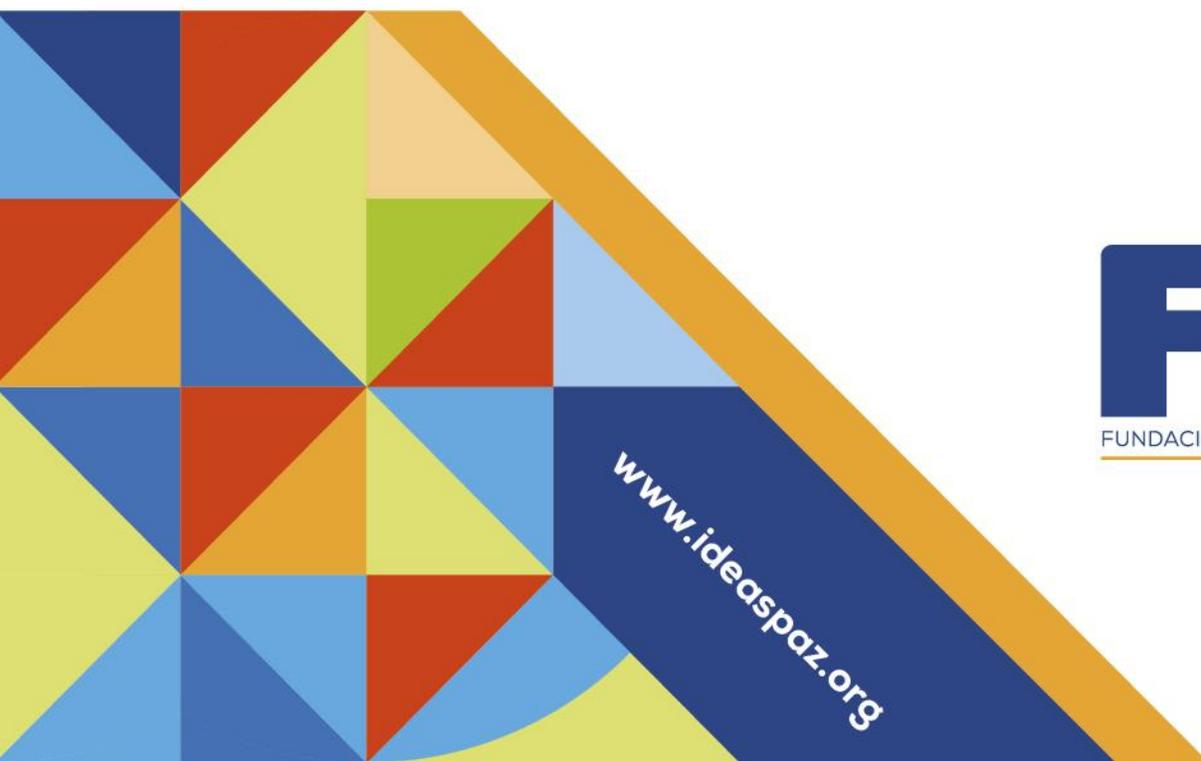


# ORGANIZED CRIME AND ARMED SPOILERS IN TIMES OF TRANSITION

EXECUTIVE SUMMARY



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The Fundación Ideas para la Paz (Ideas for Peace Foundation), in its search to comprehend the phenomenon of organized crime –or what some sectors call “paramilitarismo”- and its impact in a scenario of transition like the one that Colombia it’s experimenting after the signature of the peace accords between the Government and the FARC, took on the challenge of studying “organized crime and armed spoilers in transition times” with the idea of delivering a more focused balanced on the changing environment of armed conflict, the impact of the many expressions of violence that make it up, just like the expressions that are in a process of formation and have had greater visibility with the clearing out of the oldest guerrilla in the country.

During the last five years, FIP has studied the evolution of organized crime and criminal economies, as well as the challenges that different spoilers present in terms of direct competition to the implementation of the peace accords, especially for their disrupting capacity. During the course of the negotiations with the FARC, FIP insisted on showing that some criminal economies, in some regions, were evolving, with new agreements between the guerrillas and the criminal organizations in charge.

The question that arises is, if this evolution or change is a result of the adaptation by criminal structures to State actions which focus on the dismantling of these structures, and not on the transformation of the territories. To this respect, FIP believes that the armed forces’ operations that go in and out of these territories do not have an effect in the conditions that allow for the reproduction of illegal activities and the control that organized crime groups have over them. In addition, organized crime and illegal economies have created criminal institutions that fluctuate in an armed conflict setting and that exercise authority and coercive measures as well as some kind of taxation that doesn’t involve the Colombian State.

