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**The Peace process between FARC-EP and  
the Colombian Government of Juan Manuel Santos**

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**The peace process between FARC-EP and the Colombian Government of Juan Manuel Santos**

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## RESUMEN

El arte de negociar ha cambiado a lo largo del tiempo debido a las nuevas corrientes teóricas que han surgido en este ámbito. Atrás quedaron las épocas en donde únicamente se consideraba una negociación exitosa aquella en donde una de las partes ganaba. Actualmente, en el campo del conflicto y su eventual resolución se considera a una negociación como el proceso en el cual se llega a un acuerdo de mutuo beneficio. Tomando en cuenta este concepto, mi trabajo hará un análisis punto por punto del acuerdo mutuo que se alcanzó en Colombia en el año 2016 entre las FARC-EP y el Gobierno de Juan Manuel Santos. Históricamente, en Colombia ha existido el fenómeno del fracaso en los procesos de paz debido principalmente al hecho que siempre, al momento de negociar, una de las partes quería ganar. Es por esto, que es lógico plantearse la interrogante de si en realidad se puede o no hablar de un acuerdo mutuo. El presente trabajo expondrá las posibles razones por las cuales la ciudadanía colombiana no cree en los procesos de paz.

**Palabras clave:** FARC-EP, Gobierno Colombiano, Negociación, Procesos de Paz, paradigma tradicional, acuerdo mutuo.

## ABSTRACT

The art of negotiate has changed along time due to the creation of new theoretical frameworks in the field. Gone are the times when it was only considered a successful negotiation where one of the parties won and the other lose. Currently, in the field of conflict and resolution, a negotiation is considered to be a process in which the parties end with a mutual-gain agreement. Taking into account this concept, mi work would do a point by point analysis of the mutual-gain agreement that was reached in Colombia in 2016 between the FARC-EP and the Government of Juan Manuel Santos. Historically, in Colombia the phenomena of failure regarding peace talks has been constant due mainly to the fact that one of the parties always wanted to win when negotiating. That is why it is logical to ask the question of whether or not we can actually talk about a mutual agreement. This paper will explain the possible reasons why Colombian citizens do not believe in peace processes.

**Key words:** FARC-EP, Colombian Government, Peace talks, traditional paradigm, negotiation, mutual agreement.

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## Introduction

*“We cannot negotiate with people who say what’s mine is mine  
and what’s yours is negotiable”*

*John F. Kennedy*

In these words spoken by the late great U.S. President, we can see the essence of why people negotiate. It is not just because we want to get everything we could from the other party. Rather, it is because we want to get the best solution for both parties, notwithstanding the possibility that, at any time, we might have to concede some of what we want.

However, historically, humanity has conceived of negotiation in win-lose terms. For instance, during the existence of the great empires, before the modern establishment of Nation-States, people negotiated with the aim of advancing their own positions, causing the other party to suffer a corresponding loss. We wanted to win, but also wanted the other party to lose. In game theory, this is called a zero-sum outcome. This traditional paradigm has become natural in human beings over time, through its constant discourse and practice.

On the other hand, nowadays the concept of negotiation has changed theoretically, and it is more and more commonly understood in terms of win-win resolutions. This has resulted in part from the fact that, as humanity started to explore how to resolve conflicts, the field of study called “conflict and resolution” acquired a place in the social sciences. In this field, two of the authors that thought in win-win terms were Roger Fisher and William Ury. They wrote the astonishing book “Getting to Yes” which revolutionized the way in which we negotiate in the 21<sup>st</sup> century. Their work is based on empirical human experience in everyday situations. As one can see in the book, all of us negotiate every single day, but most of us do so in terms of achieving

the best results for ourselves even if the other party is not satisfied. In contrast, Fisher and Ury present the possibility of reaching a mutual-gain agreement, without giving in. They do not present the possibility of achieving better agreements for one party, but for all, without concessions that would lead to one party's being considered the conflict's loser. To that end, principled negotiation consists of a step-by-step strategy to get to mutually acceptable agreements.

In the specific case of Colombia, attempts to achieve peace have been made for more than 30 years to bring the internal conflict between the government and FARC-EP to negotiation. The motivations for this are various, but the most generally accepted proposes that if an agreement is reached between them, FARC would no longer have any justification for continuing the worst atrocities, including kidnapping, torture and killing innocent Colombian citizens. Nevertheless, as described above, in the context of principled negotiation, the successful attainment of a win-win resolution depends on both parties' believing in the possibility of satisfying their respective interests. In order for that to be possible, they must stop seeing each other as adversaries, and must cooperate. This is what happened in the latest peace process in Colombia, in the course of which both parties agreed to negotiate because they believed they could satisfy their respective interests.

Research on the Colombian peace process that culminated in the 2016 agreement is important because the parties negotiated and achieved a viable solution to a violent and longstanding internal conflict. In addition, the fact that both parties reached a final agreement is considered a historical milestone in the world over because this conflict lasted for more than 50 years. Hence, understanding that process can yield valuable lessons learned that can be applied in similar or analogous negotiation processes.

