN Central Command proposed:

"a dialogue process with the nation, without any kind of mediation, in order to remove the gag imposed by the press, radio and television on the opinions and ideas of the insurgency. We will develop this dialogue with the nation through public and secret meetings in our zone of influence. The international arena will be another space that will improve International Community efforts in this process. This great national meeting, which we are calling the National Convention, will acquire form through talking to the political movements and parties, social organizations, unions, churches, the National Conciliation Commission, the trade associations and personalities... this will provide guidelines to help overcome the crisis in the country, new approaches that will break open restricted political participation, imposed processes of disarmament and demobilization, and a system of government monopolized by the traditional machinery which excludes the majority."

Even if this public proposal went relatively unnoticed by the government and the wider public during this moment of polarization, it remains crucial because it established the basis of the future ELN script on negotiation proposals, in relation to concepts, participants, arenas and hopes.

The Palace of Viana Pre-Agreement

At the end of the Samper government, with the support of the Spanish Government and through the independent efforts of the National Conciliation Commission (CCN) and the Office of the High Commissioner, government and ELN delegates met in Madrid. Milton Hernández (in charge of the International Front) and Juan Vásquez (member of the International Front) represented the ELN and the then Coordinator of the Office of the High Commissioner for Peace, Daniel García-Peña and Presidential advisor José Noé Ríos represented the government. The CCN facilitated the talks, which resulted in the signing of the *Palace of Viana Pre-Agreement* in Madrid. This was later ratified at a meeting in the Itagüí prison between the ELN

spokesmen and the delegates of the High Commissioner's office in the presence of the CCN.

This document, and later the *Puerto del Cielo* ('Door to Heaven') Agreement, focused on an elaboration of the National Convention proposal as 'a process with various spaces for dialogue, which allows for proposals from representatives of the state, society and those guerrillas which participate.'

It outlined that 'The Convention will look to develop the basis of a political agreement on reforms and social changes, with a view to the democratization of the state and society. This will be developed through the required administrative and legislative mechanisms and through the organization of a National Constituent Assembly.'

The 'Door to Heaven' meeting with civil society

The *Palace of Viana Pre-Agreement* was leaked to the public by the Spanish newspaper ABC. With presidential campaigns in full swing, some sectors close to the future President Andrés Pastrana viewed the pre-agreement as a ploy to favour liberal candidate Horacio Serpa's campaign. As a result the ELN cancelled the initiative.

Subsequent efforts to restart talks were led by the Colombian and German Conferences of Bishops. These were preceded by some behind-the-scenes contacts established by the German private agent Werner Mauss and his Italian wife. The meetings in the German cities of Mainz and Würzburg in June and July 1998 were held without any formal representation by the Colombian and German governments. With Father Hans Langendorfer, Secretary of the German Conference of Bishops and Bishop Emil Stehle acting as moderators, the 'Door to Heaven' meeting brought together the ELN, members of Colombian civil society and the National Peace Council. The importance of the National Convention was ratified, as a procedure for social participation within a process of talks that would lead to the end of the internal armed conflict.

In the *Door to Heaven Accord* the ELN reiterated its position that agreements around the 'humanization of the war' could be the starting point for talks. In addition to the accord, the Mainz talks also began to explore the possibility of the ELN ending kidnapping, if the problem of guerrilla finances could be resolved. It was agreed that this would only be viable within the framework of a talks process.

Attempts to formalize talks during Pastrana's government

After the Mainz Meeting, the Preparatory Committee of the National Convention (formed in that meeting from a group of its members and including Francisco Galán and Felipe Torres) defined the methodological and thematic aspects of the National Convention. In agreement with a member of Central Command, they later defined the following agenda for the National Convention process: a) International Humanitarian Law, human rights, impunity, justice, insurgency and conflict; b) natural resources and energy policy; c) democracy, the state, armed forces and corruption; d) economy and social problems; e) culture and identity; nation-region; territorial reorganization; the agrarian problem and drug trafficking.

The National Convention process hit a dead-end when, during exploratory talks in Caracas in early 1999, the Pastrana government and ELN couldn't agree on a venue, or the guarantees to take it forward. After this impasse the ELN initiated a series of kidnappings and mass retentions intended to demonstrate its military capacity and respond to the idea that they could be militarily defeated or weakened. In particular, the hijacking of an airliner on 12 April 1999 and kidnapping of all its passengers brought widespread national and international attention and condemnation.

In this political climate, the ELN criticized the government's management of the peace process and condemned US interference in the conflict. It tried to justify its 'war tax' campaigns by categorically rejecting drug trafficking and proposed a National Accord document on the freeing of the first group of kidnapped aeroplane passengers. This proposal was subsequently overshadowed by the mass kidnapping of parishioners during mass at a church in Cali.

In the Pastrana period the ELN lost political support. There was a generalized public perception that it was being weakened militarily, even defeated. The Sur de Bolívar region was a symbolic case in which sectors of society, undoubtedly pressurised by paramilitaries, mobilized against the establishment of a 'meeting zone' for ELN-government talks. This was symptomatic of negative public attitudes following the experience of the FARC demilitarized zone. Incidents such as the defection of an important ELN unit, the Yarigües Revolutionary Urban Front (FURY) to the paramilitaries in Barrancabermeja, and the military defeat inflicted on the José María Becerra Front near Cali increased perceptions of military weakness. However, it is important to observe that the ELN's growth is often compared to the growth of the FARC and from that conclusions are drawn about its real or supposed weakness.