One of the conclusions of this investigation is that the strategy of striking the leaders or the weaker links of organized crime structures, at least in the Colombian case, results in a transformation of the criminal structure but not its total dismantling. Today it is more localized, organizationally and territorially fragmented, and even more difficult it’s disbanding due to its long legacy and the territorial vulnerabilities of each region of study. The structures are hit, but the conditions associated with illegal markets and the deficiencies of the State continue to be present and they favored the reproduction of organized crimes structures under different forms. The transformation of organized crime also implies significant changes to its organizational structure and the way it functions. It has gone from vertical integration of the big cartels to a more horizontal structure based on networks and with multiple autonomous actors. The latter, search for alliances, or they confront each other for the territorial control of areas conditioned for drug trafficking and other illegal businesses, among them illegal mining, contraband, extortion, micro-trafficking, local drug dealing, gambling and prostitution.

One of FIP’s conclusions –one that is agreed on by other organizations- is that areas where the Autodefensas Unidas de Colombia (AUC) had a presence in the past and currently there is activity by different armed illegal groups, coincide with the territories where activities related to drug-

trafficking and illegal mining have fester. The evolution of this process it's crossed by the accumulation of violence's in which both activities are the key elements.

The analysis also highlights that even after the dismantling of the FARC guerrilla group, there is still other types of armed spoilers even more difficult to characterize but with the capacity of coercion and to jeopardize the stability of the implementation of the Peace Accord in the middle of the transition period.

This document was done between august 2016 and May 2017, period in which FIP took on arduous field work with short visits to the Catatumbo, Buenaventura, Putumayo, Cauca, Llanos Orientales, Urabá and Tumaco. Similarly, 100 interviews and group conversations with public servants, local authorities, international organization employees, members of the armed forces, judicial operators, journalist, local leaders, university professors, non-governmental organizations at the regional and local level, victims associations, individuals in a process of demobilization and reintegration, middle and small businessmen and merchants, were conducted.

The analysis also relies on field work done in different regions before august 2016, the review of secondary sources and of two important FIP databases: The conflict database that groups together events from 1986 to 2016, and the press database that groups together the daily review of 36 national and regional news sources.

The interviews and secondary source content was classified and codify by significance units that serve as bases to sustain each hypothesis, and structure the contents of this document. For example, in some conversations there was a consistent mentioning of what is understood today as a "presence" of the aforementioned groups. In turn, this allowed FIP to make an approximation to the different types of presence and analytical challenges presented by these groups, and not to fall in exaggerations about their location in x or y number of municipalities or departments. On the other hand, the significance units call attention to the need of developing an investigation agenda for the construction of micro data that helps to comprehend more accurately the dynamics and variations of the trajectories of the different expressions that persist in the medium and short term in Colombia.

With all of the inputs, the FIP initially called for an identification of some of the challenges in classifying, not only what the State calls Organized Armed Groups (GAO in spanish), but also other criminal and armed groups classified as Criminal Organized Groups (AGC in Spanish). There is a reference to the Autodefensas Gaitanistas of Colombia (AGC), also called Clan del Golfo; to the Puntilleros, Bloque Meta and Bloque Libertadores del Vichada; to the Ejército Popular de Liberación (EPL), also known as the Pelusos; the Ejército de Liberación Nacional (ELN); the Rastrojos; the dissidents of the FARC and some more groups. Similarly, the explanation of why these groups have entered an organizational and territorial fragmentation process is found on this document in which we intend to show that the realities of the transition are not comparable to the criteria employed by the State to determine the threat level, important aspect to be taken

into consideration at the local level, overall, in the physical security of the population and its communities.

## **Thesis on transition, armed conflict and organized crime**

Above and beyond the discussions on the existence of “paramilitarismo”, FIP believes that Colombia is facing a conflict in transformation and a differentiated transition that cannot be limited to the irreconcilable discussion on the presence or not of this phenomenon, and if it really is facing a post conflict era. To that effect, the document proposes three theses on transition, armed conflict and organized crime.

The first thesis refers to the transition, the environmental character of conflict and what’s local. FIP considers that is imperative to position the language of the end of armed conflict. Today, the realities of the different regions of the country, with most structures of the FARC deactivated, demand that our focus concentrates on the continuities of conflict and its ties to organized crime. This requires a monitoring of their dynamics, of the trajectories of the armed groups that persist, and how the new armed forms and the types of violence they excerpt, just like those less visible, but with the capability to affect the population.