That said, the main problem with the negotiation process was that the civil conflict was not just between the high officials of both parties, but also involved the perspectives of all Colombian citizens. Therefore, as agreed in the negotiation that took place in La Habana, the Colombian people were allowed to decide, by plebiscite, if they approved the final agreement. In October 2016, the result of the plebiscite was a NO.

The present study will assess the reason or reasons why the peace agreement signed in October of 2016 was less than completely satisfactory to Colombia's citizens, who rejected it by a slim majority. To that end, the present work will first describe the framework of principled negotiation; second, it will analyze whether or not the application of this framework was adequate; and finally, it will analyze whether or not the main reason for the less than completely satisfactory agreement was the misapplication of this framework, and, if not, the possible reason or reasons why more people voted No in October of 2016.

### **Chapter 1: “The theoretical framework of negotiation processes by Fisher and Ury: 4 principles for achieving a win-win resolution”**

In order to apply a specific theoretical framework in the single case study of Colombia, we must describe the basic principles of negotiation formulated by Roger Fisher and William Ury. To begin with, they understand the outcome of a negotiation process as any wise agreement that meets the interests and needs of both parties, resolves them, and takes shared interests into account (Fisher and Ury 1981, 4). Hence, this particular approach believes in mutual gain, also called the win-win resolution of a conflict.

Traditionally, there are two ways to negotiate: soft and hard. The soft way establishes that personal conflict must be avoided. Therefore, a “soft” negotiator

concedes in order to reach an agreement. On the other hand, the hard way views negotiation as a competition, where each side takes a determinant position in order to win. (Fisher and Ury 1981, 8). Under either way of negotiating, there is an advantage for at least one of both parties in conflict.

Fisher and Ury proposed an alternative way of negotiating between two or more parties. This alternative is called “Principled negotiation”. It consists of combining the hard and soft traditional ways of negotiating described above: “The main aim of this theory is to look for rational and mutual gain resolutions whenever possible” (Fisher and Ury 1981, 10). Therefore, this means it becomes legitimate to satisfy or seek to satisfy the interests and needs of all the parties in conflict, but not at the expense of the other (Zalles 2004, 212).

Before going on to describe each principle considered by Roger Fisher and William Ury, it is important to describe the first assumption they make regarding the attitude of the parties in conflict. They describe the fact that one of the problems that arises in practical negotiation consists in the parties’ bargaining. As stated by Fisher and Ury: “each side takes a position, argues for it, and makes concessions to reach a compromise” (1981, 5). Therefore, to solve this problem parties should not begin with proposals of what and how they should negotiate. If they do, they would not reach an agreement, due to the fact that they would constantly argue about who has the best proposal.

Bearing in mind the above, there is a traditional zero-sum approach under which the stronger party normally wins over the weaker. However, according to Zalles, this alternative theory proposed by Fisher and Ury in terms of mutual satisfaction introduces an approach to conflict resolution under which both parties have the possibility of

satisfying 100% of their needs and interests (Zalles 2004, 215). Nonetheless, for this to happen the following principles must be fulfilled:

**Principle 1: “Separate the person from the problem” (Fisher and Ury 1981, 17)**

To begin with, the first principle establishes that in order to achieved a peaceful negotiated solution under which both parties could satisfy their interests, the first step is to avoid the negative images of one another. Therefore, the main goal of this proposed idea is to maintain a pleasant atmosphere during the negotiation process in order to achieved a mutual gain solution (Zalles 2004, 221).

However, in pursuance of this kind of atmosphere, parties should experience a change in mutual attitudes regarding the image of the other and focus on the problem they are negotiating, recognize each other’s perceptions and interests, and thus be able to persuade each other to find a mutual-gain solution. Furthermore, they should also put aside their respective emotions, so they can work on the solution to their common problem. Finally, they should listen to each other without interrupting in order to avoid misunderstandings while they are communicating their points of views (1981, 25-35). To sum up, if the parties do not leave aside their negative images, negative attitudes, and emotions, they either will not achieve an agreement beneficial for both, or will not reach any agreement.

**Principle 2: “Focus on interests, not positions” (Fisher and Ury 1981, 41)**

Traditionally, parties in conflict assume that “because the other’s position are opposed to ours, their interests must also be opposed [...] However, there could be compatible interests” (Fisher and Ury 1981, 43). Therefore, the goal of the second principle is that people realize that the shared or different interests could be

complementary, and that they could be the basis for a mutual-gain agreement, where both parties reach total satisfaction.

However, it is important to remember that the parties are looking to fulfill their interests. In order to do that, according to Fisher and Ury, the parties should “focus on how you gain at the minimum cost of the other side to be both firm in your interest, but open to listen the other” (Fisher and Ury 1981, 55). All in all, as a negotiator you should focus on mutual gain in order to avoid the possibility of not reaching a resolution.

### **Principle 3: “Invent Options for Mutual Gain” (Fisher and Ury 1981, 58)**

The third principle proposed by Fisher and Ury was inspired partly by the argument on the art of negotiation by Howard Raiiffa, whose main idea was to pursue mutual gains by the use of creative options or procedures that could determine difficult issues in dispute (Raiiffa 1985, 22). Hence, the idea of this principle is to search for innovative solutions that could satisfy all the interests of the parties involved, so that they would not again fall into a zero-sum solution.