The Civilian Facilitation Commission

It was in this context that the Civilian Facilitation Commission (CFC) was established on 30 July 1999, as an autonomous initiative by members of Colombian society, of diverse social origin, profession and political affiliation. This diversity has been its great strength and has allowed it, with the acceptance of the parties, to play a national facilitating role both with the Pastrana government and with the Uribe administration. Importantly, the CFC has been able to build trust with the parties, especially through its thoughtful and discreet search for ideas to help them to overcome difficulties and obstacles.

In practice the CFC has become the national interlocutor as a result of its good work with the ELN and its coordination with the Group of Friends of the process. Despite their efforts, contacts between the Pastrana government and the ELN were riddled with mutual distrust and could never be formalized as talks. Everything indicates that there was a government tendency from the start to consider it possible to defeat the ELN militarily, and that there was no point wasting time in talks with a guerrilla group that could be demobilized and reintegrated. There was a view that this would be a process without real political cost, allowing them to conserve energy for the real fight with the FARC. This view remained despite advances in procedural

aspects such as the meeting zone (strict regulations, national and international verification) and a timescale for the National Convention, with a defined methodology and content. In addition, agreement was secured on the ELN unilaterally freeing kidnapped members of the Security Forces.

The 'Agreement for Colombia' signed between the government and the ELN on 24 November 2001 acknowledged the non-viability of the 'meeting zone' at the time. This did not amount to a renunciation of the initiative by the ELN, just that formal talks would begin when it and the National Convention were politically viable. It set out the case for an evaluation exercise to review contacts between the ELN and the state, and following a Christmas ceasefire, ELN members travelled to Havana, Cuba, to attend a Peace Summit for this purpose. The initiative was also attended by the Colombian government, the CFC, the ambassadors of the Group of Friends, Cuban President Fidel Castro and some 100 participants representing economic associations, trade unions, the international community and humanitarian agencies. The summit concluded with humanitarian agreements, such as the suspension of crop spraying and guerrilla attacks on energy infrastructure. It also considered the possibility of linking regional peace initiatives with national policy, thus filling the void in the Pastrana government of forbidding regional talks.

The period following the *Havana Declaration* was overshadowed by the breakdown of negotiations with the FARC. Finally, despite several working group sessions and some discussions on a six-month bilateral truce, Pastrana announced the collapse of negotiations with the ELN on 31 May 2002. This sparked an angry response from the ELN, who believed that the *Havana Declaration* had committed both parties to a Transition Agenda that would remain in effect until August 2002 and the new presidential administration. At the beginning of the Uribe's presidency, there were formal contacts in Havana between the High Commissioner for Peace, Luis Carlos Restrepo and a representative of the Central Command but the ELN decided at the end of 2002 to consider the contacts at an end, arguing that Uribe's Democratic Security policy was belligerent and that neo-liberal economic and social policy was contrary to popular interests. It also objected to the talks process with the paramilitaries and the removal of political status from the insurgent groups.

Unity for peace or for war?

The Colombian guerrillas have typically been opposed to acting in a unified manner. When such unifying experiences have been attempted they have not managed to go beyond coordination and there has been more unity for war than for peace. Although they have different political and military strategies and unequal development, they share a strategic objective: military and political victory to allow them to seize power. This basic shared objective means that historically there have been more aspects connecting than dividing them. It is in this context that the joint communiqué from the high commands of the FARC and the ELN issued in July 2003 should be analysed. The most noticeable aspect of the joint communiqué is that it moves toward greater political unity, not as far as a merger, but suggesting a more solid alliance. It will strengthen joint military action, which is already happening in a regionally differentiated manner. Although it is questionable whether this will consolidate a policy on ending the armed conflict, it could be the beginning, in the medium term, of a single negotiation process with the guerrilla forces and could move beyond the model of 'piecemeal peace' that characterized previous negotiations.

Lessons and possibilities for the future

The ELN concept of a negotiated political solution appears to be one of a process of participation by diverse social and political actors. It considers itself one of those actors, although one with a self-assigned authority to become the armed watchdog of the process. The ELN has a concept of negotiation as a

collective consensus-building process, while retaining the right to negotiate bilaterally with the state on strictly military issues.

The ELN sees its current National Convention proposal as a route to building consensus, and defining disagreements in the areas where consensus is not possible, in order to resolve them in the future. But there is also a vagueness with regard to the nature and reach of the National Convention, its results and whether it links in parallel or in the future with a bilateral government-ELN talks table.

Everything suggests that in a negotiation process the ELN hopes to gain political, social, economic and security reforms and not just procedures through which these can be addressed in the future. And while the process is advancing, it wants to retain its military capacity as a means of ensuring compliance, a position that reflects its lack of trust in the process to deliver the necessary changes.

The ELN has always considered a ceasefire a possibility, but it has to be connected with a resolution of the problem of guerrilla finances and without accepting their concentration in a single location – a difficult position for the state to accommodate.

The ELN seems to be at a cross-roads: either they consolidate their war strategy and postpone any possibility of negotiation, or they go down the open road of the National Convention, assuming they can reach some internal consensus about it and that they are convinced that it will offer greater political results at less social cost.

However, the principal bottleneck to a sustained peace process between the government and the ELN lies in the differences in their discourse, perspectives and logic. Successive Colombian governments tend to see the problem from a logic of 'realism', looking at the balance of power and deducing what the guerrillas would be willing to concede in negotiations. For the ELN, the National Convention and negotiations are arenas in which a diverse range of actors from Colombian society, with an important emphasis on those who have traditionally been excluded, design the changes required to address national problems. The problem of the future of the ELN itself is therefore secondary, relatively speaking, and easy to resolve, if the National Convention process has brought about the consensual changes they hope to see. Thus the balance of military power has little importance for the ELN and only features as a mechanism to press for the start of formal talks. Until this difference in perspective can be overcome, it is unlikely that a process with this guerrilla organization could have a future.