Some international experiences and the national context call for a critical look to this respect. Various studies suggest that in transitional contexts there is a juxtaposition of dynamics, times and historical processes that do not correspond to just one end, meaning, to a closer technological look at the implementation of peace. This overlap is characterized by a progressive transformation of armed conflict in the middle of the continuity of different types of “violence in times of peace”, less visible, but that call into question the scope and significance of the word “transition”. At the same time that the conflict deactivates in a general manner, it concentrates or increases in more limited territories where other guerrilla and organized crime groups persist. There is also a surge of other armed expressions, under temporary alliances, disputes and frameworks of coexistence.

It’s because of this that the analytical part of this document highlights the importance of the local dimension. This is where we can find concrete conflict interactions from the transition and implementation of the Peace Agreement. Contrary to “macro” visions that emphasize, with just cause, the generalized reduction of the armed conflict, this document explores the way in which transition and the rearrangement of different armed groups and spoilers continues to generate a more reduced but not less relevant impact. In this sense, it also important to know what options the State has to confront these actors.

The second thesis, centers on the dilemma between organized crime and armed conflict. It proposes that in Colombia there is, at least, three dynamics that will continue to have an impact in the short and medium term: a) the legacy of armed conflict is more visible; b) the exchange or transfer of capacities continues; c) the trajectories of armed conflict and organized crime persist. Facing the legacy of the conflict, FIP worries about the dissidents of the FARC, the deserters and the militias. Those armed forms confront internal competition and progressive criminalization;

they establish or renew strategic alliances with other armed groups and criminals, mainly in the national arena, not forgetting the intermediaries of international cartels. There is also a worrisome presence of the EPL in the Catatumbo, that even though it has received strong opposition which affects its military capacity, they are recognized in areas of historical influence and in others where the FARC had presence. They have also practice more coercive and predatory raids on the population.

Likewise, it's worry some the transference of members of the FARC, ELN and EPL; the control of drug-trafficking routes by many dissident groups from the FARC; the divisions and confrontations between dissidents from the FARC and some drug-trafficking organizations; and the offer of money to demobilized FARC individuals by some members of drug-trafficking networks, nationally and internationally.

Finally, on the persistence of armed conflict and organized crime, the FIP insists that we cannot just talk about an armed group homogenous presence or unambiguous presence. It has never been this way and the current reality is not the exception. On the contrary, there are multiple elements to study and this document makes a reference to scenarios of conflict, of coexistence and dominance, with the intention of opening the debate on the territorial scope of these groups and the different armed groups in formation. Likewise, this document discusses the types of competition or criminal consolidation and the violence that is being created in Colombia.

It is for the reasons mentioned above that this work hopes to generate a broad discussion on the utility of the rigid and binary classifications that separate armed conflict and organized crime. The current violent contexts that persist in the country call for a more dynamic and flexible reading of the existing complexities.

The third thesis focuses on criminal governance, criminal power and armed spoilers. It is the FIP's intention to show, based on field work and specialize literature, that organized armed groups (GAO) and other armed expressions in formation, just like the ones that persist in different regions of the country, have exercise similar and parallel roles to that of the State. They have created their own institutions, although it's important to note that such circumstances are not the same in all social, political and economic aspects of all regions.

Similarly, it is important to show that the different groups to which the document refers to are direct competitors of State's action and its construction, as well as the implementation of the Peace Accord at the local level. However, this does not happen uniformly and there is a necessity to look into how they oppose, undermine and manipulate the Final Accord and its implementation.

Coupled to these conceptual bids, FIP insists that is necessary to prioritize the threats in a comprehensive way, emphasizing not only the organizational size of the groups, their local presence o military capacity, but also the level of disruption in the local lives of the population, in their capacity to spoil the implementation of the Accord and to affect local vulnerabilities that

already exist. In other words, their capacity to exacerbate or keep going tensions at the micro-local level.

### **Territorial presence: Dominance, dispute or coexistence**

This analysis includes an exhibition of the different territorialities according to the type of presence of each group. Based in cases like Urabá, Bajo Cauca antioqueno, Chocó, Buenaventura, Tumaco, Meta and Catatumbo, the FIP proposes a simple ranking to understand that the presence of illegal armed organizations varies according to level of domain, dispute or coexistence, and their specific interests.

The centers of dominance are regions – in urban and semi urban settings- in which criminal structures have territorial and residential control, they can exercise or convey justice, have relations with the local institutions and with individuals in the lower ranks of the military, as well as control over the totality or some segments of criminal economies.