In pursuance of fulfilling the third principle, there are some recommendations to take into account. First, the parties should acknowledge that the options, which allow the parts to fulfill 100% of the interests of both are not obvious (Zalles 2004, 217). Second, there must be an immense level of creativity by the parties to reach this option. Moreover, for this to happen, there must be an open-mind to innovative options on the part of both parties (Zalles 2004, 217). Finally, the parties should realize that if each does not satisfy the other side, they cannot satisfy themselves at all and cannot reach a mutual-gain agreement (Fisher and Ury 1981, 79). To sum up, both parties in conflict must consider the point of view of the other in order to evaluate options that do not imply negative consequences for one or both of them.

**Principle 4: “Insist on using objective criteria” (Fisher and Ury 1981, 84)**

The fourth principle is a continuation of the third: it consists of evaluating if the options previously identified are empirically possible. Furthermore, there must be a standard and objective criterion with respect to which the options or proposals could be evaluated (Fisher and Ury 1981, 85). At this point, it is fundamental to clarify the distinction between “subjective” and “objective” criteria. On the one hand, subjective criteria refer to a reality which is biased by some perspective. On the other hand, objective criteria refer to realities that do not take into account any judgments, perspectives or preferences (Zalles 2004, 219). Accordingly, to avoid any bias in the evaluation of the options presented, there must be the most objective criteria possible. In the words of Fisher and Ury: “The more you bring standards of fairness and efficiency on a particular problem, the more likely you are to produce a final package that is wise and fair” (Fisher and Ury 1981, 86). Therefore, the result of having applied objective criteria is to have a solid and efficient agreement, which neither parts in conflict could question.

Moreover, in pursuit of applying this principle in the most objective way possible, the intervention of third parties becomes relevant. This is because parties in a highly escalated and prolonged conflict could still at this point act subjectively when evaluating the options presented at the table (Fisher and Ury 1981, 95). Therefore, the third party can become the best person to create fair standards for both. However, for this to be accomplished, it is fundamental that the third party be objectively chosen, and not inclined to benefit one or the other of the sides.

In brief, Principled Negotiation provides a strategy to pursue mutual-gain solutions without the high costs of positional bargaining (1981, 96). Therefore, if the

parties follow these principles, both would have an enormous possibility of achieving mutual satisfaction in the final agreement. Taking into consideration the aforementioned, the conflict in Colombia will be analyzed within the theoretical framework of these principles. Furthermore, this work will show how they were applied during the peace negotiations in La Habana that began in 2012.

## **Chapter 2: “Analyze the application of these principles in the context of the negotiations between FARC-EP and the Colombian government”**

According to the theory of principled negotiation explained in chapter 1, the four principles must be accomplished in order to have successful results. Therefore, the purpose in the present chapter is to analyze the application of each principle by taking some key events during the negotiation process. Moreover, although this key events that we are going to choose are subjective, the idea is to let the readers decide whether or not they consider it adequate.

The official negotiation process in La Habana between FARC-EP and the Colombian government began in 2012. Nevertheless, the non-official meetings begun between February 23 and August 26, 2012. This is demonstrated in the general agreement signed in August 26, which indicates a route map for the negotiation, its method, and a rule to which both parties agreed for the whole process, that nothing is agreed until everything is agreed (General Agreement for the Termination of Conflict and the Construction of a Stable and Durable Peace 2012, 1-4). Bearing the above in mind, both parties assume that while they are negotiating, there could be plenty of factors that could affect the *status quo* of the process.

**Principle 1: “Separate the people from the problem”  
(Fisher and Ury 1981, 17)**

The importance of this principle lies in the fact that parties in conflict should avoid negative images of each other. That is to say that parties should focus not on the emotions and perspectives they have between them, but on the problem they are trying to solve. In the specific case of Colombia, the problem is the internal conflict between a guerrilla and the government.

Besides, the author of principled negotiation William Ury intervened as a mediator in the 5 years' negotiation process. In an interview with the Huffington Post, Ury made remarks on his theoretical framework and how it has been applied in the Colombian conflict. He shows an example during the initial stage of the talks that is evidence of this first principle. According to Ury, in the first meeting, the government rented a helicopter, because the talks had to be done in secrecy. Therefore, the government representative came in with a Red Cross official. They both flew into the jungle to seek the FARC-EP representative. However, the helicopter landed and the guerrillas suspected a trap, so they pointed with their arms at the helicopter. In this situation, the government representative got out of the helicopter and said that he was there in name of the president to begin serious talks. Then, the FARC commander got in the helicopter. Then, the peace talks began (Schudler 2016). The example shows how from the very beginning, the parties created a pleasant atmosphere, within which both reframed their negative images of the other.

