

# GOVERNMENT NEGOTIATIONS WITH GANGS AND ORGANIZED CRIME

Criminal armed groups (CAGs) manifest through multiple forms in Colombia. While the paramilitary heir bacrim (criminal gangs) benefitted from the criminal operations and infrastructures left by the right-wing paramilitary group that officially demobilized in 2003-2006,<sup>1</sup> they are by no means the only form of such illicit, organized, armed activity currently operating within the country.

In addition to more traditional repressive strategies, governments have also, on occasion, attempted to complement these anti-CAG strategies with some form of negotiated end to violence. Several forms of government engagement with CAGs are commonly practiced worldwide: 1) within the criminal legal framework, typically with individuals and without the involvement of victims (e.g., plea bargains); 2) the use of informants, infiltrated agents, and sting operations; 3) tacit agreements between governments and CAGs to respect each other's space; 4) commercial agreements between political, business and criminal actors; and 5) gang truces. This Spotlight analyzes the last of these forms as it has occurred in various countries in the Americas.<sup>2</sup>

Truces negotiated with government actors may directly engage with organizational leadership. For example, during the 2003 demobilization of the right wing paramilitaries, Medellín saw a decline in homicide rates immediately following the demobilization, while other cities (Cali) and departments (Nariño, Córdoba) saw an increase. These opposing trends are attributed to (1) the greater control

that Medellín paramilitary leaders had over their local criminal groups versus those found in Cali, and (2) to the stronger alignment between local and national governments that Medellín had in comparison to its counterparts in Nariño and Córdoba. This is not to suggest that Medellín transitioned without problems, as other forms of violence emerged in and around the city and the key collaborating ex-paramilitary leader continued to grow criminal control through other means. However, following the pact, it was clear that these particular aspects of the GOC-CAG negotiations contributed to the short term gains in Medellín.<sup>3</sup>

State-CAG negotiations may also target prevention by engaging youth and minors already involved in illegal activities, but perhaps not yet fully locked in to criminality as a way of life. For example, in the city of Cali, the National Police, the Mayor's Office, and the Cisalva Institute at the University of Valle worked with young persons in marginalized communities within the cities to coordinate what the youth termed a "peace process." In August of this year, 40 young persons from 33 different Cali gangs in eight communities handed over their weapons and offered commitments to maintaining a life within the bounds of legality in exchange for food, clothing, educational subsidies, psychosocial support, and access to cultural activities and justice mechanisms. Following are current debates around state-CAG negotiations and factors that may contribute to successful negotiations between the state and CAGs.<sup>4</sup>

## THE DEBATE ON NEGOTIATING WITH CRIMINAL GROUPS

Negotiating with CAGs is far from a best practice, as many still maintain significant reservations about engaging in such a way with these social groups. The debates as to whether or not it is an appropriate strategy tend to align along the three axes presented here:

RATES OF VIOLENCE	LEGITIMACY OF THE GANG	UNINTENDED CONSEQUENCES
<ul style="list-style-type: none"> <li>▶ + Truces in some settings have resulted in a sharp drop in violence.</li> <li>▶ - Short term gains may be offset by medium-term increases in violence.</li> <li>▶ - Gangs may increase violence immediately before the process to strengthen their negotiating position</li> <li>▶ - Post-truce violence may spill over into new geographies.</li> </ul>	<ul style="list-style-type: none"> <li>▶ - Negotiating with CAGs legitimizes authority of gang leaders and gangs.</li> <li>▶ + By the time negotiations are considered, CAG's have already gained legitimacy through control of territory, and implementation of "taxes" for protection, corrupting officials, among other activities.</li> <li>▶ + Negotiations only solidify legitimacy of gang as social actor when terms are properly implemented.</li> </ul>	<ul style="list-style-type: none"> <li>▶ - Government negotiations with CAGs deepen cohesion among rank and file members and buys time for gangs to fortify their capabilities.</li> <li>▶ + Often wider set of (inter)national policies have served to strengthen the capabilities of the gangs (e.g., corruption, counter-gang strategies that backfire, etc.), so local or domestic governments are not necessarily the sole actor culpable for the rise or strengthening of CAGs</li> </ul>

## CRITICAL FACTORS FOR GOVERNMENT-CRIMINAL ORGANIZATION NEGOTIATIONS

Multiple factors influence negotiations between state actors and CAGs, including the present sociopolitical climate.<sup>5</sup>

CAG NEGOTIATORS	STATE NEGOTIATORS	CONDITIONS OF NEGOTIATIONS
<ul style="list-style-type: none"> <li>• Degree of organization.</li> <li>• Understanding of own power.</li> <li>• Efficacy as negotiators.</li> <li>• Extent of control over rank and file members.</li> <li>• Buy-in to negotiated truce in organization.</li> <li>• Rival factions' interests.</li> </ul>	<ul style="list-style-type: none"> <li>• Favorability of political climate.</li> <li>• Ability to act authoritatively.</li> <li>• Cohesion at all levels for implementing violence reduction strategies.</li> </ul>	<ul style="list-style-type: none"> <li>• Sufficient financial resources.</li> <li>• Appropriate incentives for participation and follow through.</li> <li>• Clear terms for all involved.</li> <li>• Key parties are united and organized.</li> <li>• International support (especially when CAGs have strong clandestine ties to government).</li> </ul>