The centers of dispute are those regions in which there is not a clear dominance or control of one group over another. In these types of cases, two or more armed groups compete for the control or an area of high strategic value or for sectors of criminal economies such as illegal mining, drug-trafficking and micro-trafficking, as well as others such as illegal wood cutting and the human trafficking.

And, the centers of coexistence are regions where organized crime structures have created alliances and pacts with other illegal armed groups to avoid confrontation, divide the territory amongst themselves and administer in a more effective manner different concrete sectors of the criminal economies, that is to say drug-trafficking, the extraction of natural resources and the trafficking of different resources, especially in border regions. In this case, FIP has observed that different armed groups work together to avoid debilitation and to optimize the profitability of their businesses.

These categories –which are a result of direct observations in the territories- allows us, in the first place, to observe common traits and highlight those that are particular. And, in second place, launch alerts and propose a differentiated look at the risks of violence and its trajectory, since we cannot leave aside the link between crime, conflict dynamics, the juxtaposition of tactics and political and criminal strategies of the armed groups, and the realities of the changing territories.

The FIP has been talking about the risks that exist in the rise of a more selective violence and that the call into question of the Peace Accord, if not in the whole country, in certain regions or sub regions where there is a consolidation of illegal power structures. The variety of armed spoilers that are present in the cases analyzed in this document also emphasizes the role of criminal power that plays in periods of transition and that converts into one of the causes that contributes to the downward violence spiral of some regions.

This document also delves into the strengthening process of organized crime at the local level, reason for which there is an approximation to eight GDO: The Rastrojos, The Cordillera, The Buitragueños, The Botalones, the Caqueteños, The Costeños, The Pachenca and the Clan Isaza. The objective was to find common traits and variations with respect to origin, territorial dimension, composition, activities and repertoires of violence and relationships or links to local authorities. While this approximation is part of a more classical view of organized crime-structure and activities- it also emphasizes dimensions such as the trajectory and identity of these groups, their nexus with conflict dynamics, the conditions of territorial opportunity, their relationship with the humanitarian impact and finally their international reach.

FIP's impression is that GDO groups are given little attention in comparison to the other three GAO. This conclusion was reached after the investigation for this document ended. The field work done in different regions affected by their presence, shows that they are not less important groups, even though their operating range is limited and their armed capacity does not compare to the AGC or the EPL. These groups can generate serious situations of humanitarian impact. To this respect, FIP has warned that one of the impacts of the consolidation process of criminal economies is the strengthening of organized crime at the local level, and it has emphasized, for many years now, that the fragmentation of organized crime and the dismantling of bigger structures, opens the door to one more challenge: the strengthening of structures with minor importance, with strong local ties and in some cases predecessors of the AUC.

### Ten recommendations for the debate

Finally, FIP proposes ten recommendations with which it hopes to call attention on the need to adapt the diverse institutional answers from the State to the transformations of organized crime structures and dynamics.

**Go from operations focused on vertical organizational charts and horizontal and staggered interventions.** The FIP believes that the State's intervention should come from the comprehension of organized crime groups under a grid model. This means that, not only should the armed structure be analyzed- the more visible part of the system-, but also there is a need to identify the political and financial support networks that have a bigger capacity of corruption and money laundering. Also, it is necessary to build a modern criminal policy that develops grid type operations and prioritizes the persecution of key elements.

**Deploy differentiated interventions that will adapt to the dynamics of micro-territorialities (abandon the model of only one size fits all).** FIP suggests that the intervention of the State should start from the analysis of the dynamics of micro-territorialities, which does not mean only the evaluation of the type of criminal organization that is being formed (geographic spread and number of members), but also the relationship that it has with the environment (with the population and local power networks) and it's level of consolidation (If the moment calls for control or dispute). Homicidal violence should not be the only indicator of an active presence; predatory and non-predatory crimes that affect the population in daily life should be taken into consideration as well.

**The strengthening of local capacities: In response to a growing capacity of criminal organizations, there should be a bigger coordination process between different levels and competences at the State level.** FIP highlights the importance in defining spaces of coordination between the central State and local administrations. These spaces should build up capacities in the territories, which not only need to reinforce political presence and the judicial system, but also the clear definition of competences and resources, and management models that take into consideration the different levels of criminal phenomenon complexity. It is indispensable to go from articulation based on safety councils that react to a strategy against organized crime, to concrete work plans with evaluation and monitoring mechanisms that act from the recognition of local dynamics and capacities.