Furthermore, the general agreement to initiate the negotiations in La Habana, signed on August 26, 2012, shows the focus that both parties were giving to the process. In this agreement, both parties agreed to initiate the negotiations by establishing the way they do, to solve the problem. The treaty established six common points that both

parties were willing to negotiate under the objective terms of a third-party intervention by Venezuela, Cuba and Norway (General Agreement for the Termination of Conflict and the Construction of a Stable and Durable Peace 2012, 1-6). This shows the successful process of reframing mutual negative images, so they focused on common points of discussion in order to solve the problem. Hence, they were no longer focusing on their negative images, but on solving the problem.

Moreover, the pleasant atmosphere was reflected in the different speeches that the parties made to the public during the negotiations. In the case of the Colombian government, for instance, the chief negotiator for the Colombian government stated that: “We are not going to negotiate the public policies of this government, neither are we going to tell FARC to leave their ideology. What we are going to negotiate is the end of the conflict and the points that go with it.” (Calle, 2012). In other words, the government committed itself to focusing on the conflict, rather than on the images they had of FARC. In this quotation, the application of the first principle is clearly identified.

On the other hand, the FARC-EP side also showed their commitment to building an atmosphere based on confidence through two particular events during the whole negotiation process. First, beginning on August 20, when they started to recognize the victims of the conflict by giving speeches around Colombia apologizing to civil society for their actions (Acuerdos de Paz 2012-2015). This action by FARC gave the whole process an extra dose of confidence between the parties. Second, with the aim of creating a pleasant atmosphere in the peace talks, FARC proposed a unilateral cease fire from November 20, 2012 to January 20, 2013 (Acuerdo de Paz 2012). Moreover, two years after this cease-fire, both parties agreed to a definitive cease fire (Acuerdo de Paz 2012). All in all, all of these actions display the fact that FARC was committed throughout the process to focusing on solving the conflict.

Nevertheless, although the previously mentioned actions acted as confidence-builders between both parties, in 2015 there were several attacks by FARC against the Colombian military in a region of Colombia named Cauca. This was a clear threat to the peace talks in La Habana and a possible escalation of the conflict. In the words of the high commissioner for peace Sergio Jaramillo: “It became extremely difficult to explain the agreements to the country with enthusiasm, when the FARC are committing terrorist acts.” (Jaramillo, 2015). Actions like these destroy any peace talks and lead to loss of confidence in the process not just by the parties, but by all of Colombian society. To sum up, although some of the actions of both parties created confidence, others, such as these attacks, did not allow the first principle to be 100% satisfied.

### **Principle 2: “Focus on interests, not positions” (Fisher and Ury 1981, 41)**

Positioning has been a constant problem when people negotiate. This is because both parties try to impose their solution, so the negotiation becomes an increasing dispute to decide who’s solution the agreement is going to take. In order to demonstrate this principle, I take into consideration evidence regarding the focus on both parties’ interests, rather than their positions. To begin with, we go back into the interview with William Ury in which he described an example of how neither party assumed an initial position. Ury, as mediator, proposed an activity in order to help the parties understand how it feels to be in the shoes of the other. The activity begins by assuming that both parties have achieved a final agreement. One then asks one party to imagine that, as their counterparts, they had to address their followers describing the agreement as a victory for them. After both parties give this imaginary speech, they realize that they have to understand what are the key interests and needs of their counterpart (Schudler 2016). After this exercise, both parties put themselves in the shoes of the other, and they

realize that they must listen actively to the other in order to reach a mutual-gain final agreement. In brief, this clearly puts in evidence the second principle.

Moreover, based on an analysis by High Commissioner Sergio Jaramillo regarding the pre-negotiation and negotiation processes, both parties did identify their common needs and interests. On the one hand, FARC with this new opportunity for peace talks expressed their aspiration to have political participation and a chance to propose their ideology, including an agrarian reform. On the other hand, the Colombian government expressed the aspirations of finally achieving peace, with fair justice for FARC (Jaramillo, 2012). Furthermore, the correct application of the second principle made both parties write their common interests into the general agreement to reach peace. The common interest are the following:

Table 1.

#### Common Interests and Aspirations of FARC-EP and the Colombian government

1. The construction of peace is in the interest of society as a whole.	4. Social development with equity and well-being, including the great majority, allows Colombia to grow as a country.
2. Respect for human rights is an end of the State to be promoted.	5. A peaceful Colombia will play an active and sovereign role in peaceful regional and global development.
3.. Economic development with social justice and in harmony with the environment is a guarantee of peace and	6. It is important to expand democracy as a prerequisite for achieving a solid basis for peace.

progress.

SOURCE: Adaptation of the common points described in the general agreement (AGTC, august of 2012).

Colombian Government and Farc-ep, General Agreement for the Termination of Conflict and the Construction of a Stable and Durable Peace, Bogotá, Mesa de Conversaciones, 2012, pp. 1-6.

In the table 1 the interests and aspirations that both parties, followed through all the negotiation process, are described. This demonstrates the commitment of both parties to try to achieve a mutual-gain resolution to the conflict. However, achieving it depends on the actions of each party for maintenance a pleasant atmosphere and on an approach that focuses on the interests and aspirations of each party.