<sup>1</sup> Human Rights Watch: "Paramilitaries' Heirs" (2010)

<sup>2</sup> Van dan Eertwegh: "Negotiating with Criminal Groups" (2016)

<sup>3</sup> Cruz and Durán-Martínez: "Criminal Pacts in El Salvador and Medellín" (2016)

<sup>4</sup> Elpais.com.co: "Este es el proceso de paz que adelantan 33 pandillas de Cali" (August 18, 2016)

<sup>5</sup> Insight Crime: "The Inconvenient Truth about Gang Truces in the Americas" (2013)

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## NOTABLE CAG TRUCES IN THE AMERICAS

### LOS ANGELES:

In an instance of a gang truce that did not involve state agencies or representatives, the notoriously violent Los Angeles Bloods and Crips negotiated a truce that began on April 28, 1992 – one day before the LA Riots broke out – and that lasted for the better part of ten years. Homicide rates had risen to roughly 1,000 per year. The truce came at the hands of a few gang leaders from each group who were open to the prospect, a gang intervention program led by a formal American football star, and hip hop artists, such as the West Coast Rap All-Stars. Gang members denied police force involvement, despite LAPD claims that they brokered the deal.<sup>4</sup>

### HONDURAS:

In May of 2013, Barrio 18 and Mara Salvatrucha announced that they would be willing to stop violence in Honduras in exchange for the police to stop killing their members, and for the government to listen to them and provide jobs. The truce had been brokered by a representative of the OAS, a Bishop, and other neutral third parties. The government was asked to develop and deploy large-scale social programming in a short time frame, which it did not necessarily have the infrastructure to accomplish. Analysts have found that the truce did not have a significant impact on the homicide rates, and that the government did not deliver on the gangs' demands. Additionally, the gangs were less organized, less hierarchical, and responsible for less of the overall homicides in the country; together, these factors contributed to this truce attempt ending far less successfully than the El Salvadorian counterpart it tried to replicate.<sup>6</sup>

### EL SALVADOR:

In March 2012, after years of a zero tolerance policy towards gangs culminated in a homicide rate of 13 per day, representatives from the government such as the minister of security and justice and the vice minister of public security, along with the National Civilian Police and Catholic Church mediators brokered a violence reduction strategy between warring Barrio 18 and Mara Salvatrucha gangs, which resulted in a precipitous drop in the homicide rates to 5 per day. The terms were that the gangs would reduce homicides, trafficking, and child recruitment in exchange for transfers of several dozen gang members to lower security prisons. Rates began climbing again when the government representative responsible for the pact was removed from office in May of 2013.<sup>5</sup>

### SAO PAULO:

In 2006, the prison-based Sao Paulo gang First Capital Command (PCC) carried out a series of attacks on 70 prisons nation-wide that paralyzed the city of Sao Paulo and left nearly 200 people dead. Just five years prior, the same organization coordinated simultaneous rebellions in 29 prisons in the state. After the 2006 May attacks that lasted five days, government authorities made a truce with the PCC, reportedly exchanging improved prison conditions for an end to violence, and which lasted nearly six years.<sup>7</sup>



## RECOMMENDATIONS FOR NEGOTIATING SUCCESSFUL CAG TRUCES

While government negotiations with CAGs are inherently fraught processes and profoundly shaped by local histories and often international interests, there remain some valuable lessons learned from previous processes in this domain. Below are some considerations culled from an in-depth analysis of these cases that GOC representatives may find valuable when considering whether and how to engage with CAG actors – FARC/paramilitary heirs or otherwise.

- Address the underlying political and social welfare conditions that give rise to gang formation.
- Include civil society as an actor in negotiations and situate negotiations as part of a broader social change agenda.
- Invite backing by regional organizations, mayors, priests, and ex-gang members when relevant.
- Understand networks of actors and power (e.g., transnational alliances, links to political elites and crime networks).
- Analyze the differential and interconnected roles of local versus international factors on gang dynamics.
- Leverage positive international networks (e.g., advisory groups, inter-government information and expertise sharing, civil society group collaborations).

- Acknowledge and remedy government's role in the violence produced by CAGs (e.g., poor governance, high impunity, corruption).
- Do not begin negotiations at the end of a political cycle.
- Government and non-community stakeholders should be able to promise and produce measurable deliverables immediately.
- Focus on transparent, structured dialogues with appropriate oversight rather than ad hoc, more covert interactions between government and CAGs.
- Recognize agreements as the start rather than the end of a process; negotiations with GACs should be approached as with any armed actors.
- Be very clear about the desired end-state of a negotiation and pay attention to careful sequencing in the shift away from criminal rents of the CAG members.

<sup>6</sup> KPCC: "1992 Watts gang truce" (2012)

<sup>7</sup> Oslo Forum: "Lessons from the Gang Truce in El Salvador" (2013)

<sup>8</sup> SolucionES Project: "The Gang Truce as a Form of Violence Prevention" (2015)

<sup>9</sup> Adorno and Salla: "Organized Criminality in prisons and the Attacks of the PCC" (2007)