**Rethink the way success its measure.** FIP believes the strides made on the fight against organized crime cannot continue to be measured by the number of captures or seizures. The evidence shows that, in the majority of cases, these actions rely on members that are easily replaceable. The effectiveness of a security policy should be measure by the capacity it has on reducing levels of violence and the occurrence of crimes. Additionally, in those areas where organized crime has established a social order, the advances should be analyzed in according to State's regulation, the provision of public goods, and the increasing legitimacy and the capacity to sustain it. In the center of the evaluation of strategies against crime, there should be the capacity of the State to reduce the damage done by criminal groups to the institutions and the population.

**Decreasing their impact should be the main objective of any strategy used to fight organized crime.** The first step for the application of this approach is to define the damages that will be the object of State's actions. This list is a useful base to define what it is needed to reduce or to avoid, without the main criteria being the size or territorial presence of the organization. The negative impacts of organized crime are useful criteria to estimate the risk level that each economy or criminal group has for society. The starting point is that to incur in these types of adverse actions in a systematic way should have a cost for criminal groups.

**Suffocate illegal economies by oxygenating the population with legal alternatives.** FIP believes that this interruption should be based on the reduction of economic and social vulnerabilities at the local level. In areas of illegal mining activity, sowing and processing of illicit crops, lumber smuggling, and other illegal activities, the people are the labor force available and they see in these economies their only alternative. This is why, to suffocate these economies, without offering work and legal production options can result counterproductive in populations that can resist the presence of the State. The State should find a realistic way to encourage the renovation of these areas, avoiding subsidies schemes and focusing its attention on the provision of public goods, among them security and protection for the people, also necessary conditions for these types of undertakings require the participation of the private sector to become sustainable.

**To understand the renovation of the territories as a transition and not a rupture.** Transitional processes, just like those of territorial transformation, are not lineal. They demand time and multiple resources. In this sense, FIP suggests that the State's answer should be dynamic and

flexible, adapting itself to the changes and the new challenges, like new mechanisms that facilitate the transit from the illegal to the legal. In the case of Illegal mining, the State could consider-in the transition face- to create “tolerance zones” where this activity is recognized, provided that it adheres to environmental rules, pays taxes and doesn’t employ minors. Mining outside these areas will not be permitted and it will subject of judicial persecution. The short term goal is to legalize this activity, guaranteeing a minimum source of income for the miners, while the process concludes.

**To earn legitimacy in the territory, not only to impose order and authority.** The challenge that the State has, as perceived by FIP, is to strike hard at the criminal economies without losing social support for the transition process. One of the main issues is how the State can generate trusting relationships with the communities, not only based on the execution of its basic functions – justice and security, but also of the construction of participation processes and accountability, that is to say, that the community has an active role in future decisions. It is necessary to implement a transparency mechanism at the local level, empower organizations and positive leaders, respect and guarantee human rights and put in place specific steps against corruption.

**To define a strategy that includes recruitment and utilization of minors, and that decreases the vulnerabilities and risk factors.** FIP estimates that, in the short term, there is a need to identify the territory dynamics, analyze the vulnerabilities and risks that the population faces according to age. From this diagnosis, we recommend the development of a strategy of containment led by the Intersectional Commission for the Prevention of Recruitment and Usage of Boys, Girls and Adolescents, based on an institutional design and the public policy that goes with it, in accordance to the transition context and prioritization of the most critical areas and neighborhoods or urban environments.

In the medium term, it is indispensable that the State develops a serious public policy of prevention, which could be articulated with security measures and justice with focalized interventions focused on changing the conditions that facilitate the recruitment of minors and young adults by organized crime and the beginning of their criminal careers. At the same time, it’s key to advance in judicial investigations by identifying recruitment networks, with the objective of implementing deterrent actions that mitigate the possibility of conditions to ripen for the beginning or reproduction of criminal careers. Those structures that have the capacity to make connections between complex criminal organizations and factions that operate at the local level should be prioritized.

**To establish a clear strategy from criminal organizations to submit to justice, that includes a negotiation mechanism –without political recognition- and the development of disarmament, demobilization, and reintegration processes.** For FIP, it’s important that the State defines a clear strategy that allows the dismantling of criminal organizations and their support networks, starting off at a judicial negotiation process and the adaptation of an institutional offer of DDR, which has shown successful results in matters of reintegration, but shows a dramatic contrast with the failures of the system of penal responsibility for adults and adolescents in social rehabilitation interventions.

The Peace Agreement points out as one of its compromises “the presentation of a bill to promote the submission or acceptance of the law” by criminal organizations. This is an opportunity to define criteria and procedures to confront these processes. It is important to note that the strategy should have three components from ordinary justice and transitional justice, in this way it can respond to the characteristics of each face in which the state faces a double challenge: the deactivation of the armed conflict and the strengthening of public safety.



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