The second principle described in chapter 1 states that the parties should not begin with proposals, because that will lead to focusing on positions. For instance, according to the Government's High Commissioner for the peace talks, one of the main problems during the negotiations, related to the issue of victims and transitional justice, has been the fact that each party proposed something, and the other party responded. This resulted in considerably lengthening the process (Jaramillo, 2015). In this instance, both parties entered into a new conflict, during the negotiation process, because they began to negotiate from positions, rather than doing so on the basis of the interests and aspirations of both parties. This required that de-escalation and negotiation take place at the same time. Nevertheless, all of this evidence shows that the second principle was applied during the whole process. Although its application lengthened the process, in the end, the final agreement represents a mutual-gain solution.

**Principle 3: “Invent Options for Mutual Gain” (Fisher and Ury 1981, 58)**

**Principle 4: “Insist on using objective criteria” (Fisher and Ury 1981, 84)**

Bearing in mind what was previously mentioned with regard to principle 2, the negotiation in Colombia during the whole process except when the Farc attacks on Cauca were taking place, was based on interests and not on positions. Both sides were open-minded and ready to invent conciliatory options. However, FARC recognized that one of their principal needs, for purposes of refurbishing their image, was to assume responsibility for all the suffering they had brought to their victims in almost 60 years of conflict. As Sergio Jaramillo affirmed in an interview with John Montaña: “What is being signed in La Habana, are not concessions to FARC, but the points that the government think are necessary to the post-conflict process” (Montaña, 2016). However, this does not mean that during in whole agreement there were not options that satisfied a mutual-gain solution. Rather, it means that on the one hand, the FARC were in a position, where they must at least acknowledge the victims they had caused and the abductees that they were holding. On the other hand, the government must acknowledge the FARC victims and corruption scandals that had occurred during the whole conflict. In these terms, a mutual-gain solution was achievable only if they considered making these concessions in order to satisfy their interests.

At this point, it is crucial to establish that due to lack of information regarding the specific details of the whole negotiation process, we cannot make a detailed process analysis about the proposals that each party made throughout the meetings. Nonetheless, what we can do is do a point by point analysis of the agreement signed in October, 2016 in La Habana.

The final agreement is composed of 6 main points concerning different matters. The first point is about rural and integral reform. In this matter both sides fulfill their

interests regarding the re-activation of the peasants' economy in the war zones (El País, 2016). On the one hand, the government committed itself to developing rural areas, but also respecting the private property of those lands. On the other hand, FARC-EP began partially as a group of peasants that moved to the jungle afterwards. Therefore, they wanted a fair redistribution of lands in the rural areas (BBC, 2015). In brief, the idea adopted in this first matter, of developing the peasants' economy through the control of FARC territories, would develop Colombia economically, politically and socially.

The second point of the peace talks regards political participation by FARC members. This part has been one of the most controversial for both parties due to the possibility of allowing FARC to create a political party. Specifically, the agreement addresses their political participation through three main ideas. The first idea is that in order to consolidate the peace, democratic open-mindedness, with political inclusion, rules and transparency as its basis, is necessary. The second idea, closely related to the first, is that granting FARC the ability to participate in the political process, as a political party, is not a concession to FARC by the government, but rather represents mere compliance with the Constitution of 1991 that guarantees active civil participation in Colombian politics. Finally, the third idea is that a fundamental condition for peace is the need to separate armed coercion, on the one hand, from the legitimate opposition of ideas, on the other, to insure the proper working of the democratic process (El país, 2016). In these terms, an analysis of each party's interests is viable. On one hand, the FARC, in the words of its general leader believe that: "words would be the only arms we are going to use in Colombia for political participation" (Secretariado Nacional las FARC-EP, 2016). On the other hand, the government, represented by Juan Manuel Santos, at the very beginning established that FARC would not have seats in Congress for free, however after understanding that a negotiation should work with a mutual gain

solution, the Minister of Interior Juan Fernando Cristo established that: “thinking about a peace process without conceding political participation makes no sense” (Sanchez, 2016). Henceforth, both interests were satisfied in the end, because both accept the fact of political participation by FARC as a necessary and fair point in the whole peace process.

The third matter concerns the permanent end of the conflict, which encompasses the process of a bilateral and permanent cease-fire, the re-incorporation of FARC into civil society, and the program by which FARC would put down their arms (El País, 2016). This point was agreed at the end of the negotiations, following the principle that “nothing is agreed until everything is agreed”, so this point was the last to be agreed and the first to be implemented in the post-negotiation period. In terms of the interests, aspirations, and needs of each party, the end of the conflict had a different perspective for each. On the one hand, the government of Colombia wanted FARC to put down their arms and stop the war by a permanent and bilateral cease-fire. On the other hand, FARC did not want to hand their arms over to the government because they considered this action as a symbol of surrender although they also wanted a bilateral cease-fire. (Sánchez, 2016) The result was that both satisfied their interests and aspirations because the FARC will deliver their arms to the international monitors as United Nations, and both agreed to a bilateral and permanent cease-fire after the act of signing the final agreement (Castrillón, 2016). This demonstrated that the solution was fair and mutual-gain, based on because of the verification by the parties themselves and by a third party.

The fourth matter has the goal of solving the problem of illicit drugs farms. The solution that both sides agreed on consists of three main points. First, they both agreed to satisfy the people that do grow illicit drugs in order to transform their lands into legal farms. Second, they both agreed to institute public policies to prevent and battle against

drug consumption. Third, the fight against the drug trade (El País, 2016). This was a mutual gain solution because on one hand, the FARC wanted the government to control the enterprises that produce the raw materials for the drug trade. On the other hand, the government wanted FARC to dissociate from this trade by leaving their farms in the jungle (Sánchez, 2016). At the end, both fulfilled their interests in the fight against the drug trade because the agreement prohibits any association with it, and FARC left the illicit farms in the jungle.

The fifth matter concerns the system for truth, justice, reparation and non-justification of victims with the aim of achieving the greatest satisfaction possible for victims by “assuring an accountability process, guarantee juridical security to whoever participated in these atrocities and contribute to guaranteeing the coexistence, reconciliation and non-repetition of the conflict” (El País, 2016). In this case the option created did not provide 100% the satisfaction to either party. On the one hand, the government wanted FARC to cause the members of the insurgent group serve prison sentences for all the atrocities they had committed, and that they acknowledge the victims. On the other hand, FARC stated that they did not want to spend one day in jail and argues that they were not aggressors, but victims of their social situation (Sanchez, 2016). In the process of negotiation, both sides finally had to realize that they had to concede this kind of total satisfaction for two main reasons. First, the FARC cannot argue that they did not commit kidnappings or other crimes, because there is plenty of evidence on that. Second, the government could not ask absolutely all the members of FARC to go to jail for 30 years, because there would be no negotiation. Hence, assuming this reasoning by both parties, we can say that this point was in fact a mutual gain solution.

Finally, the last matter regards the implementation, verification, and confirmation of the final agreement. This part of the agreement is just a follow-up process by both parties and also third parties, of all the five matters described above. Therefore, this means that we can consider this part as a reflection of the final agreed-upon mutual-gain solution.

It is crucial to conclude that the mutual gain point by point analysis applied objective criteria by trying to satisfy both parties' interests. This is demonstrated in the options regarding each matter that both parties created in order to satisfy their interests as much as possible. Nonetheless, the aforementioned happens only if we assume that, according to the theoretical framework presented in chapter 1 of Fisher and Ury, the parties involved in a negotiation must concede something in order to have a better solution for themselves and for the other. To sum up, in this part the four principles were successfully applied by the parties in the Colombian-FARC negotiation process reflecting in this way the adequate intervention of experts that accompanied this negotiation.

### **Chapter 3: “Analyze if the absence of application, or the deficient application of one or more of these principles led to a suboptimal agreement”**

Taking into account the analysis presented in Chapter 2, one can conclude that in the terms of Fisher and Ury's theoretical framework, the principles proposed by them in general terms, were adequately applied in each of the points of the agreement reached in La Havana. Nonetheless, after the agreement was signed, Colombia's citizens failed to take into account the fact that, in seeking to negotiate the end such a long-lasting

conflict, the parties need to renounce the satisfaction of some part of their aspirations in order to reach a Win-Win resolution. In the Colombian case, given how long the conflict between the government and FACR-EP had lasted, the citizenry needed to accept that the resolution was going to include relative, and not absolute satisfactions. Nonetheless, as described in this paper, within an International Negotiation framework, it cannot be argued that the Havana agreement includes greater gains for one or another of the parties, but, rather, that the interests and aspirations of both parties were mutually satisfied, to a relative, not an absolute degree.

The preceding argument supports the hypothesis that, as has been stated throughout this paper, during a negotiation the parties must listen to the needs and aspirations of the parties in order for both or all to be able to invent options that can lead to a Win-Win resolution. That said, it can be argued that the agreement was not only not sub-optimal, but that it represents a successful, positive-sum solution.

In this Chapter, two reasons will be presented that I consider pertinent to understanding why many Colombians have considered the final agreement reached in Havana to be less than completely satisfactory. First, I will analyze the traditional zero-sum paradigm, as opposed to the positive-sum paradigm with regard to the outcome of conflicts. Second, I will analyze the images that some of us, Colombian citizens, have of FARC-EP, and of how these affect us when we think of what a good agreement between the parties might look like.

The traditional zero-sum paradigm has been present among humans for all eternity in dealing with conflict, understood as the presence of incompatible aspirations between two or more parties. This traditional paradigm refers not only to the expected Lose-Win or Win-Lose outcome to a conflict, but also includes mutual attitudes and behavior of the parties. (Zalles 2000, 65). That said, the zero-sum paradigm can be

understood as the belief that the attitudes and the behavior of the parties are directed towards an expected Win-Lose outcome. This means that for one party to win, the other must lose. Clear historical evidence of the application of this paradigm can be found in adjudications in judicial courts or in courts of arbitration, that are means by which humans have traditionally sought to win their disputes with others (Zalles, 2015, 15). The problem with this traditional paradigm, that is deeply engrained in humans, is that it brings with it negative consequences because it “tends to encourage the escalation of conflict and its evolution through destructive dynamics, and on the other hand tends to discourage and to make more difficult any process aimed at de-escalation and negotiated settlement of conflicts” (Zalles 2000, 66). Therefore, if one thinks in zero-sum terms, it is most likely that conflict will tend to become prolonged and might never reach a resolution that is satisfactory for both parties.

Taking into account the above, it applies in the context of the Colombian negotiation because many Colombian citizens wanted the outcome thereof to be the complete surrender, in negotiated terms, of FARC-EP. Nonetheless, as has been shown in this paper, for a negotiated resolution to be successfully arrived at, its results must be satisfactory for both parties, as demonstrated in Fisher and Ury’s theoretical framework that accepts the possibility Win-Win attitudes, behavior and outcomes, and therefore represents an alternative to the zero-sum paradigm.

Considering the foregoing, it is apparent that it is possible to adopt a mutual gain solution between the parties. This way of thinking conceives the possibility of an outcome that allows for the satisfaction of the interests and aspirations of both parties, given that there are legitimate reasons and rights supporting the claims of both (Zalles 2015, 16). Given this, it can be said that, in accordance with the theoretical framework of Principled Negotiation that was applied between the Colombian government and

FARC-EP, the negotiation was approached and the agreement was reached in equal terms.

But the same is not true of the perceptions of the Colombian people, many of whom think that a negotiated settlement should imply FARC-EP's surrender. Under that perspective, the agreement is less than satisfactory for many Colombians, because many of us are still trapped in the traditional zero-sum paradigm, under which a negotiated settlement simply means the surrender of one of the parties and the triumph of the other.

In the Colombian case, this attitude has been strengthened by the longevity of the conflict, and by the many kidnappings and other terrorist atrocities committed by FARC-EP Colombian civil society. For instance, one of FARC's most significant kidnappings which strongly reinforced their negative image, was that of Ingrid Betancourt, a Colombian politician, who enjoyed enormous civilian acceptance because of her fight against corruption and her ideas for ending the internal conflict by peaceful means. Given her popularity, she ran for the presidency in 2002, and during her presidential campaign, the then President Andres Pastrana withdrew from negotiations that at that time were underway with FARC. Nevertheless, she travelled to an area called San Jose del Caguán, which was controlled by FARC in order to seek a possible peaceful approach with them, at which time, she was kidnapped by FARC as an act of revenge for the break-down of the peace. She remained a captive in the jungle for almost 7 years, and each year the FARC sent a "proof-of-life" video. This set of videos of Ingrid and the other people who were being held captive became very famous in Colombia for two main reasons: First, it was highly impacting to see how some of them were almost dying and some could not even talk. Second, they were massively shared by the media (El Espectador, 2008). The effects of these evidences of FARC's atrocities on Colombians were enormous. They were and still are among the biggest sources of

the resentment we Colombians feel towards FARC, because they helped us see realise how this group was torturing our people. In other words, in the minds of the Colombian people, in the course of the conflict, FARC-EP have applied a heavy contentious strategy that includes threats and the use of physical violence by one party against the other. This perception on the part of the people constitutes a major barrier against possible dialogue that could tend towards a Win-Win resolution.

To illustrate, Jorge Ospina, a Colombian peasant who has lived through the conflict described one of the reasons why he voted “No” in the referendum on the agreement signed in 2016: “I voted NO because my grandfather’s brother was kidnapped and murdered by FARC, and was found dead several years later (...) Besides, if peace is reached, it will only generate new violence” (Cosoy 2016 ). Like Jorge Ospina, there are countless others who either suffered the conflict or were witness to innumerable terrorist acts by FARC-EP. This fact makes many Colombian citizens see the ideal peace as the result of a negotiated surrender by FARC-EP, under the influence of the zero-sum paradigm that does not view a peaceful solution as attainable if the government also yields to reach a positive-sum resolution. However, if the negotiated settlement were to mean FARC-EP’s surrender, the negative consequences of the zero-sum paradigm would be unavoidable.

The experience and resulting perceptions of Colombians like Jorge Ospina can be described, in the general framework of international negotiation, as negative images and attitudes among the parties. According to Rubin, Pruitt & Kim, one party in conflict develops negative beliefs about and attitudes towards the other party as a result of longstanding escalation during which both parties have adopted contentious strategies and heavy contentious tactics, for which reason the parties tend to dehumanize and demonize one another, and lose all mutual empathy, a phenomenon known as de-

individuation. (1994, 84-85). In other words, when the parties have caused one another enormous damage, they develop these kinds of images and attitudes, seeing one another as inhuman, and developing the idea that they are morally obligated to destroy one another, believing that the other has no legitimate part in society.

What has just been explained is what happens with many Colombians with respect to FARC-EP. Negative images of the guerrilla movement have been so ingrained during the length of the conflict, that throughout the negotiation process undertaken by the government, many citizens demanded FARC-EP's surrender. Specifically, there were two ingrained thoughts regarding "Other". On the one hand, we Colombians thought that FARC were the ones who dehumanized us due to their mass atrocities, including torturing and killing people whom, they had kidnapped. On the other hand, after the rejection in the early 90's of the voice that FARC had acquired in the Government, they established a line of action that expressed their rejection of armed participation in Colombia's political system. They had started to kidnap important politicians in 1966, two years after their creation, because they had thought that doing so would generate more pressure on the government, in addition to the war with the army. In their way of thinking, these kinds of atrocities had been justified. In accordance with the analysis presented in this paper, what had to be attempted during the negotiation process was the reversal of negative images and attitudes between FARC and the government, in order to make really possible what we Colombians have yearned for for decades: peace.

It is worth mentioning at this point that negative images and attitudes towards "Other" are reproduced through social interaction within groups, and tend to become group norms, the main purpose of which is the rejection of the enemy "Other" (Rubin, Pruitt and Kim 1994, 90).

This type of process clearly took place in Colombia during and after the Havana negotiations, when representatives and spokespersons for the “No” movement played a very important role. To understand this, it is fundamental that we analyze the presence and actions of the most representative member of Colombian society that opposed the Havana peace negotiations, former Senator, Governor and ex-President of the Republic Álvaro Uribe, whose immense following attests to the enormous influence that he exerted as a social and political leader. Uribe contributed strongly to reinforcing negative images of and attitudes towards FARC-EP within Colombia’s population. In a text published in “El Colombiano” magazine, he states that the main reason why the peace agreement should not be signed is that those who committed atrocious crimes during more than 50 years of armed rebellion by FARC-EP should be sentenced to death and not be subject to a special system of transitional justice (InfoBae 2016). However, what Uribe did not understand was the fact that the final agreement was the result of a principled negotiation framework, which made possible a mutual-gain solution, the objective of which was not to win and try to impose conditions on “Other”. Therefore, as a Colombian, and as an informed reader, I can say that the “NO” campaign backed by Uribe was based on remembering all of the attacks, kidnappings, and crimes committed by FARC-EP throughout the long-lasting conflict. Moreover, the only thing those speeches accomplished was the reinforcement of FARC’s negative image, when the very passage of time had at least partially left behind the deep resentments that had been felt, in the face of the deep longing in the hearts of all of us in Colombia for the possibility of peace.

## Conclusion

In conclusion, the present work introduced the reader to Fisher and Ury's framework of principled negotiation, which is very broadly recognized as a valid way to find mutual-gain solutions.

Principled negotiation begins with a description of the "bargaining" process that leads a majority of people to positioning themselves. As Fisher and Ury point out, such bargaining is prejudicial when both parties are trying to achieve a mutual-gain solution. Moreover, as stated in the present work, Fisher and Ury describe four main principles: Separate the person from the problem, also expressed as maintaining a pleasant atmosphere, Focus on interests not on positions, Invent options for mutual gain, and Insist on using objective criteria.

Following a simple rationale, if we analyze and slowly read these principles one by one, we can realize that we have sometimes used at least one of them, sometime in our lives, to resolve a conflict, though we did not know of the existence of this theoretical framework. Once we know this, we can start to apply them immediately in our daily lives to achieve better solutions to our conflicts. For this reason, I chose to show the relevance of this theoretical framework in the case of the Colombian Government's negotiations with FARC.

The bloody armed civil conflict between FARC and the Government lasted more than half a century, and left about 6 million victims, including deaths, disappearances, and kidnappings (BBC 2013). For me, as a Colombian citizen studying International Relations and the field of Conflict and its Resolution, it was extremely relevant to understand the possible resolution of this particular conflict. Therefore, process that took place in La Habana. After the rejection of the final agreement in the Colombian

plebiscite in 2016, I began to think that conflict resolution theory was not applied correctly in order to satisfy both parties; I therefore wrote this paper, in order to explore that possibility specifically in the application of one of the most accepted theories in the field: principled negotiation.

As shown in the present work, the application of Fisher and Ury's four principles was successful, as it accomplished the objectives that they pose. William Ury himself, in an interview with the *Huffington Post* stated that he was present during the whole peace process, evaluating the application of his and Fisher's theoretical framework. Moreover, as demonstrated in my point-by-point analysis of the final agreement, the negotiation resulted in a mutual-gain solution. Therefore, my first hypothesis for explaining the negative result of the plebiscite turned out to be wrong. Instead, it is (1) negative images of FARC in the minds of many members of Colombian civil society, and (2) the traditional zero-sum paradigm that explain the Colombian citizens' decisions on the plebiscite. Those negative images and the traditional paradigm were reinforced by the discourse of those who opposed the peace process, represented by Alvaro Uribe Velez that rendered fruitless the work of both the Government's and FARC's negotiators of constantly informing Colombia's citizens and of helping them to understand that the negotiation of a long-lasting conflict must lead to a mutual-gain solution.

Finally, I argue that if we, the Colombian people, start to recognize the FARC as a group of Colombian individuals and not as the worst perpetrators of atrocities in our times, we could think of reaching what we have all been waiting for: peace. We want peace not just because the vast number of murders and deaths must end, but also in order to have a more economically, socially and politically developed country.

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